



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Thursday, 14 October 2021

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LEGISLATIVE COUNCIL

Thursday, 14 October 2021

The PRESIDENT (The Hon. Matthew Mason-Cox) took the chair at 10:00.

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.

Motions

TRIBUTE TO EDDIE JAKU

The Hon. SCOTT FARLOW (10:02): I move:

- (1) That this House notes:
 - (a) the passing of Mr Eddie Jaku, OAM, at the age of 101;
 - (b) Mr Jaku's decades of volunteer service at the Sydney Jewish Museum since its inception in 1992;
 - (c) Mr Jaku's book, *The Happiest Man on Earth*, and his TED Talk have been significant in raising awareness and understanding of the Holocaust in both Australia and around the world; and
 - (d) that as one of the oldest Holocaust survivors in the world, Mr Jaku dedicated his life to educating others on the dangers of intolerance, and spreading a message of hope.
- (2) That this House passes on its condolences to Mr Jaku's family and loved ones, and to the broader Jewish community throughout New South Wales.

Motion agreed to.

INTERNATIONAL DAY OF RURAL WOMEN 2021

The Hon. SAM FARRAWAY (10:02): I move:

- (1) That this House:
 - (a) notes that United Nations' International Day of Rural Women is on 15 October 2021;
 - (b) commends the tireless advocacy of the Country Women's Association of NSW and their representation of women and children in rural, regional and remote New South Wales; and
 - (c) notes that women play a vital and diverse role across the communities of rural New South Wales as mothers, entrepreneurs, farmers, business owners, healthcare professionals and as business, industry and community leaders.
- (2) That this House acknowledges and celebrates all rural women in New South Wales for their contributions to agriculture, business and community.

Motion agreed to.

COVID-19 AND HEALTHCARE WORKERS

Ms CATE FAEHRMANN (10:03): I move:

- (1) That this House notes that:
 - (a) on 23 June 2021 this House passed a motion acknowledging the work and challenges of all healthcare workers in New South Wales throughout the pandemic and supporting the demands of the NSW Nurses and Midwives' Association for better pay and conditions;
 - (b) an outbreak of the Delta variant resulted in Sydney being placed into lockdown on 25 June 2021, which lasted 107 days;
 - (c) since 23 June 2021, New South Wales total cases have grown from 5,665 to 69,552 with a peak of 1,603 cases in a single day; and
 - (d) this outbreak has placed unprecedented pressure on our health system and healthcare workers, reaching a peak of 1,268 people in hospital and 242 people in ICU.
- (2) That this House thanks all healthcare workers in New South Wales for their hard work, dedication and sacrifice for the people of New South Wales during this latest outbreak.

Motion agreed to.

MR STEPHEN CARTWRIGHT, OAM

The Hon. SCOTT FARLOW (10:03): I move:

- (1) That this House notes that:
 - (a) Mr Stephen Cartwright, OAM, has been appointed as New South Wales Agent General to the United Kingdom and Senior Trade and Investment Commissioner to Europe and Israel;
 - (b) Mr Cartwright's significant experience in this area, having served for 11 years as the CEO of Business NSW, as a board director of the Australian Chamber of Commerce and Industry, and as Vice President of the International Chamber of Commerce [WCF];
 - (c) in excess of 1,500 New South Wales businesses currently operate in the United Kingdom market;
 - (d) the Agent General to the United Kingdom and Senior Trade and Investment Commissioner to Europe and Israel will attract investment, boost exports, support growth, and create jobs in New South Wales; and
 - (e) the forthcoming Australia-United Kingdom Free Trade Agreement will provide significant opportunities for businesses based in New South Wales to expand their operations into the United Kingdom.
- (2) That this House congratulates Mr Stephen Cartwright, OAM, on his appointment as New South Wales Agent General to the United Kingdom and Senior Trade and Investment Commissioner to Europe and Israel, and wishes him success in his role.

Motion agreed to.

VOICES FOR CHANGE PROGRAM

Ms ABIGAIL BOYD (10:04): I move:

- (1) That this House commends the Voices For Change program initiated by Domestic Violence NSW [DVNSW] in 2018, which aims to:
 - (a) empower and support women who have experienced domestic violence, allowing them to speak out and lobby for change; and
 - (b) contribute to changing community attitudes and behaviours towards violence against women, including supporting media to accurately report domestic and family violence.
- (2) That this House notes that, according to DVNSW's Voices For Change report published in July 2021:
 - (a) between 2018 and 2020, Voices For Change advocates participated in over 100 media stories, public speaking opportunities, advocacy activities with the Government, and policy, service development, and resource co-design initiatives; and
 - (b) Voices For Change has had great success in building strong connections between DVNSW and media professionals, having published 56 stories through online and print media platforms, social media, podcasts, and television between 2018 and 2020.
- (3) That this House calls on the Government to provide sustainable and long-term funding for the Voices For Change program.

Motion agreed to.

INTERNATIONAL DAY OF OLDER PERSONS 2021

Ms ABIGAIL BOYD (10:04): I move:

- (1) That this House notes that:
 - (a) Friday 1 October 2021 was International Day of Older Persons, a day which celebrates the important contributions that older people make to society, and raises awareness for the societal barriers and difficulties older people face in everyday life;
 - (b) the New South Wales aged-care health workforce plays a significant role in maintaining and improving the health and wellbeing of older persons;
 - (c) the COVID-19 pandemic has had a disproportionate and severe impact on older persons and on the aged care sector; and
 - (d) additional barriers disproportionately affect vulnerable older persons, including those who are Aboriginal and Torres Strait Islander, LGBTIQI+, culturally and linguistically diverse and/or those who live in regional, rural or remote communities.
- (2) That this House calls on the New South Wales Government to support the health and wellbeing of older persons through robust policy targeted at raising awareness for the special needs of older persons and sustainable funding for the aged-care sector including sufficient training for all aged-care staff.

Motion agreed to.

INTERNATIONAL DAY OF DEMOCRACY 2021

Ms ABIGAIL BOYD (10:05): I move:

- (1) That this House notes that:
 - (a) Wednesday 15 September 2021 was International Day of Democracy, a day which celebrates the significance of democracy across the world, and encourages governments to review the current state of democracy;
 - (b) the voice of citizens are at the core of democracy, and Parliament should reflect the diversity of citizens within society in order for all voices to be represented and heard;
 - (c) the role of parliaments in a democracy is vital, including their capacity to act on democratic values of justice, peace, development, and human rights; and
 - (d) governments have the responsibility to act with transparency and accountability.
- (2) That this House notes that, in light of the COVID-19 pandemic, additional and disproportionate difficulties in democratic participation and inclusion are faced by marginalised and vulnerable members of the New South Wales community, including Aboriginal and Torres Strait Islander people, people with disability, racial, ethnic and religious minorities, and older people.
- (3) That this House calls on all members of New South Wales Parliament to work toward improving the state of democracy within New South Wales, by upholding democratic values and breaking down barriers to inclusion at all levels of democratic participation.

Motion agreed to.

DEMENTIA AWARENESS MONTH

Ms ABIGAIL BOYD (10:06): I move:

- (1) That this House notes that:
 - (a) September 2021 was Dementia Awareness Month, a month which raises awareness for people living with dementia and encourages education about the impact of dementia;
 - (b) this year's theme was You Are Not Alone, which focused on breaking down barriers and stigma, to create more inclusive, compassionate and accessible communities where people with dementia and their families, friends and carers feel supported, advocated for, and do not feel isolated or alone;
 - (c) according to Dementia Australia, in a survey completed in 2019, 63 per cent of people living with dementia, and 73 per cent of family, friends or carers of people living with dementia, believed that discrimination against people with dementia is significant and common; and
 - (d) according to Dementia Australia, the number of people in Australia with dementia is set to double in the next 25 years from half a million people to one million people.
- (2) That this House notes that there is significant work to be done in education and awareness for dementia and calls on the New South Wales Government to help raise awareness of dementia and to better support people in New South Wales living with dementia.

Motion agreed to.

HOLLOWHOG DRILLING TECHNIQUE

The Hon. MARK PEARSON (10:06): I move:

- (1) That this House congratulates Matt Stephens, Transport for NSW Environment Officer, for inventing the Hollowhog, an innovative drilling tool that:
 - (a) creates hollows in native trees which take decades to form naturally;
 - (b) has minimal impact on the health and integrity of the tree; and
 - (c) is faster and less invasive than the alternative chainsaw method.
- (2) That this House notes that the new technique has used been used by Transport for NSW to create 600 new tree hollows that will provide shelter for native:
 - (a) birds;
 - (b) reptiles; and
 - (c) mammals.
- (3) That this House acknowledges that the Government has spent \$165,000 on the Hollowhog technique in order to replace hollows destroyed during the Black Summer bushfires.
- (4) That this House calls upon the Government to continue to operate and expand the program throughout New South Wales given the critical shortage of natural hollows as a consequence of logging, land clearing and bushfires.

Motion agreed to.

*Documents***TABLING OF PAPERS**

The Hon. DON HARWIN: I table the report of Aboriginal Affairs NSW entitled *Stolen Generations: Reparations Scheme: Interim Report - 1 July 2017 to 31 December 2020*.

I move:

That the report be printed.

Motion agreed to.

*Ministerial Statement***ABORIGINAL AFFAIRS NSW REPORT**

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (10:07): I add my acknowledgement to the President's earlier acknowledgement of the traditional owners of the land on which we meet today, the Gadigal people of the Eora nation. I pay my respects to the Gadigal Elders past, present and emerging. I also acknowledge and pay my respects to Stolen Generations survivors across New South Wales. I am pleased to present the second *Unfinished Business Progress Report to Parliament*, which is the second delivered progress report on implementation of the New South Wales Government's response to reparations for the Stolen Generations—an initiative in which this House played a very honourable role.

The first progress report was delivered to Parliament in December 2018. That report highlighted that significant priority issues identified by survivors, including the implementation of the Stolen Generations Advisory Committee and the Stolen Generations Reparations Scheme, had begun to be addressed. The second progress report, which I have tabled today, reports on actions and outcomes for the period up to December 2020. I am pleased to say that significant progress has been made in implementing the New South Wales Government's response to "Unfinished Business". Importantly, all unfinished business commitments have now commenced.

The Stolen Generations Advisory Committee has been extended until May 2023 to continue to oversee implementation of unfinished business commitments. The committee includes survivor representatives from each Stolen Generations organisation as well as representatives from key government agencies. The advisory committee is a significant forum for survivors to provide advice to government about priority issues for survivors. This progress report was developed with the advisory committee and the views of survivors are an important part of the report. All four recognised New South Wales Stolen Generations organisations are funded to support survivor-led collective healing activities. Since 2017 this commitment has provided \$3.74 million to survivor organisations in New South Wales. In the reporting period of this progress report, the Stolen Generations Reparations Scheme provided \$52.7 million in reparations payments to eligible survivors. The Funeral Assistance Fund has also provided \$4.8 million to 685 eligible claimants. Over 720 individual survivors have received monetary reparations and over 175 survivors have received personal apologies. Those numbers have continued to increase as the scheme delivers reparations to all eligible survivors in New South Wales.

The 2021-22 New South Wales budget provided an additional \$47 million to strengthen unfinished business commitments. Of this, \$38 million will go to individual reparations and funeral assistance payments. This is to ensure that the scheme is fully resourced so that every eligible Stolen Generations survivor who comes forward will receive reparations and funeral assistance repayments. New funding of \$4.4 million has been allocated to upgrade the digitising and indexing of historic Aborigines Welfare Board records. This updated, improved access will assist Stolen Generations survivors and other Aboriginal people seeking information about their families. In addition, \$3 million provided in the 2020-21 State budget is supporting work to underpin the establishment of Stolen Generations Keeping Places. This is a key commitment to address survivors' concerns about sites of the former Aboriginal children's homes and the importance of truth telling for healing. This new funding brings the New South Wales Government's commitment to reparations for Stolen Generations survivors to a total of \$146 million over 10 years.

Survivors have advocated for additional supports to help them maintain their social and emotional wellbeing and health as they age. Survivors identified their priority concerns, including access to culturally appropriate, trauma-informed services to support their health, aging, disability and housing needs. NSW Health and the Department of Communities and Justice have provided access to funding for coordinator positions to support Stolen Generations organisations. These roles are aimed at assisting survivors to access services based on their individual needs. The Stolen Generations Advisory Committee will continue discussions between survivors and government agencies to progress unfinished business commitments and advocate for Commonwealth services. I acknowledge and commend the commitment of the survivors and the Stolen Generations organisations

for the important work they do with survivors and their families. I appreciate the advice that survivors have provided in the report and the guidance that they continue to provide to government for the implementation of unfinished business reparations.

Documents

NEW INTERCITY FLEET

Dispute of Claim of Privilege

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I inform the House that on 10 October 2021 the Clerk received correspondence from the Hon. Mark Buttigieg, MLC, disputing the validity of a claim of privilege on documents lodged with the Clerk on 9 December 2020 and 28 January 2021 relating to the new intercity fleet. Pursuant to standing order, a retired Supreme Court judge, the Hon. Keith Mason, AC, QC, was appointed as an Independent Legal Arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk has released the disputed documents to the Hon. Keith Mason, AC, QC, for evaluation and report.

Business of the House

WITHDRAWAL OF BUSINESS

Mr DAVID SHOEBRIDGE: I withdraw business of the House notice of motion No. 1 standing in my name on the *Notice Paper* for today relating to a variation to Standing Order 34.

POSTPONEMENT OF BUSINESS

Mr DAVID SHOEBRIDGE: I move:

That business of the House notice of motion No. 3 be postponed until Tuesday 9 November 2021.

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

That Government business notice of motion No. 1 be postponed until a later hour of the sitting.

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

That Government business orders of the day Nos 1 to 6 be postponed until a later hour of the sitting.

Motion agreed to.

Budget

SUPPLEMENTARY BUDGET ESTIMATES 2021-2022 TIMETABLE

The Hon. DAMIEN TUDEHOPE: By leave: I move:

That the resolution of the House of Tuesday 12 October 2021 adopting the supplementary Budget Estimates 2021-22 schedule be amended as follows:

- (1) In paragraph (1) Day Three, Thursday 28 October 2021 omit "PC 7 – Local Government – half day morning".
- (2) In paragraph (1) Day Five, Monday 1 November 2021 insert "PC 7 – Local Government – half day afternoon".

Motion agreed to.

Committees

PUBLIC ACCOUNTABILITY COMMITTEE

Extension of Reporting Date

Mr DAVID SHOEBRIDGE: According to paragraph 9 of the resolution of the House establishing the Public Accountability Committee, I inform the House that on Monday 13 September 2021 the committee resolved to extend the reporting date for its inquiry into the New South Wales Government's management of the COVID-19 pandemic until Friday 25 March 2022.

Sessional Orders

MINISTER TO BE PRESENT IN THE HOUSE

The Hon. ADAM SEARLE (10:27): I move:

That during the current session, Standing Order 34 be varied to read:

34 Minister to be present in the House

- (1) The House will not meet unless a Minister is present in the House, subject to paragraph (2).
- (2) On the Chair noting the absence of a Minister or a Parliamentary Secretary in the House, any member may move a motion without notice that the sitting of the House continue.
- (3) Government business may not be considered if a Minister is not present in the House.
- (4) In the absence of a Minister, at 10.00 p.m. on Tuesday, Wednesday and Thursday:
 - (a) the President shall propose the question that the House do now adjourn, and that question shall be open to debate;
 - (b) if at that time:
 - (i) a vote or division is in progress, the vote will be completed and the result announced before the business is interrupted;
 - (ii) a question is before the House, the President is to interrupt proceedings, and resumption of debate on that question is to be made an order of the day for a later hour of the day without any question being put; and
 - (iii) the House is in committee, the Chair shall leave the chair and report progress to the House, and further consideration of the business before the committee is to be made an order of the day for next sitting day without any question being put.
 - (c) debate on the question for the adjournment shall not exceed 30 minutes, and a member shall not speak to that question for more than five minutes.

This proposal becomes necessary in light of recent efforts by members to recall and have the House sit during the pandemic. The Government chose to not attend the sitting of the House on that occasion. I think the Hon. Trevor Khan was the sole member of the Government who was in this place, and it was his melancholy duty to draw the Presiding Officer's attention to the state of the House in a way that ensured it did not meet. I note that during the pandemic last year, when a majority of members did recall the House to deal with urgent and pressing matters, the Government did not on that occasion take such a drastic step. But the recent circumstances in which the Government took the step it did has motivated, I believe, the majority of members to revisit the terms of Standing Order 34 and make some necessary changes.

The motion is quite clear. The standing order provides, "The House will not meet unless a Minister is present in the House." However, the motion provides that, when the Chair's attention is drawn to the state of the House, any member without notice may move that nevertheless the House may proceed. There are provisions in subsection (4) for the adjournment. Of course, if a Minister is not present, the adjournment becomes a difficulty, so that becomes necessary. Subsection (3) makes an important concession that preserves the convention of Government business not being dealt with in the absence of the Government.

The matter of convention that the House would not meet unless a Minister was present has obviously been a longstanding practice going back to when members of the House were appointed rather than elected. It is worth reflecting that there is no requirement in the Constitution Act for there to be any Ministers in the House, but since the advent of responsible government in 1856 there has always been a representative of the Executive Council in this place. Since I think 1877 the Vice-President of the Executive Council has always been appointed from members of the House, whether or not they have been a Minister. Standing Order 34 was introduced in 2003 and it occurred after the picket—if I can use that term—of the Parliament on 19 June 2001, when there was a dispute about the introduction of workers compensation laws. Some of us in this place were members of the House; some of us, like myself, were actually on the grass. But on that occasion members of the Government were not able to attend the House and the Deputy President at the time—I think it was Mr Kelly—left the chair.

A couple of years later the standing order was introduced. Since its introduction, I think it has only been invoked on three occasions. I think four out of five times it was incidental. The more substantive time was June 2009. This is quite important. On that occasion it was clear that the Labor Government of the day had lost control of its legislative agenda. The House was probably going to proceed to deal with Government business whether the Government wanted to have that business dealt with or not. That transgresses not just the convention of Government business not being dealt with except with the will of the Government; it also really goes to the autonomy of any member with a matter on the *Notice Paper*. Of course, the House can proceed to deal with that business without any input from the sponsoring member, but that is a breach of that convention and privilege. On that occasion the Presiding Officer—I think it might have been President Primrose—left the chair for some 67 days. Although there was controversy about that matter, it was very much in the context of the Government asserting its right to deal with its business as and when it saw fit.

The Hon. Don Harwin: That is a rewriting of history.

The Hon. ADAM SEARLE: I acknowledge that interjection. But in the proposal that we have put to the House today, subsection (3) preserves the convention that Government business may not be considered if a Minister is not present in the House. As a party previously in government that aspires to be in government again, we understand the importance of the Government having control over when and whether its agenda is prosecuted in this or indeed any House. We do recognise that and we do not seek to cavil with it. Nevertheless, in light of recent events, we think that the time has come to revisit the standing order, because we do not think that the Government's decision to not attend the House was legitimate. We understand that it was during the pandemic and that there were restrictions on movement. But we also note that the Presiding Officer, the Clerks and representatives of all political forces in the House had worked significantly together to come up with a safe mode of operation for the Chamber. There was no good, legitimate reason to not proceed to sit on that occasion. So we think that it is important to make the change now with those caveats that I have outlined.

Of all the Australian Houses of Parliament, this Legislative Council is the only House to codify in its standing orders the convention about there being a Minister in the House. The convention is mainly observed in lower Houses, for understandable constitutional reasons, being the Houses where governments are made or broken. No other upper House, including the Senate, has a convention requiring a Minister to be in the House. This concession to the Executive has been longstanding in New South Wales, but it need not necessarily continue if the Executive continues to behave in the way that it has in recent times. We put forward a sensible, balanced and moderate measure, recognising the rights and privileges of government but upholding the rights and privileges of a majority of this House to call the House together to deal with business—albeit not government business—as and when it sees the need to do so. I urge all honourable members to support this measure.

Mr DAVID SHOEBRIDGE (10:35): The Greens support the motion but will move a small amendment for the sake of overabundant caution. We have seen in the past 3½ months that the Government has not wanted Parliament to sit, and many governments do not want their parliaments to sit. Many governments do not have parliaments and, as a general rule, governments without parliaments tend to be pretty poor governments. The abuse of Standing Order 34 on the last occasion that this House tried to sit—the conscious withholding of a Minister by the Executive Government in order to prevent this House sitting—was an example of gross Executive overreach and an abuse of a rule that was not intended to provide a cancellation power to the Executive. Standing Order 34 was designed to ensure that the House had a Minister present who could respond and answer questions. It was designed to increase the powers of the House and to make it more effective. It was never intended or designed to be a veto by the Executive to prevent the Parliament from sitting, yet that is unfortunately how the Government used it.

I note the history provided by the Hon. Adam Searle and that it is not the first time that a government has abused Standing Order 34. It was a tool in the toolbox, and the Government pulled it out and used it. The Greens believe it is about time it was removed from the toolbox. Never again should the House be held hostage to the whim of the Executive. An overwhelming majority of members wanted to meet, conduct business and do our job as parliamentarians. A minority of members in this House, at the direction of the Executive, withheld the Minister and prevented a majority of members in a democratic Chamber from conducting business. That was an affront to democracy, to the House and more importantly to the eight million people of New South Wales, who deserve a functioning Parliament.

The excuse that was applied, which was that because of the COVID pandemic the Government thought it was unsafe to meet, really defies any credible review. This House was trying to meet with all members having been doubly vaccinated, with airflow additions to the House that ensured it was one of the safest workplaces in the State and with all members being tested at the outset to ensure nobody had COVID-19. All of those protections were in place. At the same time, the Government was quite comfortable with retail workers—and particularly those working in supermarkets—working on the front line with none of those protections. It seemed that the Government was suggesting there was one rule for MPs, which could prevent Parliament from sitting, and another, far lesser standard for the hundreds of thousands of other people in the community keeping this place running. The argument that was put was offensive and patently false, and we want to ensure it never happens again. I note paragraph 3 in Mr Searle's motion, which prohibits government business from being considered in the absence of a Minister. We were minded to seek an amendment to remove that, but I think we are willing to make that concession. I move:

That the question be amended by inserting in paragraph 34 (2) "and the presence of a Minister or Parliamentary Secretary is not required for the vote on the motion to take place" after "the House continue".

We do that to ensure that we do not have some false argument that the absence of a Minister prevents us from considering the motion to continue in the absence of a Minister. We really did not want to pursue that chicken-and-egg argument, so it is moved for overabundant caution. With that amendment, we endorse the motion.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (10:40): This motion seeks to overturn 100 years of convention. It is against a background of what can only be described as the hypocrisy that emanates from those opposite, both in the way that they performed on 14 September and the way that this motion is now drafted today. I want to revisit 14 September for one moment.

The Hon. John Graham: You can't revisit it; you weren't here.

The Hon. DAMIEN TUDEHOPE: I had the privilege of watching—or the distinct lack of privilege of watching.

The Hon. John Graham: From a safe distance.

The Hon. DAMIEN TUDEHOPE: From a safe distance.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order!

The Hon. DAMIEN TUDEHOPE: I should not respond to interjections.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): No, and up until this point the debate has proceeded without interruption. I ask that we continue with the precedent that was set during the contributions made by the Hon. Adam Searle and Mr David Shoebridge.

The Hon. DAMIEN TUDEHOPE: On 14 September a pandemic was raging in the community. No-one will be unaware of the fact that there was a significant health issue confronting New South Wales, which had to be dealt with. It was at a time when Labor in the other place agreed that the Legislative Assembly should not be sitting. For those opposite to say we should be sitting when in the other place they agreed with the position taken by the Government that the sitting of that House should not be occurring—the double standard is, on any view of it, self-evident. Regarding the standing order, the Hon. Adam Searle referred to the infamous night in 2009. He sought almost to dismiss this on the basis that the Government had lost control of its own agenda, and that is why Government members had to do what they did. I am sure the current Leader of the Opposition remembers that night well.

The Hon. Penny Sharpe: Yes, I do. You will remind me if I have forgotten.

The Hon. DAMIEN TUDEHOPE: I am obliged to remind her. I am sure it is a time that sticks out in her mind because that was an occasion where, for straight political purposes, Standing Order 34 was invoked for the purpose of preventing the sitting of this House. The current Leader of the Opposition, a Parliamentary Secretary at the time, could have been in the Chamber to prevent the operation of Standing Order 34. For those opposite to say they are outraged by the use of Standing Order 34 in the way that the Government sought to use it just defies belief, because there is a stark difference between what occurred in 2009 and what occurred in 2021.

Primarily, the decision taken by the Government in 2021 was in response to a health situation. Those opposite can have a different view on the health crisis that was facing the State. We had a different view. The fact is that the Executive advised the Leader of the Opposition and the President in writing that members of the Government would not be attending. We gave them the courtesy of doing that so that people would not be turning up to the House in circumstances where they would be putting their health at risk.

Mr David Shoebridge: You want us to believe you were just thinking of us, seriously?

The Hon. DAMIEN TUDEHOPE: Absolutely. The position taken by the Government was not one of political expediency but one that was taken in the best interests of not only people working in this House but also the members of this House. Those opposite can take a different view. Since this House has resumed, we have passed an amendment to the temporary standing orders allowing extra sitting days and extra budget estimates hearings. The Government has no intention of depriving those opposite of scrutinising the Government because as soon as it was safe to do so we were back, offering additional sitting days so that we make up for those sitting days that were lost to those opposite to scrutinise the Government and hold it to account. That argument is just fallacious, that we are attempting to thwart transparency. No such thing occurred. If the argument was that there was no health crisis at the time then I am happy to have that argument. It was a time when COVID cases were increasing in the community, there were increasing deaths and there was consistent advice for people to stay at home.

We were asking the community of New South Wales to take additional steps. Those opposite wanted to highlight day after day the steps that we were asking people to take, yet the example they wanted to show was that everything was okay. We took a different view. We acted on health advice, not one of political expediency like those opposite adopted in 2009. This is a completely different situation. There is a process for amending standing orders. We are currently going through a process of considering all of the standing orders and potential

amendments to them. The appropriate action to adopt would be to refer this issue to the committee considering the amendment to standing orders and have it come back after a considered process by the committee—

The Hon. Adam Searle: We can do both.

The Hon. John Graham: True.

The Hon. DAMIEN TUDEHOPE: Are you withdrawing the motion?

The Hon. Penny Sharpe: No.

The Hon. Adam Searle: We are going to do this and we can send it off to the Procedure Committee.

The Hon. DAMIEN TUDEHOPE: What should have occurred today is a referral of Standing Order 34 to the committee for the purpose of reconsidering those facts and circumstances which ought to arise when using or relying on the standing order. I was attacked in the House on 14 September and accused of acting shamefully.

The Hon. Mark Latham: You were defenceless.

The Hon. DAMIEN TUDEHOPE: Of course. I wasn't here.

The Hon. Penny Sharpe: That was your choice. You can't blame us for that.

The Hon. DAMIEN TUDEHOPE: I have to say I have no shame.

The Hon. Penny Sharpe: You were in the building. You could have walked down.

The Hon. DAMIEN TUDEHOPE: I have no shame in the actions I took on that day. I do not want anyone cutting and pasting that comment. I have no shame in the actions I took on that day because I did it in circumstances where I had the interests of every person who works in this place at heart.

The Hon. Scott Farlow: He was looking after you.

The Hon. DAMIEN TUDEHOPE: I was looking after you, your families, all the people of New South Wales and all the constituencies that you represent. What I did, for which I was accused of acting shamefully, was I gave full warning of the Government's intention. I recall a conversation that I had with the Leader of the Opposition, and I hope she does not mind me recalling our private conversations.

The Hon. Penny Sharpe: It depends what you say.

The Hon. DAMIEN TUDEHOPE: I rang the Leader of the Opposition to advise her that we would not be attending in the House, and she said, "I thought that you would not tell us until the day." The level of integrity with which we made the decision was so that it could be conveyed to members that it would be unnecessary to attend and engage in the mobility issues which were at the heart of the decisions made around the pandemic.

The Government should not be criticised for acting politically in any way on this issue. In fact, we acted with absolute integrity. We gave notice of what we were going to do not only to the Leader of the Opposition but to the President. That notice was circulated to all members of this place. The change that is sought today should go through the appropriate process. The Government opposes the change. If there is a process to consider any changes to this standing order, we are happy to do so through a committee. For the purposes of making that point today, we think it is misplaced and ill-informed.

The Hon. MARK LATHAM (10:51): I start with saying how delighted I am to see you in the chair presiding over and supporting our sittings, Mr Deputy President. It is a beautiful sight. I listened carefully to the comments of the Leader of the House. It was part whinge, part regret and part guilty conscience. He denied us those sittings, so now he is giving us more. He has got to put his own role in perspective. It is one thing for him to be a numbers man inside the Government. It is one thing for him to be a factional bovver boy. He has had a magnificent victory in recent times—39 to five, when he only had 10 votes to start with. All of us would be green with envy by that proposition, but he is not the numbers man for this Chamber. He is not the factional bovver boy controlling our sittings. The first rule of parliamentary democracy is that the Parliament can never be subservient to the Executive. We have to respect the separation of powers.

I am supporting the amendment moved by the Hon. Adam Searle to Standing Order 34 for the simple reason that it brings it into the perspective of a properly functioning Parliament. I understand that we are the only upper House in the country that has a right of veto where the Executive, by not turning up, can cancel all parliamentary sittings. Effectively we are under their thumb because of Standing Order 34. The senior Minister might regret the loss of the Tudehope veto but it should go. I made a speech that day that I know I do not need to repeat because a little birdy tells me that all the Ministers were listening anyway. They were not sick, they were

not scared and petrified of COVID and they were not racing around the State doing other business. They were sitting in their offices watching it on a computer screen. They know exactly what was said that day.

The Hon. Don Harwin: I certainly wasn't; I was home in regional New South Wales.

The Hon. MARK LATHAM: On their iPhones then. It is a bit rich for the Minister to complain that certain things were said about him when he was watching on a computer screen but was too scared to come to the Chamber to defend himself. I have got no sympathy for this situation whatsoever. The Searle motion is bringing Standing Order 34 into its proper historical perspective. Believe it or not, there was a time when this place was not democratically elected. In all honesty, it was something of a gentlemen's club where the Sydney elites and toffs would wander in in the evening and only the Vice President of the Executive Council was the Minister in the Legislative Council. That was something of a tradition. Maybe his mates were having a few beers in the dining room and he might wander off and there was no Minister here in the Chamber. So the standing order, in its tradition, was only ever a courtesy to the Chamber from the Executive that it would have someone here to answer for the Executive side of Government. It was never designed as a veto power. It was never designed as the in toto veto to cancel our sittings altogether.

In terms of what was COVID-safe and unsafe, that is a matter for the Chamber to decide. The Minister is able to get 39 votes in the party room—a magnificent achievement for which he is to be congratulated—but in this place, depending upon which day of the week it is, I think it would be somewhere between 15 and 17 votes. That is not a majority. It is for the Chamber to decide what is COVID-safe and appropriate. That is what we wanted to do that day but we were frustrated, obviously, by Standing Order 34 and the veto exercised by the Government. So whether you are looking at the historical formulation of that standing order, the proper functioning of this Parliament, the separation of powers or the management of COVID, there are very good reasons to amend Standing Order 34. The motion should be supported around the Chamber. The in toto veto has seen better days.

The Hon. PENNY SHARPE (10:55): I would like to make a couple of points. The role of this House is to hold the Executive side of Government to account. This standing order does not allow that to happen. On that basis and that basis alone, the proper role of this place is to fix it. The proposed amendment to the standing order is a very carefully worded change. It picks up the practice followed in other chambers and other places around Australia. It is not a terrible thing. It is a very straightforward thing that actually allows us to do our job in the way that we are supposed to and the way we are designed to. The motion should be supported.

The second point I want to make is about 14 September 2021. We do not need to go backwards and forwards about it. The Government made a choice that it did not want to come into the Parliament because it believed that there was a problem in relation to COVID. I refute that absolutely. As I pointed out on 14 September 2021, we had the most stringent COVID-safe plan of any workplace probably in Australia. The idea—and I think other members have made this point—that there were young people working at Woolworths, nurses in the COVID-testing lines and people wandering into Dan Murphy's, with not a vaccinated person in sight and barely a mask, but that somehow this House sitting would be unreasonable and present a danger to ourselves and others, is just wrong. It is the worst fig leaf that the Minister could have used in relation to why this House did not sit.

My third point is that democracy is inconvenient. People do not like it. Governments and Ministers in particular find it quite arduous and odious at times. But, you know what, it is the best system we have got and the point is that we should be sitting in the middle of a pandemic—when we had not sat since June—and actually doing the work that we are elected to do and that the people of New South Wales ask us to do. That is why that is important. The final point I make—I thought the Minister was going to open up on me but he squibbed it, really—is that in 2009 the Labor Government used Standing Order 34 and in 2021 the Coalition Government used it. It should not have been used either time. It is wrong in relation to democracy and sorting it out. Our job here is as the House of review. Our job here should not be stopped on the whim of the Executive. It is as simple as that. Labor has learnt its lesson. Some of us move on from decisions of the past. We on this side appreciate the role of this Chamber and the importance of democracy, no matter where you sit—whether you are sitting on these benches or those opposite—and that is why Labor has moved this amendment to the standing order today.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (10:58): I have been drawn to make a contribution following the comments of the Hon. Adam Searle and the Leader of the Opposition about 2009. I remember the situation extremely well because in fact I was on my feet speaking when the Hon. Tony Kelly scuttled out the door. The Hon. Peter Primrose was in the Chair. I have forgotten who the Labor member was who took the point of order. But, in any case, I have felt that in two respects there has been a little bit of rewriting of history from both members. Firstly, in terms of the Leader of the Opposition, I think to simply equate what happened in 2009 with what happened earlier this year as being somehow on par is completely and utterly wrong.

The Hon. Penny Sharpe: That is not what I said.

The Hon. DON HARWIN: I hear that the Hon. Penny Sharpe is objecting to my characterisation of her remarks. What she said was, "This was wrong and that was wrong." I accept that was genuine. But, nevertheless, in my view, she was seeking to create some sort of equivalence. I believe that the Hon. Damien Tudehope dealt with that issue in his remarks, but I will also make some more. Secondly, I did not hear all of the Hon. Adam Searle's contribution because I was out of the Chamber on a matter I had to deal with, but I did hear the end of it and the part I heard was a mischaracterisation of what happened, if I could put it as kindly as possible. If you look at *Hansard*, if you speak to people here, there is absolutely no way that you could characterise it as the Government having lost control of government business. That did not happen. Look at *Hansard*. I challenge the Hon. Adam Searle to say that in his contribution in reply. It did not happen.

What happened was that the Hon. Tony Kelly apprehended about something that he thought was going to happen, but he had no idea whether the Hon. Mike Gallacher or I intended to proceed with that. So the Hon. Adam Searle is quite wrong. The Government never lost control of its business and I refute that. But I will leave it there. I encourage people to have a look at my book when I finish it and read the rest of the story then. But in terms of the rest of some of the contributions made to the Chamber, where imputations of motives were made about the Government's intention, including some of the sanctimonious rubbish that I heard from honourable members when the internet feed was working on 14 September 2021—which quite a lot of the time it was not at Pearl Beach where I was listening to it—it was sanctimonious rubbish. But the Hon. Damien Tudehope has been right through the health situation, so I will rely on his remarks there and conclude.

The Hon. MARK BUTTIGIEG (11:03): I do feel compelled to contribute, since I had something to say about it at the time. A lot of the arguments have already been made, of course. But the first point I make is that this is a more than reasonable amendment, as my colleague the Hon. Adam Searle pointed out. We are not trying to forestall the valid business of the Government. We are saying that if the Government wants to transact business there needs to be a Minister in the Chamber. What we are saying though is that the House in and of itself has a right to sit, as represented by the will of the House. I participated in weekly Whips' meetings with a number of members here present for I think it must have been, six, seven, eight weeks in a row, where so much work was done on the Hibbs report to come up with a COVID-safe sitting.

Some members were dubious about the validity of that report. Originally I was a bit sceptical about coming back early, given the health crisis we had. However, I saw the amount of work that went into that report and the number of discussions that the President was facilitating on a weekly basis so that members could come back here. As my colleague the Hon. Penny Sharpe pointed out, without doubt this is the safest workplace in Australia with its requirements for double vaccination, rapid antigen testing, social distancing and air ventilation. In the same breath, we expect shopping centre workers to front up at checkout counters and hospital workers to turn up. We say to them, "It's good enough for you, but we don't really want to go in because we don't think Parliament's a safe workplace," when all members knew very well it was much safer than the situations we were putting those people in. As for not wanting to transact democracy and debate on their behalf, the cat was belled when the Government did not front up a Minister.

If Government members had believed in the veracity of their arguments, they would have facilitated the debate by fronting up and allowing the House to determine whether it wanted to sit. Instead, they used Standing Order 34 as a lever to purposely close down the Parliament. That is a fact, and I do not think anyone in their heart of hearts really believes that was not what it was used for. To answer my colleague the Hon. Damien Tudehope's argument that the Government was following 100 years of convention, conventions evolve over time because they are found to be erroneous and not justified. That is how conventions happen: Over time we experience them, we find out they are not working and we alter them. So the new convention should be manifested in getting rid of Standing Order 34 because obviously it was used in a capricious way and should not be allowed to be used again. I commend this excellent motion to the House. The upper House should never be held hostage by the Executive for its own political purposes, which is exactly what happened on 14 September.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I am not discouraging anyone from making a contribution. However, a certain theme is developing to which members are not adding a lot.

The Hon. Penny Sharpe: Thank you for that two-star review!

The Hon. JOHN GRAHAM (11:07): I was going to congratulate Mr Deputy President on the role he played on the day but I may have to turn from that now. As I said in the House earlier this week, it was sad to see a respected member of this place being sent in to make the argument that the Ministers in this Government were so important that the House could not conduct its business while none of them had turned up to support the member in making that argument. The member did as well as he could in the circumstances. I make two points. First, for the record, I appreciate the extra sittings the Government has scheduled, which is an appropriate reaction to what

was a mistake at the time. We should give the Government credit for correcting that mistake by scheduling extra sittings.

Secondly, I listened to the Leader of the House put his argument that this was about the health crisis. I found him persuasive in putting what may have been his view. However, I do not think that was the reason the Premier's office was arguing to cancel the September sittings. The then Premier cancelled the COVID press conferences from Monday 13 September. Her office then argued to cancel the Parliament from Tuesday 14 September. There has been a lot of speculation about why the then Premier did not want to turn up day after day for the press conferences. I feel that has a lot more to do with this than the health position. I accept what the Leader of the House says about his motivation, but I do not think that was the Government's only motivation.

The Hon. SHAYNE MALLARD (11:09): Mr Deputy President, I know you are seeking to draw debate to a conclusion—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): No, I am not. Every member is entitled to speak.

The Hon. SHAYNE MALLARD: I make a new contribution to this debate. I defend the fact that members on this side of the House did not attend because they were driven by health concerns. With my colleague and friend the Hon. Sam Faraway, I participated in the six or seven weeks of Whips and leaders meetings that developed the COVID plan. There was always a caveat. I have said this before to make sure that we were not verbalised: The caveat was that we would follow the health advice. Members may recall that the Hibbs report recommended the House not sit if the preconditions were—

The Hon. Penny Sharpe: For the first time, not for the second.

The Hon. SHAYNE MALLARD: I did not interrupt the Hon. Penny Sharpe. The precondition was increasing infection rates and health orders restricting mobility. That was the situation we confronted in the week of 14 September. The convention is the Government should be able to furnish a quorum for the House. During last night's adjournment debate only two other Government members were in the House. I had to make sure that seven Government members were present to maintain a quorum in the House. We could not provide a quorum in the September sitting period because only five members, including me—and I was reluctant to be here—were able to attend the Parliament. Other members were rural or regional, either not fully vaccinated or not vaccinated at all, had members at home who were not vaccinated or had concerns. I had concerns myself because my elderly parents live in a cottage on my Blue Mountains property only 10 metres from my house. Genuine health concerns kept a lot of members away, so there was a denial for members to be able to attend the House. At a pinch, the Government could have provided five members for that sitting, including me reluctantly. It was not driven by an ulterior motive but by genuine health concerns held by members on this side of the House. That is why members did not attend.

I also comment on the Dan Murphy fufury that we also hear the Victorian Premier use. The difference between this Parliament and Dan Murphy's—and of course I respect the workers at Dan Murphy's and Woolworths—is that the members of this Parliament are dispersed perfectly across the State to spread the virus if we were exposed. Whereas Dan Murphy's at Katoomba—no doubt the Hon. Adam Searle and I are regulars and we regularly meet our local friends there—is a local community place so it is not as dangerous as the Parliament could have been if there had been an exposure. I make that observation about our perfect population dispersal. I reinforce the point that the decision made on this side of the House was very much driven by health.

Reverend the Hon. FRED NILE (11:13): Like the majority of other members, I was present in the House on 14 September. It was a day of embarrassment for Mr President to have to rule that even though a quorum of members was present the House could not conduct any business because a Minister of the Government was not present in the House. That was a shock to me. It appeared that the Government had gone on strike and was not supplying a Minister, which would have been very simple for it to do. No explanation was given that all the Ministers were ill or could not attend the House on that day. In fact, the Minister has indicated that they were following the debate whilst not being present in the House. It would have been a very simple matter to walk through that door and sit in the House so that the House could proceed to conduct business. A lot of members wanted to conduct business and had motions they wanted to debate.

We were told and the President reluctantly had to rule that we could not continue sitting because a Minister was not present. It appeared to me, just observing without anyone having given me any background to what was going on, that the Government had gone on strike that day and was preventing the House from conducting its business. The Legislative Council was being prevented from doing its job. From my recollection, no great explanation was given by anybody for the argument that COVID was so serious that the Government could not supply a Minister to attend the House on that day. That point was never presented to the members of the House

who were present. It was a very sad day to have experienced that situation, especially in my 40 years in this place. I hope we never see it again.

The Hon. ADAM SEARLE (11:15): In reply: I thank honourable members for their contributions. I will not do a rollcall of honour; they know who they are. The Opposition will accept Mr David Shoebridge's proposed amendment. It would be ridiculous to adopt the new sessional order only to have that taken as a point of order by the Government or any other member, so we think it should be put beyond doubt and we will take the amendment on board. The point raised by Mr David Shoebridge and, I think, the Hon. Mark Latham was that the convention that there would always be a Minister present in the House for the House to sit was not intended as a veto by which the Executive side of Government could neuter the Parliament; rather it was, if you like, a courtesy to the Executive so the Executive at all times would know what was going on in the Parliament.

Whether that is the constitutional genesis, again it may well have been appropriate at a time when members of this place were appointed rather than elected, with the advent of universal franchise for the Legislative Council elections and the full democratisation of this Chamber, it was an historical anomaly, particularly when no other upper House in the Commonwealth has such a rule, convention or standing order. It is beyond argument that the time has come to change it. That has been well established in this debate. To take the point raised by Reverend the Hon. Fred Nile, the best argument against the proposition I advance today was made by the Hon. Shayne Mallard. Of course, it was an argument that the Government never advanced.

If the Government's true position was that it could not supply anybody to this Chamber on account of travel restrictions or apprehensions about the spread of the disease, that would have been an argument, but it was an argument the Government did not use at the time. In the contributions made by the Leader of the Government and the Leader of the House, it is not one they advance now. I accept the genuineness of the Hon. Shayne Mallard's personal contribution, but I do not think it is the basis upon which we should be making this decision today. To take the Hon. Shayne Mallard's Dan Murphy's point, although I am not a stranger to Dan Murphy's in Katoomba—

The Hon. Shayne Mallard: I meant Woolworths.

The Hon. ADAM SEARLE: I acknowledge that interjection. I put it in the context of this very serious proposition: My sister is a nurse who was sent from a safe workplace to a COVID-riddled Nepean Hospital, but she did not complain; it was her duty. My daughter, who is a student nurse, similarly was conducting her duties, again without complaint. How dare members of this Chamber suggest that our personal welfare should be put on a higher plane than that of first responders. If we can be asking other people to go to their workplaces to do work that is vital and necessary for the broader community, how can we not attend our place of work to do our duties except in the most extraordinary circumstances?

If there was no way this workplace could be made safe, that would be an argument. But I think fair-minded people, particularly working through the collective efforts of the Whips, would acknowledge that all the measures that were being put in place through the health consultants—social distancing, rapid antigen testing, wearing of masks except when speaking at the lectern—make this one of the most stringent, if not the most stringent, workplace in this State if not this nation. I think at least a majority of members in this Chamber do not accept the Government's argument that it did not attend the Chamber on that day for that reason. So we can put that to bed. I raise the challenge posed to me by the honourable Leader of the Government about the 2009 situation. Of course, I was not here on that occasion, either as a member or a staffer. I refer members to page 336 of the *New South Wales Legislative Council Practice*, Second Edition, 2021, which discusses the occasions on which Standing Order 34 has been invoked. It states:

However, the third instance in June 2009 was highly unusual.

For members' benefit, the reference is in footnote 69: "*Minutes*, NSW Legislative Council, 24 June 2009, p 1282". Further:

On that occasion, on it becoming clear that the government had lost the support of the House for its legislative program, the one remaining minister in the House left the chamber, forcing the President to suspend proceedings under standing order 34.

Whether that is an accurate encapsulation of events on that occasion, it is what the book says. Indeed, even if it did not happen, even if it was merely the Government reading the tea leaves, as it were—

The Hon. Don Harwin: I ask you to look at *Hansard*.

The Hon. ADAM SEARLE: I know what the member did, and I did not have time in the few minutes between his contribution and mine to do so, but the point is there was at least a strong apprehension that Mr Gallacher, being a wily operator as a member, was embarking upon a course of action. It may not have crystallised but, knowing Mike Gallacher, I reckon it was odds-on to occur. Whether it occurred or not is not material. The Government took a course of action to preserve the integrity of its legislative agenda. We are not seeking to disturb that part of the convention in proposing our amendment to the standing order. We recognise

that the Government should have continued control over its agenda in this place, but that should not prevent this House meeting for other purposes. To the other point, which I think the Leader of the House raised, that the Labor Opposition did not mind the Legislative Assembly upping stumps but somehow wanted the Legislative Council to continue, given the Government's control of the lower House and its inflexibility and unwillingness to listen to alternative points of view—

The Hon. Penny Sharpe: They didn't have a COVID plan.

The Hon. ADAM SEARLE: And they didn't have a COVID plan.

The Hon. John Graham: It would've been unsafe.

The Hon. ADAM SEARLE: I acknowledge those interjections. The point is the outlook was very different, the context was very different and the preparations for sitting were very different.

[A member interjected.]

No, the preparation and the hard work done by the Clerk, the President and the Whips to prepare this Chamber for sitting had simply not been done in the other place. So it is an inapposite comparison. But this House has been more effective, dare I say it, at holding the Executive to account in this term of Parliament, and it had serious work to do on the occasion on which a majority of members sought to sit. We should modernise the rule, appropriately recognising the rights and privileges of the Executive but not allowing the Executive an absolute veto on whether this House meets. The idea that this House would meet in defiance of all good sense and caution does a great disservice not only to the members of this Chamber but also to the officers. That is simply not the case.

Nobody would be wanting to meet to put themselves, their communities and their families at unnecessary risk. That was not the situation. Careful and stringent preparations had been made. So let us modernise the rule and put it in place as a sessional order. Of course it should go to the Procedure Committee to be considered. A subcommittee of the Procedure Committee is looking at all of the standing and sessional orders currently in operation. Let us add this one to the list. Let us get it done to make sure that neither this Government nor a future government is tempted to inappropriately shut down the scrutiny of the Executive by this House.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The Hon. Adam Searle has moved an amendment, to which Mr David Shoebridge has moved an amendment. The question is that the amendment of Mr David Shoebridge be agreed to.

Amendment agreed to.

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

The House divided.

Ayes21
Noes12
Majority.....9

AYES

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

NOES

Cusack	Franklin	Martin
Fang	Harwin	Poulos
Farlow	Maclaren-Jones	Tudehope
Faraway (teller)	Mallard (teller)	Ward

PAIRS

Graham
Houssos
Mookhey
Primrose

Mason-Cox
Taylor
Mitchell
Amato

Motion as amended agreed to.

*Bills***PUBLIC INTEREST DISCLOSURES BILL 2021****First Reading**

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

Second Reading Speech

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (11:35): I move:

That this bill be now read a second time.

The Protected Disclosures Bill was introduced by then-Premier John Fahey in late 1992. The Fahey Government had committed to legislate to provide full protection of the rights and employment of any public sector employee who exposed corruption, matters constituting public maladministration or significant waste. The resulting Act was subsequently renamed the Public Interest Disclosures Act in 2010. It was important reform, as I have remarked previously in this place when reflecting on the remarkable life and legacy of the Hon. John Fahey, and it has served our State well over the past 27 years. It is one of the oldest public interest disclosure [PID] schemes in Australia, providing an important precedent for the whistleblower protection legislation that now exists in every Australian jurisdiction. It has served our State well for many years but it was time for it to be reviewed, and now is the time for it to be reformed.

The current Public Interest Disclosures Act establishes a whistleblower scheme for the disclosure of serious wrongdoing in the public sector in New South Wales. Public officials who make PIDs are protected from detrimental action and generally cannot be subject to any liability for making the disclosure. The bill will repeal the existing Act and enact a new Act protecting disclosures by public officials about serious wrongdoing. This reform is the first substantial rewrite of the existing Act since its commencement in 1994. The bill will also increase protections for people disclosing misconduct or wrongdoing to the ICAC, the Ombudsman, and the Law Enforcement Conduct Commission [LECC].

It is apt that this bill, like the existing Act, has its origins in the committee processes of this Parliament. In October 2017 the Joint Parliamentary Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission tabled its report on the review of the Act, making 38 recommendations for reform. The committee determined that the disclosure process could be simplified, that technicalities cause disclosers to miss out on protections and that the protections around detrimental action should be enhanced. The committee also recommended that the Act be redrafted to simplify its provisions and structure. In November 2017 the Committee on the Independent Commission Against Corruption tabled its own report entitled *Protections for People who make Voluntary Disclosures to the Independent Commission Against Corruption*, making 10 recommendations.

The ICAC committee found that the existing protections for people who make disclosures to the ICAC likely only apply where a person is required to make the disclosure, and not to a voluntary disclosure. The ICAC committee concluded that this may deter people from reporting corrupt conduct and recommended legislative reform to protect people who make voluntary disclosures to the ICAC against criminal, civil and disciplinary liability and reprisal action. The bill implements the recommendations for legislative reform by the two committees. Considerable work has been undertaken to harmonise the recommendations of those two committees. This bill in fact goes further than what the committees contemplated to simplify the disclosure process and enhance protections for disclosers by introducing a "no wrong door" approach. This means a person making a public interest disclosure is not disadvantaged by who they make the disclosure to.

I will briefly explain the expert consultation process that developed the bill before moving to describe the provisions of the bill in detail. The Public Interest Disclosures Steering Committee has the statutory function of advising the Government on the operation of the Act and providing avenues for reform. The NSW Ombudsman is the chair of the steering committee and is responsible for oversight of the public interest disclosures regime.

The other members of the steering committee are drawn from the State's key integrity agencies, including the ICAC and the LECC. The Department of Premier and Cabinet has worked closely with the steering committee to ensure that expert advice and input was provided in the preparation of the bill. The steering committee has met on numerous occasions since December 2017 to consider the proposed reforms and various drafts of the bill, finally finishing its work just a few weeks ago. The steering committee has advised the Government that it:

... unanimously welcomes the PID Bill, and believes it will represent a significant enhancement to whistle-blower protections in NSW, helping to ensure that reports of wrong-doing are acted upon, and that reporters are encouraged to come forward and are protected when they do. The bill addresses many of the weaknesses in the existing PID Act.

Recommendation 38 of the Ombudsman committee report was that the Act be redrafted to simplify its provisions and structure. The Government determined that a repeal and rewrite of the Act would best implement the committee's recommendation, enabling simplification of the Act's structure, provisions and language. I will briefly explain several of the introductory provisions in part 1 of the bill. Clause 3 sets out the objects of the bill. The objects have been expanded when compared with the objects of the current Act, including promoting a culture in which public interest disclosures are encouraged.

Generally the provisions of the bill, once enacted, will prevail over any inconsistent Act or law. However, where other Acts or laws compel people to provide information, the proposed Act will not affect legal professional privilege and the privilege against self-incrimination. Legal professional privilege will also not be waived merely because a public interest disclosure breaches legal professional privilege. The proposed Act will also not affect the availability of public interest immunity claims. Clause 12 of the bill deals with the impact of recent Commonwealth legislative reform. Despite changes in the Commonwealth scheme, it was determined that the most appropriate course was for the New South Wales public interest disclosures scheme to apply to New South Wales agencies, noting the ability for New South Wales to exempt its own entities from the Commonwealth corporate whistleblower laws under the Corporations Act.

The proposed new Act provides a framework for public officials to report serious wrongdoing in the public sector and to receive protections when reporting. That is outlined in part 2 of the bill. Currently, the existing Act requires disclosures concerning particular types of misconduct or wrongdoing to be made to particular recipients—for example, disclosures concerning corrupt conduct must be made to the ICAC. Generally a disclosure under the current regime to an incorrect recipient is not a public interest disclosure and does not receive the protections under the Act unless the disclosure is a misdirected disclosure, as defined, to an investigating authority under section 15 of the Act.

Recommendation 3 of the committee's report was that the protection for misdirected disclosures be extended to all disclosures where the public official making the disclosure honestly believed that it was the appropriate public authority. The bill ensures that disclosures do not lose protections because they have been made to the wrong recipient by implementing a "no wrong door" approach. It is proposed that public interest disclosures be made in one uniform manner, replacing the separate and slightly different pathways that currently exist for disclosures about different categories of wrongdoing to different recipients.

Clause 13 of the bill collectively refers to the six different types of wrongdoing as "serious wrongdoing". "Corrupt conduct" continues to have the same meaning as in the ICAC Act. "Serious maladministration" is defined to mean conduct—other than conduct of a trivial nature—of an agency or a public official, relating to a matter of administration, that is unlawful; unreasonable, unjust, oppressive or improperly discriminatory; or based wholly or partly on improper motives. This is broadly consistent with the definition of "maladministration" in section 11 (2) of the existing Act, with the exception that the threshold requirement—that the action be "of a serious nature"—has been replaced with the threshold "other than conduct of a trivial nature". The change in language arises following advice from the Ombudsman that, in practice, agencies may apply an inappropriately conservative view of the meaning of "serious". For example, an agency may incorrectly apply a requirement that "serious conduct" must amount to the commission of a criminal offence when, in fact, a "serious" threshold merely excludes trivial matters.

The definitions of a "government information contravention" and "privacy contravention" similarly exclude trivial failures. A "government information contravention" is defined as a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with the Government Information (Information Commissioner) Act, Government Information (Public Access) Act or State Records Act. The inclusion of a failure to exercise functions under the State Records Act in the definition implements recommendation 7 of the Ombudsman committee. A "privacy contravention" is defined as a failure, other than a trivial failure, by an agency or public official to exercise functions in accordance with the Privacy and Personal Information Protection Act or Health Records and Information Privacy Act.

A "local government pecuniary interest contravention" is defined as the contravention of an obligation imposed in connection with a pecuniary interest by the Local Government Act or a code of conduct adopted by a

council. The inclusion of a contravention of a code of conduct adopted by a council is an expansion of the existing definition of local government pecuniary interest contravention under the current Act. The final type of serious wrongdoing, a "serious and substantial waste of public money", is not defined in the bill, as is the case in the existing Act, as it is a term of art and well understood.

The bill establishes three types of public interest disclosures. Voluntary public interest disclosures are defined as a disclosure of information about serious wrongdoing made by a public official. This is comparable to a public interest disclosure under the existing Act. Witness public interest disclosures are defined as a disclosure of information in an investigation of serious wrongdoing. And mandatory public interest disclosures are defined as a disclosure about serious wrongdoing made by a public official while meeting the ordinary requirements of the official's role or functions, or under a statutory or legal obligation. The bill enables a disclosure by a public official where the maker honestly believes, on reasonable grounds, that conduct shows or tends to show serious wrongdoing. This will constitute a voluntary public interest disclosure and the public interest disclosure maker will receive protections where it is made to any of the broad list of recipients under clause 27 of the bill. The "no wrong door" approach is a novel policy concept developed by the steering committee, and I commend them for their ingenuity to enhance the recommendations of the Ombudsman committee of the Parliament and further simplify the public interest disclosure scheme.

The bill does not change that public interest disclosures are to be made by public officials. Clause 14 of the bill defines who is a "public official". This is broader than the equivalent definition under the existing Act, reflecting the changing nature of service provision in the modern public service. The definition expressly captures statutory officers and people providing services or exercising functions on behalf of an agency, including contractors, subcontractors and volunteers. Clause 14 (1) (f) provides that the employees, partners or officers of an entity who are involved in providing the services under contract, or who exercise the functions, of an agency are public officials under the proposed Act.

Currently, section 8 of the Act provides for the making of public interest disclosures to specified recipients. The Ombudsman committee was concerned that public authorities do not nominate enough officers to receive public interest disclosures. Clause 27 of the bill provides for the making of public interest disclosures to a much broader range of recipients, including the head of an agency, the head of an integrity body, a disclosure officer or the person's manager. A manager who receives a public interest disclosure must, as soon as reasonably practicable, communicate the disclosure to a disclosure officer. This would be an example of a mandatory public interest disclosure.

Currently, Ministers are not designated public interest disclosure recipients under the Act, with the exception of where a public interest disclosure can be made to a member of Parliament under certain circumstances. The Ombudsman committee considered that a Minister can be distinguished from a member of Parliament, and recommendation 2 of the committee's report was that a Minister should be able to receive a public interest disclosure. Clause 27 of the bill provides that a Minister or a member of the Minister's staff may receive a public interest disclosure if the disclosure is in writing. Clause 52 provides that a Minister or member of a Minister's staff to whom a public interest disclosure is made must, as soon as reasonably practicable, communicate the disclosure to a disclosure officer of the agency that is responsible to the Minister or an integrity agency.

Section 19 of the existing Act provides that a disclosure by a public official to a member of Parliament or a journalist is only a public interest disclosure if the public official making the disclosure has already made substantially the same disclosure to an investigating authority or public authority, and that authority must have decided not to investigate the matter, or not completed any investigation within six months, or failed to notify the discloser within six months of the disclosure being made whether or not the matter is to be investigated. The Ombudsman committee considered that the requirement that a disclosure first be made to a public or investigating authority should continue, which is implemented in the bill, with the exception of two minor changes.

The first change is to provide for the investigation period to be extended to 12 months in limited cases, in particular where there has initially been a decision that the internal agency disclosure was not a public interest disclosure and where that decision is subject to internal review. And the second is to modernise the definition of "journalist" to be consistent with the definition in the Evidence Act 1995. In addition, the existing Act provides that a disclosure by a public official to a member of Parliament or a journalist is only a public interest disclosure if the public official has reasonable grounds for believing that the disclosure is substantially true and the disclosure is in fact substantially true. The Ombudsman committee recommended the repeal of these requirements. A number of members of the steering committee have also indicated support for implementing this recommendation.

Clause 28 of the bill removes the requirement that the public official has reasonable grounds for believing that the disclosure is substantially true, but continues the requirement that the disclosure is in fact substantially true. Unlike some other jurisdictions, New South Wales has a comprehensive array of integrity agencies established for the purpose of investigating serious wrongdoing in the New South Wales public sector, and they

have been given significant investigative powers. The bill facilitates the making of disclosures within the Executive arm of government, including to those integrity agencies, and will ensure that a disclosure is dealt with by the appropriate agency or integrity body.

If a public official decides that a disclosure has not been adequately addressed within the Executive, it is an appropriate safeguard to require the disclosure to be true before conferring protections on a person disclosing what may be a confidential or defamatory matter outside of the Executive. This is imperative given the importance of protecting the reputation of individuals against defamation and discouraging the unauthorised public disclosure of confidential information. Public disclosure of some allegations may unjustifiably and irreparably damage reputations, especially when those allegations are subsequently found to be groundless or inaccurate. The ability for a person within the Executive arm of government to make a public interest disclosure outside of the Executive to a member of Parliament or a journalist is a final safety net in the very rare circumstance where integrity agencies or other agencies are aware of proven serious misconduct but have failed to deal with it. The steering committee has indicated to the Government that:

Although some of the members of the PID Steering Committee are of the view that the PID Bill could be further improved ... all are unanimous that the PID Bill as currently drafted is a positive reform and a significant improvement to the current PID Act. The PID Steering Committee would support the PID Bill being passed in its current form.

Clause 26 of the bill prescribes the content of a voluntary public interest disclosure. Generally, the maker of a voluntary public interest disclosure must honestly and on reasonable grounds believe that the disclosure shows or tends to show serious wrongdoing. However, a voluntary public interest disclosure cannot relate to a disagreement with government policy, including a government decision concerning amounts, purposes or priorities of public expenditure. This requirement continues the principle in section 7 of the existing Act, while providing the further clarification recommended by the Ombudsman committee in recommendation 32. Further, a voluntary public interest disclosure cannot concern a grievance about an employment matter for an individual except in limited circumstances. These provisions implement recommendation 33 of the Ombudsman committee.

Clause 84 of the bill provides that wilfully making a false statement to mislead or attempt to mislead in making a public interest disclosure is an offence. The maximum penalty is 100 penalty units or two years' imprisonment or both. I move to what is in many ways the most important part of the bill: the protections for public interest disclosure makers in part 3 of the bill. The bill continues five types of protections and remedies available under the existing Act: an offence prohibiting the taking of detrimental action against a public interest disclosure maker; a right for the public interest disclosure maker to recover damages for detrimental action; the availability of an injunction to restrain detrimental action; protection from liability for making the disclosure; and prohibitions against disclosures by agencies of information tending to identify a public interest disclosure maker, subject to exceptions.

I will now briefly describe each of these protections and remedies, which have been enhanced in response to the recommendations of the Ombudsman committee and following consultation with the steering committee. As under the existing Act, a detrimental action offence to protect public interest disclosure makers is proposed in clause 33. The elements, however, have been substantially redrafted. Taking detrimental action against a person suspecting, believing or knowing that they or a third person has, will or may make a public interest disclosure where the suspicion, belief or awareness is a contributing factor to the taking of the detrimental action is an offence. The proposed threshold for a detrimental action offence in the bill has been lowered from the threshold in the current Act.

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

Questions Without Notice

COVID-19 AND JOBS

The Hon. PENNY SHARPE (12:00): My question is directed to the Minister for Finance and Small Business in his own capacity and in representing the Treasurer. Given the ABS has just confirmed that New South Wales lost another 24,775 jobs last month and 234,481 jobs since the start of the 16-week lockdown, has the Government received advice about when it will have restored all lost jobs?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:01): I thank the Leader of the Opposition for her question relating to jobs. There is no doubt that this Government is focused on jobs.

The Hon. Sarah Mitchell: He is a multitasker. Look at him. He could do two jobs at once.

The Hon. DAMIEN TUDEHOPE: That is right. What the Government has done in terms of—

The Hon. Penny Sharpe: Does Natalie Ward know what job she has? The Premier does not.

The PRESIDENT: Order! The Minister has the call. I am sure the Minister was going to directly answer the question.

The Hon. DAMIEN TUDEHOPE: What we ought to be doing is just looking at the support that the Government has given for jobs packages during the period of the pandemic. If those opposite want to tell us that we have not been through a pandemic and that we have not had to issue orders which have had a significant impact on business, that is an argument they may want to make. It is not one that we want to make on this side. What we have to do is look at the extent to which we have supported small business because that level of support is the way that we are going to revitalise and ensure the opening up of businesses for the further engagement of employees in business. What are the jobs recovery strategies that we have? We are certainly supporting small business.

I am sure those opposite want to hear about the level of support which we have given to small business during the period of the lockdown. We have got the 2021 COVID-19 business grant, which we are pretty happy about. We have got \$2.3 billion out the door for that. We also have the JobSaver grant, which was a program developed by the Government for the purpose of making sure that businesses were supported and that people were connected with their business and stayed on the payroll so that they could get back into work as we go through this period of reopening the State. The best deliverer of jobs is a commitment to making sure that small business has the best opportunity. What we are doing on this side is not seeking more lockdowns, we are opening up the economy. We are making sure that both businesses across the metropolitan and greater Sydney area as well as businesses in regional areas can open up. This is not a government that is interested in dividing New South Wales, it is interested in unifying the State. It is a government of unity, not of disunity. Those opposite are interested in only the politics of disunity. They are interested in the politics of division. [*Time expired.*]

The Hon. PENNY SHARPE (12:04): I ask a supplementary question. If the Minister does not think that the loss of these jobs is important and he wants to play silly lines—

The Hon. Don Harwin: Point of order—

The PRESIDENT: The member will ask a question rather than make a comment.

The Hon. PENNY SHARPE: My apologies, Mr President. The Minister provokes me. My supplementary question to the Minister is: Will he elucidate the part of his answer where he talked about jobs and provide information to the House about where the jobs have been lost?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:04): I am sure the Australian Bureau of Statistics indicates—

The Hon. Penny Sharpe: Don't you know?

The PRESIDENT: Order! I remind members not to offer the Minister advice. He is more than capable of answering the question. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: The Government's dedication and commitment to creating and supporting jobs for the people of New South Wales have been the subject of numerous strategies, which I have articulated in this Chamber on numerous occasions. It is great that we can always get notes about where these things are.

The Hon. John Graham: Does it say where the curfew was?

The Hon. DAMIEN TUDEHOPE: No, but it does say that where the jobs have been lost most is in accommodation and agriculture, and that is where opportunity is. What we have got to be doing is looking—

The Hon. Penny Sharpe: So people in Fairfield can go and pick cherries in Young, can they?

The PRESIDENT: Order! The Minister will be given the opportunity to respond.

The Hon. DAMIEN TUDEHOPE: We should be looking at ways to get people into those employment opportunities where they currently exist. I go to lots of small businesses and they tell me that the hardest thing for them is to get people to come and work. The jobs are there, and everyone in this Chamber knows it. I will have more to say about it later, but if you look at the jobs creation strategy you will see we have the \$1 billion Working for NSW fund—do those opposite want to talk about that? We have created a \$3 billion Jobs and Infrastructure Acceleration Fund and a Planning System Acceleration Program. This is a government that is focused on delivering programs that create jobs, more jobs and even more jobs. So to suggest that this is a government that is not committed to delivering jobs is just an illusion.

The Hon. DANIEL MOOKHEY (12:07): I ask a second supplementary question. Will the Minister elucidate that part of his answer where he makes reference to the support programs? Will the termination of the support programs on 30 November increase or decrease employment in the State?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:07): I am aware of this.

The Hon. Daniel Mookhey: You need a note for that?

The Hon. DAMIEN TUDEHOPE: I do not need a note for it.

The PRESIDENT: I remind members that interjections are disorderly.

The Hon. DAMIEN TUDEHOPE: I made a really disrespectful remark to the shadow Treasurer the other day and I again apologise for it, but I worry about that sort of question, which does not seem to acknowledge or appreciate that there is never such—

The PRESIDENT: The Minister will not debate the question.

The Hon. DAMIEN TUDEHOPE: —a thing as a reduction of support for small business.

The Hon. Daniel Mookhey: What do you call the termination of jobs then?

The Hon. DAMIEN TUDEHOPE: The fact of the matter—and what you do not get—is that while one support package may finish, another one starts. Today we announced the additional Dine & Discover vouchers. If you want to talk about support for small business, that is the way you deliver it. You do not come in here and say, "You are pulling it all out", because when one stops, another one starts. This Government is continually and innovatively delivering outcomes for small business. The misconception is that all of a sudden because you stop one package, which is consistent with the opening up and the road map approach of the State where we have filled in for the withdrawal of support by the Federal Government, all support stops. We have continued to support small business in accordance with the road map guidelines. We want businesses open. But every time we finish potentially one level of support, guess what? There is something coming in its place. Unlike those opposite, we are always focused on making sure we deliver opportunities for small business and on ensuring that people remain in employment in this State. The fundamental thing we recognise is that business is the great supporter of families and the people of this State.

BLUE PLAQUES PROGRAM

The Hon. PETER POULOS (12:09): My question is addressed to the Minister responsible for heritage. Will the Minister update the House on the New South Wales Blue Plaques program?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:09): I can indeed. We are very much looking forward to the inaugural speech of the Hon. Peter Poulos, when his family and friends can be present to celebrate that with him. Earlier this year the Premier and I were delighted to join the member for North Shore—

The Hon. Daniel Mookhey: Which Premier?

The Hon. DON HARWIN: The current one—and Hulya Yilmaz, Chairman of Nutcote cottage, to announce \$5 million in funding for the Blue Plaques program. The first three plaques recognise author May Gibbs, former government architect Walter Liberty Vernon, and former Taronga Zoo chairman Sir Edward Hallstrom. From sites linked to famous Aussie brands, unsung heroes and even motorsports, communities are getting behind the Blue Plaques program. I wrote to all members of both Houses advising that nominations opened on 10 September and will close on 31 October and that they can make nominations. I am delighted to tell the House that nominations have been rolling in since then.

I am advised that the Hon. Mark Pearson—who is not here, sadly—is also getting behind the program, with one nomination in so far, as is, from the Opposition, the member for Prospect, who has been a prolific nominator. The member for Port Stephens has been busy nominating and even my local member, the member for Gosford, has put in a few nominations and they are good ones—Leisl has done well. I am told that none have been received from the shadow Minister for heritage, who has been interrupting, but there is still time. I encourage Walt to put in a few nominations, or let Julia do it because I am sure they will be better. Government members have been hard at work with nominations submitted by the member for Goulburn; the member for Northern Tablelands, Minister Marshall; the member for Baulkham Hills, Minister Elliott; the member for Manly; the member for South Coast, Minister Hancock; and the member for Camden. I thank those members for sharing their communities' stories.

The member for Sydney, Alex Greenwich, has been actively promoting the Blue Plaques program in the media. I saw an article about it in the *Star Observer* recently, calling for nominations that celebrate important sites that recognise the diversity of Sydney. I am pleased to see that the Shooters, Fishers and Farmers Party is also involved. The member for Barwon has been calling out for nominations and is quoted in *The Cobar Weekly* as

saying, "C'mon Barwon, please let me know where you would like a Blue Plaque." I look forward to seeing his nominations also. Whether it is a celebration or a commemoration, we want to see the heritage that matters most to communities recognised. There is still time to make a nomination.

TALLAWONG PRIMARY SCHOOL

The Hon. JOHN GRAHAM (12:13): My question without notice is directed to the Deputy Leader of the Government, the Minister for Education and Early Childhood Learning. Given that before the election the Minister promised a new primary school in Tallawong, why has this project not been submitted for planning approval and when will construction commence?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:13): I thank the Deputy Leader of the Opposition for his question. It is not surprising that he asks me about this. I listened to the Leader of the Opposition's budget reply speech in the other Chamber and I thought a few questions might be asked about our infrastructure. But those opposite must not pay a lot of attention when I talk about our record school infrastructure spend, because obviously we are a government that is delivering when it comes to our education infrastructure commitments. We are building more new and upgraded schools than any other government in the history of New South Wales, and we are very proud of that. In relation to that specific project—the new primary school in Tallawong—it is our side of the House that committed to delivering that new primary school during the 2019 New South Wales election. And it is our side of the House that will deliver it because we deliver on our election commitments. We have secured a site for that new school. We are working through the design stage of that project. And, as we do with all of our infrastructure projects, we will continue to update that local community as the stages of that project progress.

The Hon. JOHN GRAHAM (12:14): I ask a supplementary question. Once again the Minister is avoiding answering when this will happen.

The PRESIDENT: The member will ask his supplementary question without making any editorial.

The Hon. JOHN GRAHAM: Will the Minister elucidate her answer and inform the House when construction will commence and when these planning documents will be lodged?

The Hon. Trevor Khan: Point of order: The supplementary question is the same as the original question.

The Hon. John Graham: To the point of order: There are two elements to my supplementary question. One did reiterate the question about construction, but the additional element was about the planning documents that were referred to in the Minister's answer.

The PRESIDENT: I am fortunate to have the supplementary question before me, so I can rule that that is correct. The Minister has the call.

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:15): I reiterate my earlier answer. We have secured a site for that school. We are working through the design stage of the project. And, as we do with all of our projects, we will update the community as things progress.

The Hon. COURTNEY HOUSSOS (12:16): I ask a second supplementary question. Will the Minister elucidate her answer and explain why there has been such a delay in submitting the planning documents and commencing construction from when the original promise was made to the local community?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:16): As I said in my original answer—I will repeat myself again—we made that commitment during the 2019 election. We have our site. We are working through to the design stage of the project. We follow processes when it comes to building infrastructure. We update the community continually throughout that process. We will do this when we have an exact time line going forward as well. There is a process for building schools that those opposite do not understand because they never built any. There has not been a delay with this project. As I said, we will continue to update the community when time lines are confirmed. That is what a good government does. We plan, we build and we go through the appropriate processes.

COVID-19 AND AUSLAN INTERPRETERS

Ms ABIGAIL BOYD (12:17): My question is directed to the Leader of the Government, representing the Premier. How can the Government justify holding press conferences that relate directly to changes in health orders—such as the one held by the Premier, Deputy Premier, Treasurer and Minister for Finance and Small Business on Monday to mark the significant easing of COVID restrictions—without an Auslan interpreter present to provide real-time information accessible to deaf and hard-of-hearing viewers?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:18): I thank Ms Abigail Boyd and I note there is considerable interest in the matters that she has raised around the Chamber. I am sure that there would be plenty of interest in the community. Therefore, I will refer it to the Premier and obtain a response and forward it to the honourable member.

COVID-19 AND MULTICULTURAL COMMUNITIES

The Hon. TREVOR KHAN (12:18): My hard-hitting and incisive question without notice is addressed to the Minister for Sport, Multiculturalism, Seniors and Veterans. What is the New South Wales Government doing to engage multicultural and vulnerable communities during the COVID-19 pandemic?

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (12:19): I thank the honourable member for his interest in this area and note that there has been substantial engagement with the multicultural community. I have been delighted and privileged to lead that during the COVID-19 pandemic. From the outset, it has been an honour to meet online with so many community and religious leaders over the past few months. Since having the privilege of taking up this role, it was my priority to hear from them, learn from them and walk this journey by their side. Since June the New South Wales Government has held more than 60 community forums representing more than 4,500 individual engagements with religious and community leaders. Their ongoing feedback and advice was critical to informing our response on the ground with their perspective on the impacts of the outbreak and the public health orders on our diverse communities. It was important that we heard from them what they needed on the ground so that we could nuance our response to the outbreak. Part of the initial feedback I received was the need to make sure communications were clear and translated for our multicultural communities.

The Hon. Walt Secord: Tell us about the 3 June meeting with Keysar Trad.

The Hon. NATALIE WARD: I certainly will. In response, we have translated—

The Hon. Walt Secord: Tell us about the Keysar Trad meeting.

The Hon. NATALIE WARD: I absolutely will.

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

The Hon. NATALIE WARD: I would be delighted to answer the honourable member's question but I will answer the first member's question. In response, we have translated more than 3,000 written resources in almost 60 languages since the COVID outbreak began. We also became the first State in Australia to partner with SBS to deliver the COVID press conferences in language—live translations in 10 languages. They are Arabic, Assyrian, Bangla, Cantonese, Greek, Khmer, Mandarin, Spanish, Vietnamese and Urdu. After months of Zoom calls, it was a fantastic privilege on Monday—which I call thank you day, not freedom day—to personally visit and meet with some of our multicultural leaders who have been at the forefront of helping our most vulnerable residents.

I was humbled to meet the volunteers at Addison Road Community Organisation in Marrickville, who prepare food for more than 8,000 people each week across western and south-western Sydney. The Addi Road Food Relief Hub is one of the partners of the GWS Giants "GIANT Hand" program, which provides 1,000 meals a week from its Sydney Olympic Park training base. It was also wonderful to see that work in action and pack some of those food parcels together with them. Together with the member for East Hills and the member for Lakemba, we visited the Lebanese Muslim Association vaccination hub in Lakemba. It was fantastic. It was heartening to hear just how incredibly successful this community vax hub was. Nearly 10,000 vaccine doses have been administered at that one hub alone.

The Hon. Walt Secord: What about the Keysar Trad meeting?

The PRESIDENT: Order! The Hon. Walt Secord has interjected on more than one occasion.

The Hon. Walt Secord: Point of order—

The PRESIDENT: Please do not interrupt. I ask the member to cease and desist.

The Hon. Shayne Mallard: Point of order: Mr President, you have called the Hon. Walt Secord to order once. He again yelled at the Minister the exact same interjection that you called him to order for. He is being disrespectful to your ruling.

The PRESIDENT: We have canvassed that. Did the Hon. Walt Secord really wish to say something?

The Hon. Walt Secord: A few things, but I will resist.

The PRESIDENT: The Minister has the call.

The Hon. NATALIE WARD: I seek an extension of time of one minute.

The Hon. Daniel Mookhey: Why?

The Hon. NATALIE WARD: Because I think it is important to recognise Maha Abdo from Muslim Women Australia [MWA].

The PRESIDENT: Is leave granted for a short extension of a minute?

Leave granted.

The Hon. NATALIE WARD: I thank the House for its indulgence. It was amazing to meet Maha Abdo at Muslim Women Australia, who explained how her organisation—which did not close its doors once during the whole pandemic—has been providing emergency relief support to 500 asylum seekers and temporary visa holders across western and south-western Sydney. MWA has been helping people with crisis accommodation, food, pharmacy orders, rent assistance, and warm clothing and heaters during the recent cold winter. It is an immense privilege to see the work that it has done and the compassion and care that it has showed in those communities. We have funded these important initiatives to help those who are most vulnerable and those communities who know their people best. They are best able to respond in the way that suits their communities and in language to ensure that we are wrapping around those communities and getting support out to those who need it most.

BUILDING AND CONSTRUCTION INDUSTRY

Mr DAVID SHOEBRIDGE (12:24): My question is directed to the Hon. Damien Tudehope, representing the Minister for Better Regulation and Innovation. Given that Toplace Group, often working in conjunction with notorious certifier Vic Lilli and notorious engineering firm Australian Consulting Engineers, has now been responsible for a series of dangerous and defective buildings—including the Skyview apartments, the Macquarie Towers development in Parramatta and the disgracefully defective tower development at Charles Street, Canterbury—what does it take to have dodgy developers, dodgy engineers and dodgy certifiers removed from the construction industry under this Government?

The PRESIDENT: Before the Minister responds, I counsel the Hon. Shaoquett Moselmane that he is on his last warning.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:24): I thank Mr David Shoebridge for his question. I will get more detail to him in relation to the specifics. I make the observation that the Government has worked tirelessly in terms of reforming the manner in which buildings are certified and trying, with the NSW Building Commissioner, to get rid of what he identifies as the dodgy certifiers and engineers in the building industry. If the member wants a list of measures that the Government has taken, that best comes from the Minister's office.

But there could not be a person in this Chamber who has not endorsed the efforts being made by the Government to clean up the building industry and get those people which the member identifies as dodgy out of the industry. I have some direct knowledge of this industry; my son is a builder. The extent to which the Building Commissioner is involved in making sure that buildings are properly certified and that the engineering work and the plans are all in order is, in many respects, very onerous. I make those observations in relation to the question, but I will have the Minister's office provide a detailed list of measures.

Mr DAVID SHOEBRIDGE (12:26): I ask a supplementary question. The Minister says that the actions taken by the Government mean there are now onerous provisions for developers, certifiers and engineers. What onerous provisions are there for Toplace constructions, which continues to construct apartment tower after apartments tower despite this history of defective buildings?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:27): Again, it is an extension of the question. The member identified a particular construction company, which he says fits a category of construction company that, in his view, deserves some sort of censure in respect of the building practices which he says are in place or need to be rectified. I happen to know that the Building Commissioner has had some intervention in relation to projects involving that particular developer. But if the member is seeking further information about steps taken in relation to projects by a particular developer, that is an appropriate question. I am happy to take that question and see what steps the Building Commissioner has taken in respect of that particular builder.

The Hon. COURTNEY HOUSSOS (12:28): I ask a second supplementary question. Would the Minister be able to elucidate that part of his answer where he spoke about the additional efforts that the NSW Building Commissioner has pursued with Toplace developments? Will the Minister outline and explain whether he has visited each of the locations of the 15 or 16 towers across Sydney that have been built by this developer?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:29): That is an extension of the question that has been asked by Mr David Shoebridge to the extent that it calls for additional information relating to other potential building sites where this developer or builder has been in operation. I will include that in the information that is being sought from the Minister.

RIVERINA CONSERVATORIUM OF MUSIC

The Hon. WALT SECORD (12:29): My question without notice is directed to the arts Minister. What is the current status of the funding for the Riverina Conservatorium of Music? Will the Minister respond to community concerns in Wagga Wagga that the project is now in jeopardy due to the Government's handling of the project?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:30): One Simmons Street, Wagga Wagga—a New South Wales Government-owned property—is undergoing a \$12 million refurbishment to provide a new home for the Riverina Conservatorium of Music. These works are the stage one works for the conservatorium. Once completed, the premises will be leased to the Riverina Conservatorium of Music.

The Hon. WALT SECORD (12:30): I ask a supplementary question. Will the Minister elucidate his answer in regard to the contractual details that he made reference to about the \$12 million project? When will stage one be completed and what are the details of the contractual arrangements?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:31): Department of Planning, Industry and Environment [DPIE] holds the property and is delivering the project, not Create NSW. The Public Works Advisory has been engaged by DPIE to provide project management services, working in partnership with the Riverina Conservatorium of Music. Create NSW receives reports from DPIE on the progress of the work but is otherwise not involved in the delivery of stage one. Plans are for the building to be transformed into a purpose-built tuition and rehearsal space, along with administration and meeting facilities. The Government will continue to own the property and the Riverina Conservatorium of Music will use the facilities under a long-term lease. Early works have been completed and refurbishment works will start on site in September 2021, with completion forecast for mid-2022.

The Hon. JOHN GRAHAM (12:32): I ask a second supplementary question. I ask the Minister to elucidate on that part of his answer which was about stage one of the project to ask him what has happened with stage two of this project, which is something he has talked about previously in the House. You announced it.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:32): I certainly did.

The Hon. John Graham: Well, where is it?

The Hon. DON HARWIN: Stage two was a conditional commitment for the construction of a \$20 million, purpose-built recital hall and ancillary facilities for the Riverina Conservatorium of Music. Stage two was subject to a full project scope and costings. This process is being led by the Department of Regional NSW and thus falls within the responsibilities of the Minister for Regional New South Wales, Industry and Trade, the Deputy Premier. Create NSW is not involved in stage two. Regional conservatoriums are independent, not-for-profit organisations that receive operating funding through the Department of Education and fall within the responsibility of the education Minister.

COVID-19 AND MENTAL HEALTH

The Hon. WES FANG (12:33): My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on how the New South Wales Government has been supporting the wellbeing of people in isolation throughout lockdown?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:33): I thank the honourable member very much for his question. In late July the New South Wales Government engaged Sonder to deliver mental health and wellbeing support for members of our community in isolation. Sonder is now providing active support to these residents through a single 24 hours a day, seven days a week, multilingual chat pathway for a range of COVID-19 wellbeing challenges. It encourages people to reach out for help. It provides a

unique service offering for wellbeing support, but it also links people with immediate access to other services. In the first two months of the investment, almost 20,000 residents in mandatory isolation were reached through this targeted program.

Sonder's unique approach means that people can access the help that they need in different ways. Fifty per cent of its engagement happens between 7.00 p.m. and 7.00 a.m. and 86 per cent of its engagement is through the live chat function. When one person engages with Sonder it impacts many, with a vast number of people contacting Sonder in regard to the wellbeing of their family, friends or their members—which has been a really great response that we have seen. Sonder has helped people with a range of issues, including recognised depression and anxiety compounded by isolation, and it has provided immediate counselling. It has also provided access to a nurse or a clinician to discuss medical concerns. It has delivered ongoing support with follow-up calls because we felt it was really important to actually follow up on the initial interaction. It has helped to call an ambulance or the police when it has become clear that someone really requires immediate help and it has connected people to a range of services such as Grief Line, Good Shepherd, Multicultural NSW, community GP clinicians and the Gidget Foundation. It has also assisted people with domestic abuse concerns during lockdown.

One case in particular articulates how this different approach has helped people. A Spanish-born person, who is a New South Wales resident, contacted Sonder seeking COVID-19 financial support. Through the multilingual chat function, the team were able to provide in-language resources and refer to New South Wales Government pathways. The resident also disclosed stress, depression and anxiety with their financial situation and how the mandatory isolation order was adding to this. Immediate counselling and self-help resources were provided. Another example is a young mother who contacted Sonder seeking vaccine advice. She disclosed the hardship she was facing caring for her two young children, aged eight weeks and 18 months, and was instantly transferred to a Sonder nurse for telehealth assessment. The clinical team recognised perinatal depression and anxiety, and provided counselling and self-help resources. Sonder nurses, including the midwife team, continue to provide regular support to this mother, so it is ongoing. Our investment into Sonder is just another example of the way that this Government has used unique and different ways to support people during the COVID-19 pandemic, particularly those in mandatory isolation.

POKER MACHINES AND MONEY LAUNDERING

Mr JUSTIN FIELD (12:37): My question without notice is directed to the Hon. Damien Tudehope representing the Minister for Customer Service. Media reports in the past week indicated that a single player, allegedly with links to organised drug smuggling, had laundered as much as \$175 million through poker machines at The Star casino since 2014. These allegations follow comments last year by the chair of the Independent Liquor and Gaming Authority [ILGA], Philip Crawford, that criminals were increasingly "washing cash" in New South Wales poker machines, including through poker machines in New South Wales clubs and pubs. What is the Government's estimate of how much of the nearly \$8 billion a year in pokies profits enjoyed by New South Wales clubs, pubs and The Star casino are the laundered proceeds of crime?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:37): I acknowledge Mr Justin Field's ongoing interest in these issues. Historically, the Federal Government has been responsible for implementing and enforcing anti-money laundering laws through the Australian Transaction Reports and Analysis Centre [AUSTRAC], which regulates more than 15,000 businesses in industries that may be subject to money laundering. As part of this, AUSTRAC imposes requirements that businesses have systems and controls in place to manage risks. Hotels and clubs with gaming machines are regulated by AUSTRAC under the Commonwealth anti-money laundering framework, with more strict requirements for venues with more than 15 gaming machines as they are considered a "reporting entity" as compared with those with 15 or less.

Casinos are also regulated under the Commonwealth anti-money laundering framework. At the moment, it is impossible to determine the amount of money that is laundered through gaming machines, just as it is impossible to determine the amount of criminal activity at any one time. However, there is increasing evidence to suggest that money laundering is occurring through gaming machines in hotels and clubs. We have also seen, through various media reports and inquiries, that money laundering is continuing to occur in casinos despite the Commonwealth anti-money laundering framework and the efforts of AUSTRAC. For this reason, the Bergin inquiry recommended that the New South Wales Government take on greater responsibility for regulating and policing money laundering in casinos.

The New South Wales Government has supported the Bergin inquiry recommendations that ILGA be given powers to regulate and oversee anti-money laundering in casinos, including requiring concurrent reporting by casino operators of suspicious transactions to both AUSTRAC and to the casino regulator, requiring casino operators to obtain a declaration of source of funds for cash transactions over a specified threshold, and banning of licensing junkets. The Government has commenced implementation of the recommendations from the

Bergin inquiry and is working to strengthen the anti-money laundering requirements for casinos in New South Wales.

ILGA is also currently undertaking a review into The Star's operations, headed by Mr Adam Bell, SC, who was the counsel assisting in ILGA's Bergin inquiry into Crown. Mr Bell will have powers and authorities conferred on a commissioner under the Royal Commissions Act 1923. The review into The Star will, in particular, examine how effectively The Star detects and prevents money laundering activities taking place within the casino, its operations, or in connection with any entity associated with The Star. However, money laundering is not just occurring in casinos but in hotels and clubs as well. Noting these concerns, Liquor & Gaming NSW is increasingly taking a role in identifying and policing money laundering in those venues.

Mr JUSTIN FIELD (12:40): I ask a supplementary question. Will the Minister elucidate his answer with regard to the last point about the increasing role that Liquor & Gaming NSW is playing in monitoring potential money laundering in New South Wales clubs and pubs, and outline exactly what role it is playing?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:41): I will provide further details to the member on notice.

RIVERINA CONSERVATORIUM OF MUSIC

The Hon. PENNY SHARPE (12:41): My question is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Regional New South Wales, Industry and Trade—and I take this opportunity to congratulate her on her elevation to Deputy Leader of The Nationals. Will the Minister provide an update to the House regarding the conditional support for stage two of the Riverina Conservatorium of Music? Will stage two go ahead?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:42): I thank the honourable member for her question. In education terms that is considered a sandwich—you give the nice bit and then you go with the next bit. I thank the Hon. Penny Sharpe very much for her text that she sent me when I was successful in attaining the Deputy Leader position. It speaks volumes about who she is as a leader and her support of women in this place generally. I thank her very much for that. The question that the honourable member has asked contains an amount of detail and refers to a person in the other place whom I do not represent in this place. I speak on behalf of the Deputy Leader of the Government in this place when I say we shall take the question on notice and endeavour to get back to the Leader of the Opposition with the detail required.

SMALL BUSINESS RECOVERY ASSISTANCE

The Hon. CATHERINE CUSACK (12:43): My question is addressed to the Minister for Finance and Small Business. How is the New South Wales Government ensuring that small businesses are at the forefront of our economic recovery by helping them with practical tools to understand and tender for more government contracts?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:43): Small businesses are the lifeblood of communities right across New South Wales. They provide critical services, they create jobs and they are at the forefront of our post-pandemic economic recovery. We have acted quickly, as needed, over the past 18 months, whether it is payroll tax cuts, Dine & Discover, direct grants or so much more to support small businesses. One way we are putting small businesses at the forefront of our economic recovery is by focusing on opportunities to contract with government and to increase their share of around \$40 billion that we spend each year on goods, services and construction. That is why we are delivering a \$5 million tender support program to help more small businesses to tender successfully for government work.

The Small Business Commissioner has worked closely with TAFE NSW to develop a suite of four online micro-skill modules to equip small businesses to prepare for and navigate the major stages of the tendering and contract process—getting businesses ready, finding opportunities, selling to government and successful supplying. The modules are complemented by the new *Selling to the NSW Government – A Guide for Small Business*, which includes templates for key tendering documents. This is about business owners upskilling and bridging that gap—not only in winning government work but also in tendering for private sector contracts, which require similar knowledge and skills. An important component of doing those particular modules is being certified as someone who knows how to tender with government.

When a business registers with Service NSW, it can be identified as a business that knows how to contract with government. That is a really important component, because the skills a business owner potentially learns there can be carried through to private sector tendering. Anyone who is involved with the tendering process knows how difficult that is. There are so many opportunities out there. For example, I know the education Minister is seeking local businesses to install LED lighting and perhaps mechanical ventilation—not that I would suggest

that is part of what she is seeking at the moment. They are all supporting jobs in our regions. With apologies to the King of Rock and Roll, the New South Wales Government has heard and responded to the cry of small businesses:

Help me tender,
Help me true,
All my dreams fulfilled.
I want to supply to you,
And I always will.

KOSCIUSZKO NATIONAL PARK WILD HORSE MANAGEMENT

The Hon. EMMA HURST (12:47): My question is directed to the Leader of the Government, representing the Minister for Energy and Environment. The 2021 *Draft Kosciuszko National Park Wild Horse Heritage Management Plan* has just been published. Disappointingly, it does not include any clear plan to use immunocontraceptives on horses in the park or even to conduct a trial, despite the fact that the Government supported my motion calling for a trial of immunocontraceptives in the park last year. Will the Minister please advise why an immunocontraceptive trial in Kosciuszko has not been included in the draft wild horse management plan?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:47): I thank the honourable member for her question and for her and her party's very keen interest in the management of wild horses in Kosciuszko National Park, which is an incredibly unique and important cultural and environmental heritage site in New South Wales. The region has captured the Australian imagination for many years with wild horses and a frontier spirit. However, what those romantic tales of Australiana fail to show is the significant damage that overpopulation by wild horses does to this unique Australian alpine environment. The Coalition Government is taking steps to ensure that there is a long-term balance between protecting the environmental values of the park and recognising the heritage values of the wild horses.

The Kosciuszko Wild Horse Heritage Act provides the framework to achieve this. A draft wild horse heritage management plan has been prepared to meet the requirements of the Act. This draft plan is available for public comment between 1 October and 2 November 2021. A population survey conducted at the end of 2020 helped inform the development of the draft plan. The survey confirms that large numbers of wild horses remain in the park despite recent drought and bushfires. The draft plan protects the heritage values of wild horses by retaining a wild horse population of 3,000 horses in 32 per cent of the park in areas that are strongly associated with wild horse heritage values.

The Hon. Emma Hurst: Point of order: The question was very specifically about immunocontraceptives and why they were not in the draft plan as per the agreement. That has not been addressed, and there is one minute left.

The PRESIDENT: I uphold the point of order. The Minister will directly address that part of the question.

The Hon. DON HARWIN: The draft plan also seeks to maintain the environmental values of the park by reducing the wild horse population from an estimated 14,380 horses to 3,000 horses by 30 June 2027. I hear the honourable member's point of order and the matter she has raised. The removal of wild horses will occur in accordance with best practice animal welfare requirements, informed by advice from authorities such as the RSPCA.

The Hon. Emma Hurst: Point of order: The Minister has recognised the point of order but still has not mentioned anything to do with immunocontraceptives, which was what the question was directed at.

The PRESIDENT: I think the Minister was about to address that, or perhaps take it on notice.

The Hon. DON HARWIN: I was. I was also going to seek an extension of time so that I can give the full answer, because immunocontraceptives are in it. National Parks and Wildlife Service will continue to prioritise passive trapping and rehoming where it leads to the highest animal welfare outcomes. Where it is not practicable, the draft plan provides a range of other options, including ground shooting, subject to strict conditions.

I seek an extension of time to answer the question.

Leave granted.

The Hon. DON HARWIN: In terms of the potential use of immunocontraceptives or reproductive control treatments, I am advised by the Department of Planning, Industry and the Environment that effective reproductive control treatment is currently not available for use on wild horses in Australia. The Wild Horse Scientific Advisory Panel is providing advice on the use of reproductive control, which has been considered in the new wild horse

heritage management plan. Removal of wild horses from three targeted areas of the park to aid post-bushfire recovery has been suspended until the new plan is finalised.

MARSDEN PARK HIGH SCHOOL

The Hon. SHAOQUETT MOSELMANE (12:52): My question without notice is directed to the Minister for Education and Early Childhood Learning. Given that before the election the Minister promised to build a new high school in Marsden Park, why is that project still in the planning phase? When will construction commence?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:52): I thank the honourable member for his first question of the week. I reiterate what I said earlier when I was asked a question in relation to the new primary school in Tallawong: The Government is building schools at a rate of knots. In fact, members opposite—

The Hon. John Graham: It is obviously not true.

The Hon. SARAH MITCHELL: It is true; you just do not like good news. Members opposite would do well to check our track record when it comes to delivering new and upgraded schools and investing in public education infrastructure. Since 2017 we have invested \$7 billion, and we are forecast to invest a further \$7.9 billion over the next four years—a \$15 billion pipeline of school building works that has seen more than 100 new and upgraded schools delivered in New South Wales since 2019. The Government builds schools and delivers on its commitment, and its record very clearly speaks for itself. In relation to the new high school in Marsden Park, which is what the member specifically asked me about, he is right that our side of the House made a commitment at the last election to build the new high school there. I am very happy to say—

The Hon. Courtney Houssos: Yes, and in the two years since, what have you done?

The Hon. SARAH MITCHELL: I am happy to answer. I should not respond to an interjection, but I will. We have taken possession of the site and secured funding to deliver the project in the budget, which is very exciting. We are getting on with delivering that commitment. As I have said in this House many times before, building new schools is a complex process. We have to do it right, we have to follow—

The Hon. Bronnie Taylor: We do it properly.

The Hon. SARAH MITCHELL: Exactly, we do it properly: We follow the processes and we update the community as we reach milestones in those projects. We deliver our commitments to build new schools. We will be building the high school at Marsden Park. We have got the site, we have got the funding and we are getting on with the job.

The Hon. SHAOQUETT MOSELMANE (12:54): I ask a supplementary question. Will the Minister elucidate her answer with regards to the construction time line? When will it be disclosed?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:55): As I have said in all of my answers about school infrastructure projects, there is a process that we go through. We update the community with time lines as we reach those milestones. We will continue to do that in all of our projects, including the new high school in Marsden Park.

STUDENT AND TEACHER WELLBEING AND MENTAL HEALTH

The Hon. WES FANG (12:55): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on how the New South Wales Government has supported the mental health and wellbeing of students and teachers throughout the COVID-19 learning from home period?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:56): I thank the Hon. Wes Fang for his question. As members in the House know, and as my good friend and colleague the Hon. Bronnie Taylor certainly knows, October is Mental Health Month in Australia. It is an important time to talk about how we are supporting people's mental health and wellbeing, particularly in an education context. Our schools across New South Wales this week are recognising Mental Health Month through their own Wellbeing Week. The Department of Education has featured a strong line-up of free and special events for our students and their families during Wellbeing Week, including sessions for parents and carers from the eSafety Commissioner, Smiling Mind, headspace and the Black Dog Institute—all great organisations.

I was excited to hear about a number of fantastic things that schools have been doing individually for Wellbeing Week. At Long Flat Public School, to celebrate the return of their 44 students this week, staff created a red carpet welcome to create a sense of excitement and safety. Throughout the day teachers planned fun and creative activities with a focus on student wellbeing and reconnection. At Wheeler Heights Public School the principal hired the help of a brush-tailed possum puppet called Madame Poss, who delivered a number of

wellbeing lessons to students of all ages throughout the week. At Moulamein Public School, even though the students are all still learning from home, the principal, Jennie Wilson, developed an art challenge, where a daily theme was placed on the school's Facebook page and students were encouraged to send in photos of their work. Those are just some of the many fantastic, innovative ideas at our schools to keep spirits high.

We all know that the COVID-19 pandemic has had a huge impact on all of our lives in ways we never thought possible. However, I think members will agree with me when I say that students and children of all ages in particular have felt the brunt of this disruption. That is why we have kept more than 3,000 non-teaching staff, including school counsellors, school psychologists, student support officers, wellbeing nurses, school chaplains, tele-psychologists and a strong network of specialist mental health facilitators available to our students to keep helping with student wellbeing during the challenging lockdown period.

But it is not just about our students. Our incredible school staff have adapted brilliantly to new ways of teaching and learning, and have provided support during this time. We need to look after their mental health and wellbeing as well, so we have implemented a specialised mental health program for our staff called Being Well, which facilitates a number of workshops and online modules for our staff to learn how to identify any signs of struggle, anxiety or depression with their colleagues and to provide them with tools to respond accordingly. As members know, last year I made it mandatory for every teacher in New South Wales to undertake mental health professional development courses to equip them with the skills they need to recognise and refer students to help. This year we have also assembled a panel of some of Australia's leading experts in mental health to provide ongoing guidance and feedback around NSW Education Standards Authority-accredited mental health professional development for teachers to make sure they have the very best support and training.

SYDNEY SCIENCE PARK WATER SERVICES

The Hon. MARK LATHAM (12:59): My question is directed to the Leader of the Government in his capacity representing Minister Ayres. I refer the Minister to the supplementary answer he provided yesterday, but also an internal memo from Sydney Water from 3 December last year, which stated, "Sydney Water is investing \$200 million over the next 30 years to build an integrated water cycle system and associated infrastructure at Celestino Sydney Science Park." Why did Sydney Water create a special business unit in 2019 staffed by Chris Gantt, an immediate past development manager for Celestino? What role did Mr Gantt play in developing the \$200 million Sydney Water funding deal for Celestino Sydney Science Park, as announced by Minister Ayres and Minister Pavey last year?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (13:00): I thank the honourable member for his question, which is quite detailed and concerns events that I am not familiar with. Necessarily, I will have to refer them to the responsible Minister and get a response. In the first instance I will refer the question to the Hon. Stuart Ayres in his capacity as Minister for western Sydney, but I flag that there may well be a need for the question to be asked of the water Minister. In any case, we will get that done and, as with other questions he has asked, provide an answer from the relevant Minister.

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

Supplementary Questions for Written Answers

POKER MACHINES AND MONEY LAUNDERING

Mr JUSTIN FIELD (13:01): My supplementary question for written answer is directed to the Minister for Finance and Small Business, representing the Minister for Customer Service, and Minister for Digital. In reply to my question on 21 October 2020 about reporting of potential money laundering offences through the New South Wales poker machine central monitoring system, the Minister indicated that an algorithm was still undergoing refinement and testing before being put into operational use. Will the Minister update the House on the status of this system and outline any reports of potential money laundering offences that have been received?

SYDNEY SCIENCE PARK WATER SERVICES

The Hon. MARK LATHAM (13:02): My supplementary question for written answer is directed to the Leader of the Government, representing Minister Stuart Ayres. Will the Minister update the House as to why Sydney Water employed Mr Chris Gantt, the immediate past development manager for the land developer Celestino, and what role did Mr Gantt play in developing the \$200 million funding deal for Celestino's Sydney Science Park, as announced by the two Ministers in December last year?

BUILDING AND CONSTRUCTION INDUSTRY

The Hon. COURTNEY HOUSSOS (13:02): My supplementary question for written answer is directed to the Minister for Finance and Small Business, representing the Minister for Better Regulation and Innovation. Will the Minister elucidate his answer when he spoke about the particular efforts that were focused on Toplace developments? Could the Minister provide a list of dates of any inspections by the NSW Building Commissioner or NSW Fair Trading officials on Toplace developments across Sydney?

*Written Answers to Supplementary Questions***WARRAGAMBA DAM WALL**

In reply to **the Hon. ROD ROBERTS** (13 October 2021).

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:

There has been no communication between the Minister and Celestino in relation to the raising of the Warragamba Dam wall.

Infrastructure NSW has not provided a specific briefing on flood risk reduction at North Richmond to the Minister.

Briefings on the potential benefits from the Warragamba Dam raising proposal have included a range of floods for locations representing the different floodplains within the Hawkesbury-Nepean Valley. This information is drawn from a number of publicly available documents, including the Taskforce Options Assessment Report and the Environment Impact Statement for the Warragamba Dam raising proposal that is currently on public exhibition.

There is a very substantial flood risk now facing the current population, homes and businesses in the Hawkesbury-Nepean floodplain. This existing risk needs to be addressed and the proposal to raise the Warragamba Dam to provide flood mitigation has been assessed by the New South Wales Government as the most effective infrastructure option to achieve that.

COVID-19 AND SCHOOL VENTILATION

In reply to **the Hon. COURTNEY HOUSSOS** (13 October 2021).

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

The Department of Education sought independent specialist engineering advice from Steenson Varming, a specialist mechanical engineering consultant. Their advice, which has been peer reviewed by building services and engineering specialists Arup, along with NSW Health advice and guidance from the Doherty Institute and the World Health Organisation has informed the department's strategy.

*Personal Explanation***COVID-19 AND MULTICULTURAL COMMUNITIES**

The Hon. WALT SECORD (13:03): By leave: I wish to make a personal explanation. I was misrepresented by the multiculturalism Minister in relation to her 3 June 2021 meeting with the Australian Federation of Islamic Councils. My comments relate to her resignation as the chair of the Parliamentary Friends of Israel. I ask: Did she clear or vet her resignation with Keysar Trad?

Leave withdrawn.

*Committees***PORTFOLIO COMMITTEE NO. 3 - EDUCATION****Reference**

The Hon. MARK LATHAM: I inform the House that in accordance with paragraph (6) of the resolution establishing portfolio committees, Portfolio Committee No. 3 - Education resolved to adopt the following terms of reference:

Planning and delivery of school infrastructure in New South Wales

- (1) That Portfolio Committee No 3 - Education inquire into and report on the planning and delivery of school infrastructure in New South Wales, and in particular:
 - (a) the implementation of recommendations of the 2021 Auditor-General's Report entitled "Delivering School Infrastructure";
 - (b) the adequacy of plans by the NSW Government to deliver educational facilities for every NSW public school student;
 - (c) the adequacy of investment in new or upgraded infrastructure at existing NSW public schools and in new school projects, including:
 - (i) management;

- (ii) planning;
 - (iii) design;
 - (iv) construction;
 - (v) maintenance; and
 - (vi) budgeting and expenditure of new projects.
- (d) the role of local community organisations and groups in responding to the lack of or shortage of educational facilities at any NSW public school especially in areas of high growth and in proposed new suburbs;
 - (e) the adequacy of demographic planning for anticipated school enrolments;
 - (f) delays in converting new school announcements into site identification and school construction;
 - (g) specific planning for new schools and increased enrolments in Western Sydney, the Canada Bay local government area and on the far north coast;
 - (h) school design that promotes health and safety; and
 - (i) any other related matters.
- (2) That the committee report by 28 October 2022.

The PRESIDENT: To suit the convenience of the House I will now leave the chair. The House will resume at 2.30 p.m.

Bills

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2021

Messages

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

PUBLIC INTEREST DISCLOSURES BILL 2021

Second Reading Speech

Debate resumed from an earlier hour.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (14:32): I continue my remarks from prior to question time. The Public Interest Disclosures Bill 2021 requires that the making of the public interest disclosure be a contributing factor to the taking of detrimental action instead of being "substantially in reprisal" for the disclosure, implementing recommendation 21 of the Ombudsman committee report. The maximum penalty for the detrimental action offence is 200 penalty units or five years' imprisonment or both. This is a higher penalty than under the existing Act and is considered to more appropriately reflect the objective seriousness of the detrimental action offence, while being consistent with the penalties for comparable offences in sections 93 and 94 of the Independent Commission Against Corruption Act. In addition to potential criminal liability under the detrimental action offence, a person who takes detrimental action against another person may also be civilly liable to that other person for damages. There is no liability for detrimental action if the action constituted "reasonable management action" or appropriate corrective action. Damages recovered may include exemplary damages, implementing recommendation 19 of the Ombudsman committee report.

The bill clarifies that reasonable management action being taken in relation to a public official who has made a disclosure is not detrimental action. Clause 31 (3) provides a non-exhaustive list of actions that reasonable management action can include, such as a reasonable appraisal of a public official's work performance. Clause 31 (4) confirms that action taken in relation to a public official is not reasonable management action if the way of taking that action is not reasonable, the action is taken corruptly or fraudulently or the action is taken to conceal or avoid the consequences of serious wrongdoing. Clause 31 (4) (d) ensures that a manager can address issues arising out of the making of a public interest disclosure, knowing that a public interest disclosure has been made, if the purpose of the action is to reduce the risk of detrimental action being taken against the public official or another person.

The bill provides that the Supreme Court has broad powers to grant an injunction, including requiring a formal apology, restraining an attempt to terminate a person's employment or requiring the reinstatement of a person. The extended scope of this injunction power implements recommendation 23 of the Ombudsman committee report. A public official who makes a public interest disclosure, in relation to the making of the disclosure, does not incur civil liability, including liability for breaching a duty of secrecy or confidentiality; does not incur criminal liability; and is not liable to disciplinary action. The protection generally does not protect a

person against liability for his or her past conduct that he or she discloses while making a public interest disclosure; however, the Attorney General may grant an undertaking that a public interest disclosure will not be used in evidence against a person. The proposed availability of an undertaking implements recommendation 10 of the Committee on the Independent Commission Against Corruption report.

The bill also proposes three new protections and remedies for public officials making public interest disclosures. First, clause 36 provides an ability for a public interest disclosure maker to claim damages from an employer for the detrimental action of an employee in connection with their employment. Second, the bill introduces new risk management provisions. Clause 61 requires agencies to take steps to minimise and assess the risk of detrimental action being taken against a person as a result of a public interest disclosure. Clause 62 provides an ability for a maker of a public interest disclosure to claim damages from an agency for loss arising from an agency's failure to minimise the risk of detrimental action. Third, clause 38 of the bill provides that a person who institutes proceedings to recover damages for detrimental action or for an injunction relating to such action is generally not liable to pay costs to the other party, implementing Ombudsman committee recommendation 20.

Part 4 of the bill deals with public interest disclosure policies of agencies. Clause 42 of the bill requires agencies to have a public interest disclosure policy and requires the policy to prominently include or be accompanied by material identifying disclosure officers and their contact information. Clause 43 of the bill provides that an agency's public interest disclosure policy must specify the agency's procedures for a number of matters, including dealing with disclosures that are or may be voluntary public interest disclosures and providing information to the makers of voluntary public interest disclosures. Clause 47 of the bill requires an agency's public interest disclosure policy to be prominently published on the agency's public website and the agency's intranet. An agency with no public website or intranet must ensure the agency's public interest disclosure policy is readily accessible to all public officials associated with the agency.

Part 5 of the bill sets out how agencies are to receive and deal with voluntary public interest disclosures. When dealing with public interest disclosures, agencies must have regard to guidelines published by the Ombudsman and may consult the Ombudsman or another integrity agency in relation to dealing with the public interest disclosure. If an agency receives a public interest disclosure that does not relate to the agency, clause 56 of the bill enables agencies to refer voluntary public interest disclosures to an integrity agency or an agency to which the disclosure relates. This is necessary due to the "no wrong door" approach. However, referral of a voluntary public interest disclosure is not mandatory.

Clause 57 (2) provides that an agency is not to refer a public interest disclosure without first considering whether the referral is to a more appropriate person or body as well as the risk of detrimental action being taken as a result of the referral or a failure to refer. Those provisions respond to the concerns expressed by the Ombudsman committee about the existing Act that referral may be inappropriate in some cases. Clause 59 of the bill requires agencies to inform disclosers of certain matters, including how the agency proposes to deal with the disclosure, updates on the progress of the investigation, a description of the results of an investigation and details of corrective action taken, proposed or recommended.

Clause 59 (3) requires an agency to provide updates on the progress of the investigation at intervals of not more than three months. Those provisions implement recommendation 12 of the report of the Ombudsman committee. Clause 65 provides that a public official must use his or her best endeavours to assist in an investigation of serious wrongdoing if requested to do so by a person dealing with a voluntary public interest disclosure on behalf of an agency, and the public official is informed of the obligation imposed by clause 65. Clause 60 makes provision for the internal review of certain agency decisions when dealing with voluntary public interest disclosures. Generally, an agency is required to take appropriate corrective action in response to any finding of serious wrongdoing from an investigation of a voluntary public interest disclosure relating to that agency. Corrective action includes but is not limited to a formal apology by an agency, reform within an agency and payment of compensation to persons affected by serious wrongdoing or other misconduct.

Part 6 of the bill contains provisions to ensure appropriate oversight of the public interest disclosure scheme. The Public Interest Disclosure Steering Committee is continued as under the existing Act, with the exception that the Privacy Commissioner will be included as a member, implementing recommendation 9 of the Ombudsman committee. Clause 72 of the bill confirms that the Ombudsman has functions under the proposed Act, including promoting public awareness and understanding of the Act; providing information, advice and assistance to agencies; and auditing and monitoring the exercise by agencies of their functions under the Act. Clause 74 of the bill implements recommendation 17 of the Ombudsman committee by enabling the Ombudsman to deal with a dispute in connection with a disclosure by conciliation.

Finally, clause 89 of the bill provides that a joint committee of members of Parliament is to review this Act as soon as possible five years after assent. Clause 2 of the bill provides that it will commence on the day that is 18 months after the date of assent, or an earlier day or days to be appointed by proclamation. The steering

committee has previously advised the Government that the bill should commence at least 12 months after assent to enable implementation of the reforms. Having regard to this advice, the Government's intent is to commence the bill on 1 January 2023. Agencies should anticipate and prepare for that eventuality. However, the Government is proposing a more flexible commencement clause to enable the flexibility for the steering committee to advise the Government to commence the bill on a later date if necessary.

The Government is committed to ensuring whistleblowers receive appropriate protections. The bill preserves and enhances a culture of reporting serious wrongdoing and other misconduct in the New South Wales public sector and in our community generally. I wish to thank the members of the Public Interest Disclosures Steering Committee for contributing their time and expertise to the development of the bill. In particular, I wish to acknowledge the work of the steering committee's chair, the Ombudsman, Mr Paul Miller, PSM. I also wish to thank the staff of the Parliamentary Counsel's Office for their skill and diligence in undertaking this substantial and complex drafting project. I commend the bill to the House.

Debate adjourned.

MODERN SLAVERY AMENDMENT BILL 2021

First Reading

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

Second Reading Speech

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (14:45): I move:

That this bill be now read a second time.

In June 2018 the Modern Slavery Act 2018 was passed by the Parliament after being introduced as a private member's bill by Mr Paul Green, a former member of this place. The Act followed the report of the Select Committee on Human Trafficking in New South Wales and a parliamentary working group on modern slavery. The Act is well intentioned, and I commend the members of this place who played a part in the development of the Act. Unfortunately, the Act presently does not achieve all those intentions due to several technical legal deficiencies. As a private member's bill, the Act was not developed with full access to the Government's resources and expertise, such as the benefit of expert legal advice and advice from operational agencies. The Government is introducing this bill to resolve those deficiencies and to allow the Act to commence on 1 January 2022.

The process for addressing the deficiencies of the Act has been longstanding and transparent. The Government provided a draft exposure bill, the Modern Slavery Amendment Bill 2019, to the Legislative Council Standing Committee on Social Issues as part of its inquiry into the Modern Slavery Act 2018. The committee consulted with a range of stakeholders, invited submissions from members of the public and carefully considered the Government's draft exposure bill. The committee subsequently released report No. 56, titled *Modern Slavery Act 2018 and Associated Matters*, in March 2020, which made 17 recommendations. I note at the outset that the Government has amended the draft exposure bill to implement many of the committee's recommendations. The bill will commence the Act on 1 January 2022, ensure the intended operation of certain provisions in the Act are effective, improve the operation of the Act, enhance protections for the Anti-slavery Commissioner, reduce regulatory burden on businesses in New South Wales, reduce legal risks posed by the Act and ensure that victims of modern slavery can receive recognition payments.

Importantly, the bill will preserve and enhance many of the important features of the Act, including the establishment of Australia's first substantive Anti-slavery Commissioner to raise awareness and provide education about modern slavery, and ensure that the procurement of goods and services by government agencies are not the product of modern slavery; risk-based audits of the procurement of government agencies, the making of procurement guidelines to ensure that goods and services procured by and for government agencies are not the product of modern slavery, and a public register identifying any government agencies failing to comply with these new requirements; the introduction of tough new offences to crack down on the production and distribution of child abuse material, and new offences in New South Wales prohibiting slavery, servitude, child forced labour, and child forced marriage; access to financial support, counselling and recognition payments for victims of modern slavery; and the establishment of a joint parliamentary committee on modern slavery. The joint parliamentary committee and the Anti-slavery Commissioner will guide future policy development in this area, building on the bedrock establish by the Act.

I will now describe the bill in detail. All items are contained in schedule 1 to the bill. Recommendation one of the committee's report was that the New South Wales Government proceed to introduce amendments to the Act, taking into consideration the comments and recommendations of the committee's report, with the aim of

the Act commencing on or before 1 January 2021. As members would be aware, the Government's priorities and resources shifted immediately before the committee's report was published in March 2020 to responding to the COVID-19 pandemic.

Item [1] of the bill will commence the Act on 1 January 2022. This will enable sufficient time to recruit and establish the office of the Anti-slavery Commissioner and enable agencies to identify and implement operational changes in anticipation of commencement. This includes new procedures for modern slavery risk audits, the drafting of NSW Procurement Board directions, and changes to NSW Police Force and court IT systems to accommodate new conditions on apprehended violence orders related to forced marriages. Importantly, the amendment offers members, operational agencies and relevant stakeholders certainty about the date of the commencement of the Act.

The bill proposes technical and drafting amendments to ensure that the intended operation of certain provisions in the Act are effective. All these changes were brought to the committee's attention during its review of the bill and were supported in full. Item [7] amends the definition of "modern slavery offence" to overcome potential ambiguity and ensure that the intended extraterritorial application of the Act for what constitutes a modern slavery offence is in fact achieved. The amendment will confirm that a modern slavery offence includes conduct occurring outside of New South Wales and Australia, which, if it occurred in New South Wales, would be an offence, even though it might not be an offence in the place in which it occurred.

Item [17] replaces section 14 (1) relating to cooperation between the Anti-slavery Commissioner and agencies. Currently section 14 (1) of the Act requires the commissioner and government or non-government agencies to cooperate with each other. The drafting of the proposed new section 14 (1) clarifies that government and relevant non-government agencies are required to cooperate with the commissioner and not each other in the exercise of the commissioner's functions. Further, the very broad term "non-government agency" is replaced with the more specific "bodies that provide services to, or advocate for, victims of modern slavery". This ensures that only relevant non-government bodies are captured by the provision and subject to the obligation to cooperate with the commissioner.

Currently section 16 of the Act provides that a person does not incur any liability, including liability for breaching any duty of confidentiality, for information provided in good faith in accordance with the Act. However, the duty of agencies to disclose information that is likely to be of assistance to the commissioner in the exercise of the commissioner's functions in section 14 is expressed to be subject to any duty of confidentiality imposed by law. Consequently, any disclosure that breached a duty of confidentiality would not be in accordance with the Act and would not receive the benefit of the protection in section 16. Item [18] omits the words "subject to any duty of confidentiality imposed by law" from section 14 (2) to resolve the ambiguity between the two sections.

Items [53] to [56] will amend the Act's uncommenced amendments to the Victims Rights and Support Act to include an "act of modern slavery" to give effect to the intent of making victims support generally available to victims of acts of modern slavery committed in New South Wales. This is consistent with the requirement that, to be eligible for victims support under the victims support Act, the act of violence must have occurred in New South Wales. This was recently confirmed in *DRJ v Commissioner of Victims Rights (No 2)*, from which the High Court declined to grant special leave to appeal.

Item [57] is a consequential amendment that clarifies that a single act that is both an act of violence and an act of modern slavery is only eligible for support once under the Victims Support Scheme. This ensures the scheme does not enable double recovery in relation to the same act. The amendment will not affect eligibility for support where a person has been the victim of separate acts of violence and modern slavery. Item [60] omits a redundant amendment to the victims support Act. This is because, after the Act was passed, the victims support Act was amended so that the definitions in section 58 no longer define "series of related acts" by reference to section 19 (4).

The bill proposes the insertion of new provisions to enhance and clarify protections for the commissioner, the commissioner's staff, and people or entities who provide information to the commissioner. Item [21] proposes replacing section 16 of the Act. The new section 16 would ensure that a person who provides information to the commissioner in compliance or purported compliance in good faith with a requirement under the Act is protected from criminal or civil liability apart from under the Act. New section 16A protects the commissioner or a person acting under the direction of the commissioner from personal liability for acts done in good faith for the purpose of exercising a function under the Act. The liability attaches instead to the Crown. These new sections, along with the redrafted section 14, will work together to require agencies and relevant bodies to disclose information to the commissioner that is likely to be of assistance to the commissioner and ensure that neither the agency nor the commissioner are liable for complying with that requirement.

Item [49] will insert a new clause 35 into schedule 1 to the Defamation Act to provide the Anti-slavery Commissioner and their staff with a defence of absolute privilege in defamation proceedings. The proposed

amendment is a standard provision to protect certain public officials and their staff from liability where matters are published in their capacity as a public official. Once again, I note for the benefit of the House that these changes in relation to the Anti-slavery Commissioner were flagged with the Standing Committee on Social Issues when the Government shared its consultation draft and the committee supported the proposed amendments.

I turn now to the amendments to improve the operation of the Act. Items [4] and [9] will amend the definition of "government agency" in the Act. Currently, the definition of "government agency" in section 5 of the Act includes State-owned corporations and Corporations Act companies that have a shareholding Minister. New South Wales Government policy generally is to treat State-owned corporations the same as commercial organisations and to put them on as level a playing field as possible with their private sector equivalents. It is therefore proposed to omit those two entities from the definition of "government agency". Capturing corporations under the Corporations Act with a shareholding Minister would result in a potentially very broad scope, with the potential to cover proprietary limited corporate trustees of self-managed superannuation funds or publicly traded companies that Ministers may be shareholders of. Such corporations should not be considered to be a "government agency" for the purposes of being subject to government sector procurement arrangements, including in relation to modern slavery.

A new section 5 (3) is proposed to clarify what is a government agency—namely, that a government agency does not include a public or local authority constituted by an Act of another jurisdiction. Currently section 20 of the Act provides for the reporting of information obtained while exercising the commissioner's functions for the purposes of a report about a child or young person at risk of significant harm under the Children and Young Persons (Care and Protection) Act. The amendment in item [23] will additionally provide for the reporting of information by the commissioner to the NSW Police Force that might be of material assistance in securing the apprehension or prosecution of an offender for a child abuse offence consistent with the obligation in section 316A of the Crimes Act.

Item [34] proposes to insert a new section 35 providing for information-sharing arrangements between the Commissioner of Police and the Anti-slavery Commissioner. The new information-sharing arrangement was requested by the NSW Police Force to assist in the implementation of Act. The new section provides for the provision of information regarding modern slavery and victims of modern slavery from the Commissioner of Police to the Anti-slavery Commissioner on request or in accordance with an arrangement. The Commissioner of Police is not required to provide information to the Anti-slavery Commissioner in certain circumstances, including, for example, where the Commissioner of Police reasonably believes that providing information would prejudice an investigation or endanger a person's life or physical safety. These amendments were also already included in the consultation draft that was provided to the Social Issues Committee and subsequently supported by the committee.

Item [35] proposes a resolution to what appears to be an unintended consequence of the Act's application to the Human Tissue Act. Currently, the Act makes the offence of prohibited trading in tissue in section 32 of the Human Tissue Act a modern slavery offence. Although the offence in the Human Tissue Act does not generally have extraterritorial effect, because modern slavery offences under the Act have extraterritorial effect, conduct that is legitimate and legal in a foreign jurisdiction could be modern slavery under the Act. For example, sourcing blood products from the United States would be a modern slavery offence under the current Act because donors are generally paid for blood and plasma donations in that jurisdiction. The amendment will address this issue and implement recommendation 14 of the committee's report, by limiting a modern slavery offence under section 32 to where the tissue being traded is an organ. The amendment proposed ensures that the abhorrent practices involved in illegal organ trading rightly continue to be identified as modern slavery, however will not inadvertently capture the supply of blood products for jurisdictions that allow payment of donors.

On commencement, schedule 4 to the Act will amend the Crimes Act to introduce new offences. One of those amendments is the creation of a new aggravated offence of using a child for the production of child abuse material punishable by 20 years' imprisonment. Item [38] proposes minor amendments to enable the new aggravated offence to better align with existing offences in the Crimes Act and implements the Government's response to recommendation 13 of the committee. The amendments proposed by this bill will reorder the aggravating circumstances in the new section 91G (3A) to mirror the order of aggravating circumstances in sections 66C (5) and 66DE (2) of the Crimes Act, and insert the words "by means of an offensive weapon or instrument" in relation to the aggravating factor where an alleged offender threatens to inflict actual bodily harm on the alleged victim or any other person who is present or nearby. This amendment will ensure that the new aggravating factor is consistent with the aggravating factors for other existing child sexual offences in sections 66C (5) (b) and 66DE (2) (b) of the Crimes Act.

Schedule 4 to the Act will also amend the Crimes Act to create a new offence of child forced marriage, in section 93AC of the Crimes Act. Schedule 5.3 to the Act will amend the Crimes (Domestic and Personal Violence)

Act to enable child victims of forced marriage to apply for apprehended domestic violence orders or apprehended personal violence orders if they experience coercion or threats to enter a forced marriage. The proposed amendments in items [43] to [47] will expand the un-commenced references to the child forced marriage offence in section 93AC of the Crimes Act. This will reference counterpart offences and definitions in the Commonwealth Criminal Code to ensure that all victims of forced marriages can apply for the protection of apprehended domestic violence orders or apprehended personal violence orders.

Items [50] and [51] amend the Act's un-commenced amendments to the Public Finance and Audit Act to clarify the Auditor-General's audit and advice powers. The effect of the amendments is that local councils will not be subject to the Auditor-General's audit functions in relation to modern slavery. While local councils will be a government agency for the purposes of the Modern Slavery Act and will therefore be subject to the Anti-slavery Commissioner's function, they will not be subject to the Procurement Board direction. This is because Procurement Board directions do not apply to local councils. As a result of local councils not having to comply with a relevant Procurement Board direction, the Government does not consider that it is appropriate to make local councils subject to the audit functions of the Auditor-General.

I now move to the amendments to reduce the regulatory burden on New South Wales businesses by repealing the provisions in the Act relating to the supply chains of non-government organisations. The Commonwealth Modern Slavery Act 2018 commenced on 1 January 2019, following the passage of the New South Wales Act. The Commonwealth Act requires entities based or operating in Australia that have an annual consolidated revenue of at least \$100 million to report each financial year on the risks of modern slavery in their operations and supply chains. The reporting entity must give a modern slavery statement within six months after the end of the financial year, providing information including the structure, operations and supply chains of the reporting entity; the risks of modern slavery practices in the operations and supply chains of the reporting entity; and actions taken by the reporting entity, including due diligence and remediation processes, in response to those risks.

These reports are published and publicly available for viewing on the Australian Government's Modern Slavery register. The Commonwealth Minister may name and shame entities on the register that fail to comply with reporting obligations under the Commonwealth Act. It is vital that the Commonwealth and New South Wales reporting schemes provide a clear and consistent regulatory framework for Australian businesses. This bill proposes to repeal section 24 of the New South Wales Act, which is the section that provides for the regulation of non-government organisations' supply chains, to remove the regulatory burden on the New South Wales private sector and businesses of complying with two schemes. Consequential amendments to other sections are also proposed.

Commercial organisations in New South Wales with a consolidated revenue of at least \$100 million in a financial year will continue to be subject to the Commonwealth's scheme. Commercial organisations in New South Wales with a total annual turnover of \$50 million or more, but less than \$100 million, will no longer be required to report but can voluntarily report under the Commonwealth's scheme. I expect that the Anti-slavery Commissioner will take an active role in advocating for commercial organisations in New South Wales with an annual turnover between \$50 million and \$100 million to voluntarily report under the Commonwealth's scheme. The New South Wales Anti-slavery Commissioner will continue to maintain a public register identifying any government agency failing to comply with directions of the NSW Procurement Board concerning procurement of goods and services that are the product of modern slavery. Item [29] will enable the making of regulations requiring a government agency to provide information to the commissioner to be included on the register and will provide for the manner and form of information that is to be provided to the commissioner.

It is appropriate that the Commonwealth's scheme cover the field on regulating the supply chains of commercial organisations. The Commonwealth has legislative power in relation to corporations, trade and commerce and external affairs. There is little public benefit in implementing a New South Wales scheme that largely duplicates and overlaps the Commonwealth's scheme—only more red tape for business. The New South Wales Modern Slavery Act passed Parliament on 21 June 2018, before the Commonwealth bill was introduced in the following week, on 28 June 2018. Now that the Commonwealth has acted in this space, section 24 of the Act should be repealed.

I should note that the New South Wales Government has urged the Commonwealth to revisit the reporting threshold, with the New South Wales Government's express preference of harmonising the threshold at \$50 million. In a letter dated 30 November 2020, the assistant Minister responsible for the Commonwealth Modern Slavery Act, the Hon. Jason Wood, advised me that he would ask Commonwealth and New South Wales Government representatives to "consider the scope" for harmonisation.

In a subsequent meeting of 9 March 2021, the Minister advised me that changes to the reporting threshold were unlikely ahead of a statutory review to commence in 2022 but that issue would likely be canvassed in the

review. In all the circumstances, I felt it was the best course to proceed with the New South Wales Modern Slavery Act in the form I have introduced today.

I seek leave to table correspondence that I received from the Hon. Jason Wood, MP, Federal Assistant Minister for Customs, Community Safety and Multicultural Affairs, concerning the implementation of the Modern Slavery Act 2018, which I referred to in my remarks.

Leave granted.

Document tabled.

The Hon. DON HARWIN: I also note that the Anti-slavery Commissioner will still assist small- and medium-sized enterprises to identify modern slavery within their supply chains and to assist them in remediating and monitoring identified risks. The bill proposes three amendments to reduce legal risks in the Act. Item [32] would repeal the part of the Act that enables the making of "modern slavery risk orders". A consequential amendment is in item [8]. A "modern slavery risk order" is an order made by a court under section 29 of the Act to prohibit a person convicted of certain modern slavery offences from engaging in prescribed conduct, to reduce the risk that a person will engage in conduct constituting modern slavery. The orders fit poorly into the existing criminal justice frameworks and are the most problematic aspect of the Act. Significant legal and operational issues arise under the orders. Of particular concern is the ability of a court to make a modern slavery risk order of its own initiative, which is a significant departure from the ordinary exercise of judicial power. This may impair the institutional integrity of New South Wales courts to a sufficient degree to give rise to a risk of constitutional invalidity.

As an alternative to achieve the intent of the orders, the bill proposes amendments in item [48] to the Crimes (High Risk Offenders) Act so that offenders convicted of sexual servitude offences, a form of modern slavery, are able to be subject to post-sentence detention and supervision orders. The High Risk Offenders Scheme first commenced in New South Wales in 2006 and is an effective, well-understood scheme to manage the risk of, and rehabilitate, high risk offenders. Under the scheme, the Supreme Court can make an extended supervision order [ESO] if satisfied to a high degree of probability that an offender poses an unacceptable risk of committing another serious offence if not kept under supervision under the order. ESOs may require offenders to comply with a wide range of conditions including participating in treatment and rehabilitation programs, not engaging in specified conduct or classes of conduct and not engaging in specified employment or classes of employment. The existing scheme is well suited to reducing the risk of sexual servitude offenders reoffending.

Schedule 4 to the Act will, on commencement, amend the Crimes Act to introduce a new offence in section 93AB prohibiting slavery, servitude and child forced labour. Item [40] amends the uncommenced offence to limit its territorial operation to within New South Wales, to avoid legal risks arising from an inconsistency with the requirement in the equivalent Commonwealth offence, under which the Commonwealth Attorney-General must consent to any prosecution in relation to matters where all of the physical elements of the offence occurred outside Australia.

The Act, on commencement, will also insert a new offence prohibiting child forced marriage, section 93AC, into the Crimes Act. The proposed amendment to section 93AC in items [41] and [42] will align the definition of "forced marriage" with the counterpart offence in the Commonwealth Criminal Code, including by ensuring that where both partners to a forced marriage are victims—for example, both are children who have been coerced into the marriage—neither is guilty of the offence of procuring a forced marriage. These amendments were brought to the attention of the Standing Committee on Social Issues during its review and I note they were supported by the committee.

I now move to the amendments to enable the victims of modern slavery to access recognition payments under the Victims Support Act. This amendment implements recommendation 15 of the committee's report. Recognition payments form an important part of the victim support package and are intended to recognise the trauma suffered by a victim due to the act of violence. Items [58] and [59] will amend schedule 5.7 to make the categories of recognition payment available for victims of an act of modern slavery the same those available for victims of an act of violence. Before I conclude, I acknowledge the strong advocacy of the many organisations and individuals that work so hard to bring modern slavery to an end. I also acknowledge the origins of these important reforms in the committee processes of this place. I thank honourable members, and these stakeholders, for their patience in this process to resolve technical deficiencies and commence the Act. I commend the bill to the House.

Debate adjourned.

BETTER REGULATION LEGISLATION AMENDMENT (MISCELLANEOUS) BILL 2021**Second Reading Speech**

The Hon. SCOTT FARLOW (15:15): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Better Regulation Legislation Amendment (Miscellaneous) Bill 2021.

This bill makes miscellaneous amendments to 14 principal Acts across the Better Regulation Portfolio. The bill will ensure these legislative schemes can continue to operate as Parliament intended by making minor, but important, amendments to:

- modernise regulatory provisions and administrative processes;
- ensure the laws remain relevant and fit-for-purpose;
- strengthen consumer protection; and
- clarify legal requirements and improve customer outcomes.

The amendments contained in this bill are mainly administrative and non-contentious, but will implement real positive changes to the way the people of New South Wales interact with laws and government processes.

These proposed reforms have been identified through consultation with industry stakeholders, the development of supporting regulations, and the day-to-day functions of the various agencies involved. Other amendments have arisen as a result of taking a stewardship approach to the legislation across the Better Regulation portfolio to ensure our legislation remains fit for purpose.

this Government has already made significant inroads in modernising legislation, reducing red tape and removing unnecessary regulatory burden.

For instance, in the past two years, the Parliament has passed the Better Regulation Legislation Amendment Act 2019, the Racing Legislation Amendment Act 2019 and the Better Regulation Legislation Amendment Act 2020, which sought to improve the operation of a wide range of legislation in this portfolio. Almost all of the amendments contained in those Acts have commenced and are already improving the effectiveness of the law.

These amendment Acts are a testament to my expectations for this bill to further deliver on this Government's commitment to the people and businesses in New South Wales.

I will now turn to the amendments in the bill.

I firstly turn to the amendments in the bill relating to the Associations Incorporation Act 2009.

The bill introduces a number of amendments seeking to provide greater flexibility, clarity & certainty for incorporated associations in New South Wales. Associations represent a diverse range of activities from sporting clubs, music groups to charities, childcare services and migrant support services. By bringing people together for a shared purpose, these entities are pivotal in weaving the social and cultural threads of the community, particularly in rural and regional areas.

The Associations Incorporation Act regulates the conduct of affairs by associations. This includes the requirement to establish a committee that oversees the management of the affairs of the association. Committee members are elected or appointed by the association and hold office according to the association's constitution. These members are volunteers who offer up their time to contribute to the value of associations in bringing positive outcomes for the local community.

Schedule 1.1 to the bill introduces a new provision into the Act that will enable incorporated associations to fill vacancies on their committee if the number of members is less than the number required to establish a quorum.

At present, there is a level of uncertainty regarding the validity of actions taken by committee members where there are insufficient numbers to maintain a quorum. The new section 28A will address this concern by clarifying the legal capacity of committees to appoint additional members, where needed. This will strengthen members' confidence in the governance framework and enable them to carry out their day-to-day functions and responsibilities without disruption.

When an association ends, the bill also provides members with greater autonomy and choice in the management of leftover assets that have been accumulated over the years using member funds.

Section 65 of the Act currently requires surplus property to be distributed in accordance with a special resolution passed by members of the association. However, in many cases a special resolution is not achievable, particularly where an association has dissolved or had its registration cancelled.

The bill will amend section 65 to allow any surplus to be distributed in accordance with the association's constitution or where the constitution does not include relevant provisions, in accordance with a special resolution or where a special resolution cannot be passed, in accordance with a direction of the secretary. The bill will also provide greater flexibility for associations to distribute surplus funds or property upon voluntary cancellation of their registration. The Act will be amended to enable surplus funds to be distributed to members or former members of an association where those members are at the time of distribution an entity that is prohibited from distributing property to its members.

Further, the bill will remove existing penalties in the Act that apply to former committee members or public officers who fail to hand over documents within 14 days after vacating office. The current maximum penalty of \$110 does not serve as an effective deterrent against noncompliance with these provisions.

Disputes arising from a breach of these requirements are also not capable of resolution by NSW Fair Trading and associations are encouraged to take civil action. By removing the inconsequential penalties, the bill will afford greater clarity to the role of Fair Trading and reduce delays for parties seeking the appropriate dispute resolution pathway.

This bill also makes important amendments to the Retirement Villages Act 1999 to strengthen the rights and safeguards for more than 60,000 retirement village residents in New South Wales, while reducing operational uncertainty for the industry.

Schedule 1.13 of the bill will insert a new offence provision for operators who fail to comply with current requirements to provide residents with prescribed marketing information. This includes the requirement for operators to notify residents of all offers to purchase their premises and to provide a monthly marketing report upon residents' request.

There is however no straight forward mechanism currently under the Act to enforce these obligations. As a result, residents must resort to formal dispute resolution pathways in seeking justice which can be administratively complex and costly. To ensure proper remedy is provided without unnecessary delay, the bill introduces a new offence provision, which will enable NSW Fair Trading to take appropriate enforcement action for non-compliance.

The bill will also insert a new regulation-making power will provide flexibility for the agency to mandate certain matters that must be contained in a valuer's determination. The particulars will be prescribed on a case-by-case basis following the necessary regulatory impact assessment and stakeholder consultation.

The bill also addresses the existing ambiguity in the Act governing the way a former retirement village occupant may apply for an exit entitlement order for the same residential premises. The bill will amend section 182AB (8) of the Act to clarify that only one application may be made following the prescribed period, not within the prescribed period, and only one further application may be made in the following six or 12 months.

Lastly, the bill will clarify the legal requirements around the distribution of surplus funds in a retirement village's annual account. Current industry practice indicates that residents are typically charged a recurring fee per residence, and not per resident, to cover the village's general expenses. However, the Act currently provides that surplus funds are to be distributed to each resident. The amendment in this bill will secure a fair and equitable distribution of surplus funds by requiring payments to each residence in a retirement village.

I now turn to the amendments in the bill relating to the Design and Building Practitioners Act 2020.

The Act was enacted to deliver on the Government's promise to provide New South Wales with a built environment where safety, quality and accountability are prioritised. Indeed, the Act already supports sector compliance with legal duties and obligations and provides disciplinary measures against registered practitioners.

Disciplinary proceedings provide an efficient mechanism to suspend or cancel a registration, where an individual is found to be in breach of the Act. However, individual directors are currently not subject to any disciplinary proceedings, leaving prosecution as the only means to prevent entities from phoenixing and rendering the same individuals unaccountable for personal breaches of the law. This bill ensures individual wrongdoers are held to account by allowing disciplinary action to be taken against individual directors of a registered body corporate. These amendments reflect the Government commitment to increase accountability and compliance in the building and construction industry.

The bill also makes a minor amendment to substitute references to "relevant authorisation" in the Act and Regulation with "equivalent authorisation". There is currently no comparable scheme in other jurisdictions, and this amendment will remove ambiguity and ensure the law operates as intended.

To further deliver on the Government's commitment to the residential building sector, schedule 1.12 makes a number of minor but important amendments to address regulatory gaps in the Residential Apartment Buildings (Compliance and Enforcement) Act 2020.

Section 28 of the Act currently provides the use of undertakings as a response to misconduct by developers. This bill inserts an additional power for the secretary to enter into written undertakings with a developer to claim a rectification bond that may be applied to meet the costs of eliminating, minimising or remediating a serious defect in a residential apartment building. If the bond is not provided, the bill will also enable the secretary to make an order prohibiting the issue of an occupation certificate and, if relevant, the registration of a strata plan for a strata scheme in relation to a residential apartment building.

As a result of these amendments, NSW Fair Trading and the Office of the Building Commissioner will be empowered to undertake swift and cost-effective responses to misconduct to protect consumers and uphold public confidence in the sector.

Further, the bill will allow the secretary to issue a building work rectification order if the secretary has a reasonable belief that a residential apartment building has a serious defect. This will give consumers peace of mind that there is a proper recourse available in the event of a serious building defect.

This bill also ensures that rectification measures commence as soon as possible by no longer requiring the secretary to notify the Registrar-General in respect of a proposed building work rectification order. The department has been advised that the Registrar-General does not need to make representations in response to notification of a proposed rectification order served on a third party. By simplifying the process, the bill will enable rectification work to commence as early as possible to address the identified risks of harm.

Finally, the use and power of media outlets including newspapers, social media and the internet have become vast and information is more widely shared, disseminated, and updated at a rate faster than ever before.

While legally sensitive information such as those relating to criminal proceedings are subject to privacy and confidential laws for the protection of integrity and procedural fairness, a court-made publication order in the context of consumer protection can greatly benefit the public.

For example, the Protection of the Environment Operations Act 1997 specifies that the court may make an order directing the defendant to make public details of their conviction. Recently, in *Environment Protection Authority v Sydney Water Corporation*, the Court relied upon this provision to order the defendant to publicise their conviction, the penalty, and the judgement on their social media accounts.

This bill inserts a similar publication order as a power of the court into the Residential Apartment Buildings (Compliance and Enforcement) Act 2020. The new section 56A will enable the Court to issue a publication order compelling a developer to publicly release information relating to an offence or the issue of orders made against them.

This amendment will enhance industry standards and strengthen consumer protection in the sector by adding a further deterrent to secure the highest possible level of compliance with the requirements under this Act.

I now move to schedule 1.11 to the bill which amends the Home Building Act 1989 to better reflect and clarify the intent of the law.

The Act currently provides that a member of a partnership and an officer of a corporation may be subject to disciplinary action for improper conduct. However, the Act does not provide the process for how disciplinary action may be taken.

The bill will insert standalone provisions to clarify that disciplinary action can be taken against these individuals to increase accountability in the building sector.

As I have noted earlier, it is imperative that the Government secures the ongoing compliance and enforcement capabilities of local regulatory bodies in this State such as NSW Fair Trading to allow investigative and enforcement actions to be carried out expeditiously.

To that end, the bill will also amend the Home Building Act to allow the regulator to take disciplinary action against a licence holder who fails in the future to comply with the requirements of a building rectification order.

I now move to schedule 1.16 to the bill which deals with legislation governing the tow truck industry in New South Wales.

This bill will make several amendments to the Tow Truck Industry Act 1998 to clarify the obligations of tow truck operators dealing with vehicles in holding yards and to broaden the circumstances in which payments can be made from the Tow Truck Industry Fund.

Currently, section 20 of the Act imposes conditions on operators' licences, including to provide vehicle owners with reasonable access to holding yards to collect items from vehicles. This does not extend to providing access for owners to remove their motor vehicles from the holding yard.

NSW Fair Trading has identified issues where rival companies refuse to provide access to vehicles that have been towed to a holding yard. If a consumer wishes to have their vehicle moved to allow for repairs or a quotation for repairs from their preferred repairer, they can face barriers to access and end up paying longer holding fees while the dispute continues.

The bill will create additional licence conditions for tow truck operators requiring them to release vehicles from holding yards after the owner, or their agent, has paid the requisite fees. Operators will also be prevented from removing vehicles from their holding yards for the purpose of repair or for obtaining a quote for repair, unless authorised to do so by the owner of the motor vehicle, or their agent.

These amendments will strengthen the rights of consumers and restore the balance of power between individual owners and tow truck companies.

The bill will also make amendments to section 91 of the Act to allow monies to be paid from the Tow Truck Industry Fund to cover expenses incurred in the prosecution of tow truck operators under either the Act, the Crimes Act or the Australian Consumer Law.

These amendments, together, send a clear message to the towing industry that this Government does not tolerate misconduct by persons who have been licensed to undertake work and provide services to the people of New South Wales.

I now turn to the amendments in the bill relating to the regulatory functions of the Long Service Corporation.

The Long Service Corporation administers portable long service schemes for employees in the building and construction and contract cleaning industries in New South Wales. The key legislative instruments for administration of these schemes are the Building and Construction Industry Long Service Payments Act 1986 and the Contract Cleaning Industry (Portable Long Service Scheme) Act 2010.

These two Acts were recently brought into the Better Regulation portfolio. Unlike other legislation administered by NSW Fair Trading and SafeWork NSW, these two Acts currently do not contain any penalty notice provisions.

Schedules 1.3 and 1.5 to the bill will introduce penalty notices to these schemes enabling authorised officers to issue a notice to any person found guilty of a penalty notice offence. This will act as a stronger deterrent against non-compliance by strengthening the Corporation's compliance and enforcement powers.

In addition, the bill will expand the powers of inspectors under the Contract Cleaning Industry Act to authorise them to compel production of employee records and to take possession of records to be used as evidence. These are appropriate and reasonable compliance and enforcement powers for the Corporation's officers to have and are consistent with other laws within the portfolio.

Sharing information will also be made easier by the new section 114A which will create an information sharing arrangement between the Long Service Corporation and relevant agencies. These amendments will ensure the Long Service Corporation can perform all of its regulatory functions more effectively.

I now turn to the suite of reforms in this bill that seek to modernise regulatory schemes and government processes.

Firstly, I move to the amendments in the bill which remove the requirement for physical inspection of registers of records in the Fair Trading Act 1987, Building Products (Safety) Act 2017 and the Funeral Funds Act 1979.

These Acts currently impose outdated requirements for persons to visit an office of the Department to inspect physical registers of records.

For example, the Fair Trading Act contains a provision requiring the Department to maintain a register of undertakings accepted under the Australian Consumer Law, and to make this available for inspection during ordinary business hours. This register is already available on the NSW Fair Trading website for public access. The current provision is therefore rarely, if ever, used and places unnecessary administrative burden and costs on the public.

Similarly, the register maintained under the Building Products (Safety) Act is already publicly available on the Fair Trading website free of charge so a provision enabling in person inspection is superfluous.

The Funeral Funds Act 1979 also imposes a requirement for physical inspection of annual returns. While these records are not publicly available, the location of the Registry at Bathurst where the records are held makes physical inspection largely impracticable.

The bill will amend section 49I of the Act to provide the secretary with the power to make relevant information in annual returns available for the public to access on the internet. Where an annual return record has not been made publicly available, a person will be able to make a request to the secretary to provide a copy of that record in a manner determined by the secretary, which could include email or other electronic means.

The amendments to these provisions are minor but are necessary to ensure government processes remain relevant and up to date with technological developments.

I now move to schedule 1.14 to the bill which makes minor amendments to the Storage Liens Act 1935.

Last year, as part of the Better Regulation Legislation Amendment Act 2020, the Government improved the way unclaimed proceeds were dealt with from the sale of goods in storage liens situations.

This was achieved by bringing the process under the Unclaimed Money Act 1995, consistent with other Acts that require compliance with the Unclaimed Money Act for any leftover unclaimed sale proceeds. This amendment simplified and streamlined the process, allowing consumers who had their stored goods sold to search for any unclaimed money in New South Wales using a single database administered by Revenue NSW.

The bill before this House today seeks to further modernise the legislative scheme by incorporating the remaining provision of the Storage Liens Regulation 2019 into the parent Act.

At present, the only substantive provision in the Regulation is clause 4 which sets out the requirements of a "prescribed notice". However, there are only two occasions in the Act where the term "prescribed notice" is used. Sections 5 and 6 require that a prescribed notice be served on a storer by a person claiming to be the owner of the stored goods or having some interest therein.

The bill effectively rolls clause 4 from the Regulation into the Act, enabling the regulation to be repealed. This will reduce regulatory burden and red tape without compromising the original intent of the legislation by ensuring appropriate notice, in writing, is still provided to storers.

I now turn to the amendments in the bill amending the definition of "qualified auditors" in the Associations Incorporation Act 2009 and the Funeral Funds Act 1979.

Currently, only registered company auditors or persons approved by the secretary are authorised to undertake audit work for incorporated associations. For audits under the Funeral Funds Act, only registered company auditors can undertake this work.

In other laws within the portfolio such as the Conveyancers Licensing Act 2003 and the Property and Stock Agents Act 2002, qualified auditors include:

- registered company auditors and authorised audit companies within the meaning of the Corporations Act;
- members of a professional accounting body within the meaning of the Australian Securities and Investments Commission Act 2001 of the Commonwealth; and
- any persons approved by the secretary.

To provide greater flexibility and consistency across the laws, the bill will expand the scope of "qualified auditors" in the Associations Act and the Funeral Funds Act to automatically include authorised audit companies within the meaning of the Corporations Act. Qualified auditors under the Associations Act will also include a member of a professional accounting body within the meaning of the ASIC law who holds a public practice certificate.

This reform, though minor and largely administrative, will assist community groups running associations and funeral fund businesses to access a broader range of qualified auditors. This may result in savings in both time and costs. The amendments will also contribute to the local economy and increase opportunities for skills development by expanding the range of recognised qualifications for audit work.

Finally, I turn to amendments in the bill that seek to correct outdated and inaccurate references in the law.

Schedule 1.2 to the bill amends the Biofuels Act 2007 to update references to departments represented on the Biofuels Expert Panel following recent machinery of government changes.

Another amendment to the Biofuels Act seeks to future proof the panel membership by providing the Minister with discretionary power to appoint an additional industry representative to the panel, as needed. This amendment will achieve one of the recommendations arising from the recent statutory review of the Act to increase collaboration between government and industry in the expert panel's deliberations.

The bill also makes minor drafting amendments to the Electricity Supply Act 1995 to provide better alignment with the national electricity laws.

Schedule 1.7 to the bill will replace a number of references to "metering providers" in the Act with "metering co-ordinators", which is the more accurate terminology. The Act will adopt the existing definition of "metering co-ordinators" in the national laws to clearly distinguish between these two parties. Although this amendment is largely technical in nature, it will provide practical improvements to the way the New South Wales legal framework is understood and applied across Australia, and minimise occurrences of misunderstanding and disputes.

This bill is an important part of the Government's regular legislative review and monitoring program. The amendments in the bill strengthen consumer protection, support businesses and improve the community's experience with government services.

I am confident that these reforms will drive positive outcomes in the community and improve public confidence in the law. They address emerging issues, close gaps in the law, improve industry compliance, clarify roles and responsibilities and correct drafting errors.

I commend the bill to the House.

Second Reading Debate

The Hon. COURTNEY HOUSSOS (15:16): I lead for the Labor Opposition on the Better Regulation Legislation Amendment (Miscellaneous) Bill 2021. This is the first time that I have done this as the shadow Minister for Better Regulation and Innovation. I indicate at the outset that Labor will not oppose the bill but will propose an amendment to the bill in the Committee of the Whole. The Government has indicated to me that it will support this amendment. At the outset I also acknowledge the work of my predecessor as the shadow Minister for Consumer Affairs, Julia Finn, and the extensive consultations that she undertook in order to formulate Labor's position on this bill and in drafting our amendment. I also acknowledge that the Minister's office has provided me with a briefing on this bill and has worked constructively through Labor's concerns with the bill.

The bill brings together a number of miscellaneous amendments to 15 different Acts across a number of areas, all falling within the Better Regulation and Innovation portfolio. The Government has outlined that the amendments largely fall into three categories—consumer protection, adjustments to the administration of legislation and streamlining regulatory requirements. I will speak only briefly to some of the provisions. In particular, I turn my attention to the amendments to the Residential Apartment Buildings (Compliance and Enforcement) Act 2020 and the amendments to the Design and Building Practitioners Act 2020, both of which formed part of the Government's response to the issues facing the building industry in New South Wales.

The amendments to the Residential Apartment Buildings (Compliance and Enforcement) Act 2020 give the secretary—in effect, the Building Commissioner—greater powers to enforce rectification bonds to address serious defects in apartment buildings. This is particularly timely as, just today, the front page of *The Sydney Morning Herald* referred to serious structural issues that are being faced in the Vicinity Apartments in Canterbury. An engineering report commissioned by the owners corporation there shows serious structural defects that may risk building collapse. I mention that because it was the developers of this particular building who, in July, committed to a bond of the type we are discussing today, covering defects for the next 20 years on another one of their developments—that is, the development of Skyview in Castle Hill.

There is no doubt that these bonds are going to form part of the Government's response in the building space. I only mention this as a word of caution in light of the testimony that we received earlier this week from buyers into the Hassall Street Developments Pty Ltd building, Imperial Towers in Parramatta. When offered a similar kind of arrangement—a rectification bond—of the two owners who appeared before the inquiry, one said that was the course of action they would like; the other said no, they want to get out of the contract altogether. So, although I acknowledge the importance of these roles in providing insurance for apartment owners, I do not think that it should be uniformly applied as the only solution to building defects in this State.

I turn now to the issue of retirement villages, as a Labor amendment in the other place dealt with the exit entitlements of retirement village unit owners. Prior to the last election, the Government committed to introducing time limits on when retirement villages can charge for general services and when they must sell or buy back a unit after the departure of a resident. Now the Government has enacted extensive regulations, which came into effect on 1 July 2021. Labor's concerns arose because, despite being included in the Government's September 2020 retirement villages reforms consultation paper, the local government areas of Lake Macquarie and the Central Coast were left out of the metropolitan definition, meaning that their residents would have to wait 12 months instead of six months to receive their exit entitlements.

In response, Labor moved in this House to disallow the regulations, but we on this side did not proceed with that as we did not want to lose the greater protections that will be provided by the rest of the regulations. I acknowledge the member for Charlestown, my Labor colleague Jodie Harrison; my good friend the member for the Entrance, David Mehan; and the representations they have made to me and my predecessor. I also acknowledge the Retirement Villages Residents Association and the work of Jim Gibbons, who at the moment is in the process of stepping down and handing over. After a constructive conversation with the Minister's office, the Government has in good faith enacted regulations that will collect data in these particular areas. The regulation, as I mentioned, is now in force, but I seek an undertaking from the Parliamentary Secretary in reply to give a guarantee that the Government will conduct the review in 18 months, when the data has been collected.

In relation to the Retail Trading Act 2008, the bill will remove the current exemption application form from the regulation and vest that power in the secretary. While there is some benefit, I place on the record that it does leave the secretary free to determine the content of the form at any time, without any constraint, direction or consultation with others. Given that the current form has served the industry well, I respectfully suggest that any

changes to the current form not be made lightly. Finally I turn to the Opposition amendment, which extends the new provisions applying to the Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010 to also apply to the Building and Construction Industry Long Service Payments Act 1986. These measures relate to the power of entry and inspection and the power to take possession of records to use as evidence to improve compliance. I note, as I said at the outset, that the Government will not be opposing this amendment. With that, I conclude my comments and indicate again, with these concerns noted on the record, that the Labor Opposition will not be opposing the bill.

Ms ABIGAIL BOYD (15:23): On behalf of The Greens I indicate that we will not oppose this bill. It is largely uncontroversial. I flag, however, that we do oppose the Government's upcoming proposed amendment. But we will address that during the Committee of the Whole. The Greens also support the amendments being moved by Labor. I reflect briefly on the most recent retirement village regulation. Members of this House know that I have taken an interest in the reform of the retirement village sector and continue to closely follow the ongoing changes to its regulation. I commend the Opposition and the Government on the negotiation of the most recent set of regulations, which The Greens believe appropriately respond to the concerns of residents of retirement villages in the Central Coast and Lake Macquarie areas, which are densely populated with retirement villages, despite sitting outside of metropolitan areas, and which deserve to have the appropriateness of the metro regional classifications on exit entitlement order powers properly investigated. We look forward to that coming back.

The Hon. SCOTT FARLOW (15:24): On behalf of the Hon. Damien Tudehope: In reply: It is lovely to see the Deputy President himself arrive to the Chamber. That means that I do not have to do any padding, which is good. I thank honourable members for their contributions, particularly the Hon. Courtney Houssos in her first bill that she has carriage of—I congratulate her on her elevation to the shadow ministry—and Ms Abigail Boyd on behalf of The Greens. As previously stated, an important role of the Government is to ensure that legislation remains up to date and that provisions are fit for purpose and in line with the original policy intent. As honourable members noted, this is a non-controversial bill. The bill achieves those things by modernising regulatory schemes and government processes, ensuring that laws remain relevant and fit for purpose, strengthening consumer protection, and clarifying legal requirements to improve customer outcomes.

Reforms to the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 and the Design and Building Practitioners Act 2020 improve the administration of building and construction laws and are an important step towards enhancing consumer protection in New South Wales. The bill also makes important amendments to reduce operational barriers for small businesses and licensees in New South Wales, including providing greater flexibility and autonomy for associations to comply with their legal obligations.

I will now respond briefly to points made by members and in particular the Hon. Courtney Houssos, who made comments about exit entitlement orders for retirement villages. She also requested that the Government clarify its intention in respect of the classification of the Central Coast. I am pleased to advise the House that the Minister has committed to collecting 12 months of sales data and, following that, will undertake a review of the classification of the Central Coast. That is not something that has just happened on the floor of the House. Our good friend the Hon. Adam Crouch, the member for Terrigal, in a press release of Friday 2 July 2021, quoted Minister Anderson as stating:

Mr Crouch made a compelling case for the Department of Customer Service to record sales data for units on the Central Coast when the reforms commence, and once we have collected 12 months of sales data, I have committed to review the classification of the Central Coast.

I seek the leave of the House to table Mr Crouch's press release entitled "Retirement Village Reforms A High Priority For NSW Government".

Leave granted.

Document tabled.

The Hon. SCOTT FARLOW: That confirms the commitment made by the Minister for Better Regulation, the Hon. Kevin Anderson. This bill delivers meaningful administrative amendments for the citizens of New South Wales. The bill demonstrates this Government's continued commitment to protecting the rights of citizens in New South Wales, reducing and removing unnecessary red tape and providing greater clarity and certainty in the law. I commend the bill to the House.

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

Motion agreed to.

Instruction to Committee of the Whole

The Hon. SCOTT FARLOW (15:27): I move:

That it be an instruction to the Committee of the Whole that it has power to consider amendments to the Thoroughbred Racing Act 1996 relating to the term of appointment of members of Racing NSW.

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have two sets of amendments, one being a Government amendment appearing on sheet c2021-097B and the other being an Opposition amendment appearing on sheet c2021-070.

The Hon. COURTNEY HOUSSOS (15:29): I move Opposition amendment No. 1 on sheet c2021-070:

No. 1 Records and information

Page 6, Schedule 1.3. Insert after line 19—

[1] Section 58 Power of entry and inspection

Insert at the end of section 58(2A)(b)—

, and

(c) to take copies of or extracts from, or make notes from, the book, record or other document.

[2] Sections 58AA and 58AB

Insert after section 58—

58A Power to take possession of records to be used as evidence

- (1) A person (the *record inspector*) to whom a record is produced under section 58 may take possession of the record if the record inspector considers it necessary to do so for the purpose of obtaining evidence or protecting evidence from destruction.
- (2) If the record inspector takes possession of the record under this section, the record may be retained by the record inspector until the completion of proceedings, including proceedings on appeal, in which the record may be evidence.
- (3) The person (the *record owner*) from whom the record was taken must be provided, within a reasonable time after the record is taken, with a copy of the record certified by the record inspector as a true copy.
- (4) A copy of a record provided under subsection (3) is, as evidence, of equal validity to the record of which it is certified to be a copy.
- (5) A person does not contravene a provision of this Act if the person is unable to comply with the provision because a record inspector retained possession of a record under this section.

58AB Exchange of information

- (1) The Corporation may enter into an arrangement (an *information sharing arrangement*) with a relevant agency, or the head of a relevant agency, for the purposes of sharing or exchanging information held by the Corporation or the agency.
- (2) The information to which an information sharing arrangement may relate is limited to information that assists in the exercise of the functions of—
 - (a) the Corporation under this Act or the regulations, or
 - (b) the relevant agency.
- (3) Under an information sharing arrangement, the Corporation and the relevant agency are authorised—
 - (a) to request and receive information held by the other party to the arrangement, and
 - (b) to disclose the information to the other party.
- (4) In this section—

long service agency means an agency of the State, the Commonwealth, or another State or Territory, that exercises functions under legislation with respect to long service schemes, or employers or employees in relation to long service leave.

relevant agency includes the following—

- (a) a long service agency,
- (b) another agency of the State, the Commonwealth, or another State or Territory,
- (c) a local council,
- (d) a person or body that exercises functions, in the public interest, to protect the interests of long service schemes, employers or employees,
- (e) a person or body prescribed by the regulations.

[3] Section 59 Disclosure of information

Omit section 59(1). Insert instead—

- (1) Subject to subsection (2), a person who is, or was at any time, authorised under section 58, 58AA or 58AB must not disclose any information—
 - (a) obtained by the person in the course of administration or execution of this Act or the regulations, and
 - (b) that relates to—
 - (i) manufacturing or commercial secrets, or
 - (ii) working processes.

The bill contains two schedules to amend provisions relating to the regulatory functions of the Long Service Corporation. The Opposition is seeking to also incorporate these schemes into the Building and Construction Industry Long Service Payments Act 1986 and the Contract Cleaning Industry (Portable Long Service Leave Scheme) Act 2010. I could go into detail at length about why this is an important but non-controversial change; however, I understand that there is no opposition to the amendment. The Government is agreeing to it, so I will take my seat.

The Hon. SCOTT FARLOW (15:31): At the outset, I can state that the Government supports Opposition amendment No. 1 on sheet c2021-070 as moved by the Hon. Courtney Houssos, in the spirit of bipartisanship and cooperation. The proposed amendment seeks to expand existing investigative powers of authorised officers and to establish a new information-sharing arrangement between the Long Service Corporation and relevant agencies associated with the building and construction industry portable long service scheme. The Opposition amendment mirrors amendments the Government is proposing in the bill to the other portable long service leave scheme in New South Wales—namely, the one for contract cleaners.

The practical implications of these amendments include enabling authorised investigative officers to take possession of records for use as evidence and to retain those records during the course of proceedings. In addition, the amendment will provide the option for investigators to issue penalty infringement notices, rather than more costly and time-consuming court action. The amendments will also authorise the Long Service Corporation to exchange information with other long service agencies. The portable long service scheme for the building and construction industry has operated successfully since 1975.

It had been the Government's intention to introduce these reforms to the contract cleaning Act first, with a view to considering adopting them at a later stage in the building and construction industry legislation after assessing their implementation. However, the Government recognises the amendment will achieve legislative consistency across both portable long service schemes. With careful monitoring and ongoing stakeholder engagement, the proposed amendments could be appropriately applied to each sector at the same time to create a more robust framework for investigation and information sharing in New South Wales. For these reasons, the Government accepts the Opposition amendments to the bill. On behalf of the Minister, I acknowledge the positive engagement that has taken place between the Hon. Courtney Houssos and the Minister's office on this matter.

The CHAIR (The Hon. Trevor Khan): The Hon. Courtney Houssos has moved Opposition amendment No. 1 on sheet c2021-070. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. SCOTT FARLOW (15:33): I move Government amendment No. 1 on sheet c2021-097B:

No. 1 Term of appointment of members of Racing NSW

Page 17, insert after line 6—

1.15A Thoroughbred Racing Act 1996 No 37

Section 6 Membership

Omit "10" from section 6(4). Insert instead "12".

Not only is this an exciting Government amendment, but it is an exciting Government amendment to an Act which is not encompassed within the original bill. That makes it even more exciting. The purpose of the proposed change is to amend the Thoroughbred Racing Act 1996 to extend the tenure of Racing NSW members to a total of 12 years. The New South Wales thoroughbred racing industry is about to embark on an unprecedented capital expenditure program in regional New South Wales, having been granted \$67 million by the Government in the 2021-22 State budget to upgrade racetracks in regional New South Wales.

Four positions on the Racing NSW board are due to be vacated in December 2021, and two of these directors are ineligible for reappointment due to them having served the maximum period prescribed in the Act. This includes both the chair and the deputy chair of Racing NSW. The Minister is proposing legislative changes to allow longer terms for directors to be considered. This would give the independent selection panel which recommends appointments to the Minister a degree of flexibility to consider the potential adverse impacts on the

governance of the industry that may occur with the loss of both the chair and the deputy, in particular as the industry recovers from COVID. While the amendment will increase the total tenure of Racing NSW members, it will remain a statutory requirement that individual terms of appointment of four years maximum apply. This provides the Minister with regular opportunities to both assess and determine membership of Racing NSW.

Ms ABIGAIL BOYD (15:35): The Greens strongly oppose this amendment. It was only a couple of years ago that I stood here opposing the last increase in term limit for Racing NSW and its board, from eight years to 10 years. We were assured that it was a once-off which was necessary because of whatever circumstances existed at that time. Now we are being told again, two years later, that unfortunately there is apparently no-one else capable of being on this board and instead we have to entrench the leadership of a board that has significant power and influence over a significant industry. The outrageousness of this is such that The Greens have received representations from the racing industry—who members of this place will know are usually not our friends—because they are so concerned about the entrenched power at the top of Racing NSW.

As a matter of principle, the idea that we would put into legislation a limit on the amount of time that a board member can be appointed—at the moment, a 10-year cap on tenure—for the purpose of ensuring that we do not get this kind of entrenched leadership but then the Government comes back every two years to seek an extension just flies in the face of why we did it in the first place. Why have these limits? The amendment is outrageous. It is outrageous to include something like this, that has far-reaching effects, as a last-minute amendment in what is supposed to be a miscellaneous bill. I ask the Government to consider what it is doing that requires this in the first place and why it has not intervened to ensure that we have a diversity of talent that can fulfil these roles. I also ask the Government to reconsider its action of trying to shove this amendment into a miscellaneous bill at the last minute rather than bringing it as a substantive part of a bill that can be discussed in the future.

The Hon. COURTNEY HOUSSOS (15:37): Labor will not be opposing the amendment.

Mr DAVID SHOEBRIDGE (15:37): I support the work and the words of my colleague Ms Abigail Boyd. Indeed, I have had representations to my office about the lack of refreshing of the board of Racing NSW. A 12-year term on the board is dangerous for any organisation, particularly when it is the chair. We are not just talking about anybody; we are talking about a very well-connected senior mate in New South Wales. Let us be clear about it. He is the former chairman of Cabcharge Australia Limited. Now if ever there was an organisation that has inveigled itself in New South Wales politics to the damage of its own industry—

The Hon. Ben Franklin: Point of order: You have made it clear on many previous occasions that when members are debating amendments in Committee they should stick very closely to the topic of the amendment. I think that the member might have strayed just a touch from the amendment.

The CHAIR (The Hon. Trevor Khan): Mr Shoebridge, I am sympathetic to the proposition that the Hon. Ben Franklin has advanced. Would you like to give some consideration as to how far you are going to go on this?

Mr DAVID SHOEBRIDGE: Indeed. The current chair has been a director of Racing NSW not for four years, not for eight years, not for 12 years, but for 17 years. Is this the only position in New South Wales where one has to die in office? Is this the only workplace where one has to die in office? He was chair for 12 years and a board member or director for 17 years. If we go through the history of the current chair, not only did he work with the chairman of Cabcharge Australia but also he worked with the current deputy chair of Destination NSW. If one is a senior mate in New South Wales, when does the gravy train ever derail?

The Hon. Scott Farlow: Point of order: Discussing somebody's tenure on Racing NSW is perhaps relevant to the amendment, but their tenure on any other board in New South Wales has no bearing whatsoever on the amendment before us.

Mr DAVID SHOEBRIDGE: To the point of order—

The CHAIR (The Hon. Trevor Khan): I will not uphold the point of order. This has a proximity to the matter before the Committee.

Mr DAVID SHOEBRIDGE: While serving as the chair of Racing NSW, he also served as the deputy chair of Destination NSW—another State-funded board. Looking at his history, he has also previously been chair of the Visitor Economy Taskforce. One just has to wonder: When is enough enough? The Greens say enough is enough. We oppose the amendment. The industry deserves fresh faces. The industry at least deserves a board that is not as aged as chief executive officer and board member Mr V'landys, who has been there since 2004—another lifetime appointment. All industries benefit from having the board and the senior management refreshed. This is

an industry that needs a refresh, not another extension on the way to a lifetime appointment. Of course we oppose the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 1 on sheet c2021-097B. The question is that the amendment be agreed to.

The Committee divided.

Ayes26
Noes 10
Majority..... 16

AYES

Buttigieg	Harwin	Moselmane
Cusack	Houssos	Nile
D'Adam	Jackson	Poulos
Donnelly	Maclaren-Jones	Secord
Fang	Mallard (teller)	Sharpe
Farlow	Martin	Tudehope
Farraway (teller)	Mason-Cox	Veitch
Franklin	Mookhey	Ward
Graham	Moriarty	

NOES

Banasiak	Field	Pearson
Borsak	Hurst	Roberts
Boyd (teller)	Latham	Shoebridge (teller)
Faehrmann		

Amendment agreed to.

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

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

Adoption of Report

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

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

Rulings

PERSONAL EXPLANATIONS

The PRESIDENT (15:50): Following question time today the Hon. Walt Secord was granted leave to make a personal explanation, at the end of which he asked a question and leave was withdrawn. I take this opportunity to remind members of the rulings of previous Presidents in relation to the appropriate scope of personal explanations. In 1986 President Johnson ruled:

The matter which is the subject of the personal explanation should not be amplified or debated. Provocative or disputative language should not be used.

In 2008 President Primrose ruled:

A member may, with the leave of the House, explain how his or her honour, character or integrity has been reflected upon but must not debate the subject matter of the explanation. Leave may be withdrawn at any time if the member contravenes the standing order.

I understand that the matters raised by the Hon. Walt Secord related to interjections that he made during an answer earlier in question time by Minister Ward. I had called the Hon. Walt Secord to order for his persistent interjections at that point. For him to seek to use Standing Order 88 to further ventilate the matter—the subject of his interjections—was not an appropriate use of Standing Order 88. I remind honourable members of the rulings of former President Ajaka on 4 April 2017 and 26 September 2018 in relation to personal explanations. In his 4 April 2017 ruling President Ajaka said:

I indicate to members that if they misuse the provisions of Standing Order 88 I will not hesitate to intervene to direct them to resume their seat even before leave is withdrawn.

I will adopt the same practice. To the memory of John Ajaka, we salute him in his absence.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. BEN FRANKLIN: I move:

That Government business orders of the day Nos 8 to 13 be postponed until a later hour.

Motion agreed to.

Bills

**LOCAL GOVERNMENT AMENDMENT (COVID-19—ELECTIONS SPECIAL PROVISIONS) BILL
2021**

Second Reading Speech

The Hon. BEN FRANKLIN (15:53): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

Leave granted.

The Local Government Amendment (COVID-19—Elections Special Provisions) Bill 2021 is designed to ensure that the ordinary local government elections scheduled for December 4, 2021 are able to proceed, and that challenges faced by the Electoral Commissioner in facilitating the elections as a result of the COVID-19 virus, are addressed in a timely fashion.

The COVID-19 pandemic has posed unprecedented risks and challenges to a range of everyday activities that we would once have taken for granted. Responding to these risks and challenges has forced us to rethink and adapt the way we would normally undertake these activities and to consider doing things in a way that we would have never previously contemplated.

Nowhere is this more evident than with the most fundamental of acts associated with our system of democracy, the casting of a vote at an election.

The COVID-19 pandemic has already forced the Government to make difficult decisions in relation to the next local government elections.

The Government has been compelled to postpone the elections twice in the face of the insurmountable public health challenges of conducting council elections during a global pandemic. The elections, which should originally have been held on 12 September 2020, will now be held on 4 December 2021.

On each occasion the elections have been postponed, the decision to postpone the elections has been made in consultation with and advice of the NSW Electoral Commissioner and NSW Health.

Given the current and future level of restrictions, as outlined in the New South Wales Government's road maps, and the need to ensure we remain COVID-safe in line with Health advice, the December local government elections are likely to be held in a different environment.

The election period will commence on 25 October 2021, with the close of rolls, and pre-poll voting commencing on 22 November 2021 with election day held on 4 December 2021.

Voters will have the option to cast their ballot utilising traditional voting channels, namely COVID-safe attendance voting, complemented by postal and technology assisted voting.

When local government elections are held in December, they will be COVID-safe.

The NSW Electoral Commission has developed a COVID-19 action plan for the elections and amendments have been made to the Local Government (General) Regulation 2021 to support the implementation of that plan.

The criteria for pre-poll voting has been relaxed to allow anyone to vote during the pre-poll voting period. This will mean that voting will not occur on a single day but over an election period of 13 days, including election day. This will assist in allowing a range of COVID-safe measures to be implemented at polling places.

Additional eligibility criteria for postal voting has been introduced, which allow electors to vote by post if they are self-isolating because of COVID-19 related reasons or because they reasonably believe that attending a polling place on election day will pose a risk to their health or safety or the health or safety of another person because of COVID-19.

Permanent and temporary residents in hospitals, nursing homes, retirement villages and similar facilities will also be eligible to vote using postal voting because of their particular vulnerability.

Technology assisted voting, or iVote, will be made available to electors at council elections administered by the NSW Electoral Commission for the first time. Eligibility to vote using iVote is limited to the same criteria that apply at State elections. Electors who are eligible to vote by post and who have applied for but have not received their postal ballot paper eight days before election day will also be eligible to vote using iVote.

Regulations have been made to introduce new powers to allow election managers to maintain COVID-safe measures at and around polling places and at venues where votes are scrutinised or counted.

The regulations empower election managers to restrict posters being displayed and canvassing activities within 100 metres of polling places where this is necessary to comply with a public health order or to reduce the risk of infection from COVID-19.

Election managers can also prohibit or restrict the number of scrutineers present at polling places and places where ballot papers are scrutinised or votes counted where this is necessary to comply with a public health order or to reduce the risk of infection from COVID-19, subject to there being alternative scrutiny arrangements (for example filming the counting of votes).

Election managers will also have the power to temporarily suspend voting at a polling place for up to four hours and to adjourn voting for up to 13 days after election day in response to a health hazard.

The New South Wales Government has also provided the NSW Electoral Commissioner with \$57 million, including \$37 million to ensure that the 2021 Local Government elections are delivered in a COVID-safe way at no additional cost to councils.

In July, the NSW Commissioner wrote to the then Treasurer requesting additional funding due to the further delay in local government elections; and the New South Wales Government is currently reviewing this request.

These measures are being constantly kept under review to ensure they continue to be appropriate to accommodate and address the risks and challenges posed by the virus.

Whilst we all have good reason to be confident of our pathway out of the current restrictions, as experience has repeatedly demonstrated with COVID, we can take nothing for granted.

The measures contained in this bill will supplement the regulation amendments that have already been made to ensure the 2021 local government elections are COVID-safe.

They will allow the Government to respond to any unexpected contingencies or challenges that may arise as a result of the COVID pandemic that would otherwise prevent council elections proceeding in COVID-safe way or that would prevent election outcomes being delivered in a way that could command the support of the community.

If passed, the bill will insert a new provision, (section 747C), into the Local Government Act 1993. Section 747C will allow the operation of the electoral provisions of the Act to be modified by regulation in response to the COVID-19 pandemic should this be required.

Subsection (1) of section 747C will permit regulations to be made to modify the application of one or more provisions of the Local Government Act that apply to the 2021 local government elections for the purposes of responding to the public health emergency caused by the COVID-19 pandemic.

This means that even though the Local Government elections will be proceeding in December using traditional voting channels, both the NSW Electoral Commissioner and the Government will be well placed to respond to any unexpected challenges posed by the COVID virus.

The Electoral Commissioner has strongly advocated to the Government for the ability to vary the requirements of the Act, on his recommendation, to avoid elections failing due to technical irregularities or missed deadline because of COVID-19 impacts.

The Electoral Commissioner has written to the Government to request "amendments to the Local Government Act which allow the Minister to vary requirements of the Act, on the recommendation of the Electoral Commissioner to deal with potential further health emergencies."

This flexibility is important not just for supporting the system of local government in New South Wales but also to support the Electoral Commission being able to undertake its preparations for the March 2023 State General Election.

It is important to note that the ability to make regulations under section 747C to modify the operation of the election provisions of the Local Government Act for the 2021 local government elections is subject to two very important constraints.

First, the Minister may only recommend to the Governor that regulations be made under section 747C if the proposed regulations are in accordance with advice issued by the Electoral Commissioner.

Second, regulations made under section 747C must be reasonable to protect the health, safety and welfare of persons from risk of harm caused by the COVID-19 pandemic.

What this means in practice is that the Minister will only be permitted to recommend to the Governor that regulations are made under section 747C where the Electoral Commissioner has advised the Minister that the regulations must be made to address risks to the health, safety and welfare of persons caused by the COVID-19 pandemic.

Another important constraint is that the ability to make regulations under section 747C is restricted to the 2021 local government elections. This means that it will not be possible to make regulations under section 747C for future local government elections.

The local government sector has consistently opposed elections being held by full postal voting.

The measures contained in the bill will not permit regulations to be made that would allow elections to be conducted exclusively by means of postal voting and iVoting.

The measures contained in this bill will not allow for a further postponement of the local government elections.

Attendance voting will remain an option for all voters on 4 December.

I can therefore assure this House that council elections will proceed on 4 December 2021 and that voters will be able to cast their votes in person, or by postal or iVote if they are eligible to vote by these means if they feel unsafe to attend in person due to COVID-19.

I reiterate to the house that regulations can only be recommended to the Governor by me following advice from the Electoral Commissioner.

The Electoral Commissioner has provided OLG with advice that further minor changes may be required "to avoid elections failing due to technical irregularities or missed deadlines because of COVID-19 impacts."

It is the Government's expectation and hope that further regulations beyond these minor changes will not need to be made under section 747C.

As I have previously noted, the Local Government elections will be held in December under very different conditions to those that currently exist.

The measures contained in this bill will provide me with additional options that do not currently exist, which are constrained as I have previously outlined, to allow the Local Government elections to proceed on 4 December.

Finally, I sincerely thank and commend the shadow Minister for Local Government for his engagement on this matter, and for his support of the local government sector. I appreciate his ability to work in a bi-partisan fashion with the Government to ensure COVID-safe elections occur in December.

I commend the bill to the House.

Second Reading Debate

The Hon. TARA MORIARTY (15:53): I lead for the Opposition and indicate that we will not be opposing the Local Government Amendment (COVID-19—Elections Special Provisions) Bill 2021. The Opposition welcomes the fact that the Government has finally come up with a plan to ensure that the citizens of New South Wales are able to safely exercise their right to vote in the upcoming local government elections on 4 December 2021. However, this plan has arrived very late and very last minute given the circumstances. Local government elections are legislated to occur every four years, so it is not as though this has snuck up on the Government. It knew they were coming yet, when the pandemic hit last year, not only was the Government ill prepared to ensure that the elections occurred in September last year when they were due, but also it did not properly prepare or plan for safe elections when they were rescheduled for this year.

The delay in preparedness has been frustrating but at least something is being put in place now, only seven weeks from the twice-delayed date for the election—better late than never. Labor wants to ensure that certainty is restored to communities by making sure that the elections finally take place in a way that maintains the safety, health and wellbeing of all persons taking part on election day, whether they be voters, candidates or Electoral Commission employees. Our support is provided on the basis that the bill guarantees that there will be no manoeuvres by this Government to try to replace face-to-face elections with exclusive use of postal voting or postal and iVoting. In our view, a move in that direction would severely disenfranchise voters, particularly vulnerable members of our communities and those in regional and rural New South Wales. Labor does understand, however, that, given COVID-19 remains in our communities, flexibility is required to ensure that elections can occur without further delay and without restricting voters' ability to exercise their vote.

For that reason, we will be dealing with amendments at a future date. In our view, regulations should be made on the advice of the Electoral Commissioner and in accordance with whatever steps are considered reasonable and necessary to ensure safe voting on the day. Labor has been advocating for months on this issue and calling on the Government to provide a framework to ensure that the people of New South Wales can freely and safely vote for who will represent them in their local communities for the next term of council. Such a right is fundamental to not only democracy but also the fabric of local communities, given there is no level of government closer to local communities than local government. Again, I understand there have been discussions between the relevant Opposition shadow Ministers and the Government and those matters will be dealt with at a future time.

Mr DAVID SHOEBRIDGE (15:56): On behalf of The Greens, I contribute to debate on the Local Government Amendment (COVID-19—Elections Special Provisions) Bill 2021. The Greens will not be opposing this legislation, but we will move significant amendments during the Committee stage. We are in mid-October dealing with urgent legislation to try to put some COVID safety measures in place for the upcoming December local government elections because the Coalition Government has spent the better part of the past 18 months ignoring request after request from the Electoral Commissioner to do something so that he has the resources and the power to make the local council elections safe.

One of the issues the Electoral Commissioner raised in the middle of last year in correspondence with the Government was the fact that the pandemic is likely to have a significant impact on what were then going to be elections at the end of 2020. The Electoral Commissioner said that the commission would like 12 months' notice in order to get its systems in place so that if an emergency postal election were needed it would have the resources to ramp that up. The current resources of the Electoral Commissioner are woefully inadequate for the job. He has repeatedly told this Parliament at budget estimates that the software programming and resources that he has are woefully inadequate for the job of running a basic State election and a basic local council election. He has also made it abundantly clear that iVote is already at capacity.

There is no capacity to extend iVote to soak up the millions of additional votes if we want people to vote other than in person. So, iVote is at capacity, the Electoral Commission is dealing with aged infrastructure, programming that is more than a decade and a half old, for the general election and cannot ramp up to deal with postal elections, even if that was needed. The Electoral Commissioner wrote to the Government in the middle of last year and said, "If you can, can you give us the powers so that if we need to we can have majority postal elections, if people can't safely turn up to vote? And we also need the resources to put in place the infrastructure to have this happen. We need a 12-month time frame because otherwise we won't be able to get it in place." What was the Government's response? The Government waited a couple of months and then wrote back and said, "No. We're not giving you the powers. We're not giving you the resources. We're not giving you the money. She'll be right." It turns out it was not right.

We then had the council elections deferred until December of this year. Now the Electoral Commissioner is stuck with ancient infrastructure, inadequate funds and resources, and in the middle of a pandemic is facing an election, which may well fail. When the Electoral Commissioner gave evidence last month in budget estimates, he was asked what had been his correspondence with the Government. What did he need? I will read his response onto the record:

... In July last year I wrote to the Government recommending that the local government elections be held in a fully postal fashion, supported by internet voting to a limited extent if it could be arranged in time. The decision was taken to continue with the arrangements in the legislation as they are now with in-person voting, supplemented by postal and internet voting.

Part of the reason I asked for that was because—and this goes back to some of my perennial problems—the nature of my electoral systems mean that I cannot rapidly pivot from one form of election to another so a significant period of time is required. If I was going to move from a mixed-channel local government election to full postal, I estimated at that time it would take 12 months so the elections were postponed for 12 months. A full postal election also requires significant logistical engagement with the providers of the service—the printers, the fulfilment, which means putting the postal packs together and sending them out. There are limited providers in Australia who do that. So existing contracts would have to be renegotiated. Another element, of course, with postal voting is if we move to full postal voting the legislation has to change. It is open to any member of Parliament to bring a bill forward ...

Then he said:

In the absence of a legislative change, I am required to offer in-person voting. The elections will fail unless I do so and as part of that I will continue to provide postal and internet voting. It is too late now to move in December to a full postal vote. It just cannot be done in that time. I also, with my current ageing electoral systems which I received no money for in the budget to correct ongoing problems, cannot run simultaneously a full postal election in some councils and mixed-channel elections in others. Our system cannot cope with that and would potentially fall over. I cannot run State by-elections while I am running a full local government election—

which has become increasingly important, I note—

because my systems cannot maintain that and could potentially fall over.

The Electoral Commission is a fundamental pillar of our democracy. It needs to work and people need to have confidence in it, but it has been so starved of funds by this Government that if it is pushed for the December election to significantly increase postal votes, it is likely to fall over. Then, to pick a hypothetical, if there are, let us say, four State by-elections that the Electoral Commission has to deal with at the same time, it absolutely will fall over. So I ask the Government: What actually is its plan with this legislation? This legislation states in clause 3 that for the upcoming council elections in December 2021:

- (1) The regulations may modify the application of 1 or more provisions of this Act that apply to the 2021 ordinary elections of councillors for the purposes of responding to the public health emergency caused by the COVID-19 pandemic.

So the Local Government Act 1993, if this bill is passed, will not be limited and any part of that Act can be modified. The amendment to the bill makes clear in new section 747C that:

- (3) Regulations made under this section—
 - (a) are not limited by the regulation-making power in this Act, and
 - (b) may override the provisions of this Act.

That means any part of the Act can be modified provided there is a nexus to dealing with COVID-19. Any part of the Act can be overridden—literally anything. Somehow or other there has been a negotiation between the Opposition and the Government to come up with some kind of pretend fix by putting a limitation on this. I will

read what the limitation is that has been negotiated between the Opposition and the Government. New section 747C (4) states:

- (4) A regulation under this section must not enable an election to be conducted exclusively by means of postal voting or postal voting and iVoting.

That ingenious negotiation means that the Government can do only a 99 per cent postal vote—and isn't that great!—but everything else—everything—in the Act is up for suspension by regulation.

The Hon. John Graham: Aren't you for 100 per cent?

Mr DAVID SHOEBRIDGE: I hear the Opposition ask, "Aren't you for 100 per cent?", so I want to be clear what The Greens position is. We know that we need to have a local council election and we cannot extend the term indefinitely. Councils already are 12 months past what they signed up for and many of them are literally beyond reasonable endurance. The communities deserve an election. If it is the opinion of the Electoral Commissioner and the Chief Health Officer that we cannot safely have an in-person election, then we need an alternative.

The only alternative that The Greens and I can conceive of is a substantial ramping up of postal voting because we know iVote will fall over. None of us wants to see that because we all know that postal voting is substantially less democratic than in-person voting. It particularly impacts on marginalised voters who do not have a fixed address, young voters and others who are particularly marginalised, so we would never want to have postal votes. But if the only alternative is that we just do not have an election, that is not an option at all. We are better off having an imperfect election as democratic as we can make it than nothing at all.

The Opposition's position is, "We'll just never ever consider a postal vote". If the option is we have a super unsafe vote in a pandemic, or maybe the Opposition is just so attracted to what happened traditionally in Botany—where people never had elections anyhow because of the undemocratic two-member wards—maybe that is the Opposition's solution. You just "Botany" the whole State—and we know how that turned out!

The Hon. Scott Farlow: That is an excellent comment.

Mr DAVID SHOEBRIDGE: Yes. Or the Opposition might call it "Ku-ring-gai-ing" the whole State. We just have these deeply undemocratic proposals. Maybe that is the solution that has been cooked up between themselves; I do not know. But The Greens believe that there should be as much democracy as you can possibly have. That is our position. We are not into the Ku-ring-gai or the Botany solution. We think people have a right to vote for the councillors. That is what The Greens position is. That brings me to what the Electoral Commissioner said in his further answers to questions on notice. I will read onto the record the answers he gave to questions on notice at budget estimates:

In early August 2021, the Electoral Commission estimated the cost of conducting the elections using postal-only voting to be \$145.3 million. This amount was calculated on the basis that postal voting, supplemented by the use of technology-assisted voting (iVote), would need to be conducted over two tranches, taking place in December 2021 and March 2022. This two tranche proposal was developed following the postponement of the September elections.

I ask the Government: Is that a live consideration? Is that what the Government is proposing with this bill? I ask that because the Government can pretty much write whatever it likes under the regulations. Is the Government proposing a two-tranche election? If so, will that satisfy the Opposition's amendment that we will not have a 100 per cent postal-vote election because half of them will be done at one point and half of them will be done at another point? Is that the Government's proposal? I do not know. I will be interested to hear what the Parliamentary Secretary to the Treasurer and for COVID Recovery says. The Electoral Commissioner also said this in his answers:

... in July 2021, as it was no longer feasible by that time for the Electoral Commission to conduct the elections entirely by postal voting in December.

Postal voting would ordinarily be less expensive than attendance voting but the estimated cost of running two tranches of postal voting was comparable to the Electoral Commission's forecasted costs ... for conducting a full attendance election in December 2021. This parity was because staff and contractors essential to the delivery of the elections would need to have been retained for a longer period in order to support the delivery of the elections in two tranches. The estimated cost of \$145.3 million also included a range of sunk costs, arising from the two postponements of these elections, which had been incurred regardless of which election delivery model was now adopted.

In other words, faffing around has cost real money. The Electoral Commissioner also stated:

In July 2020, I had proposed to the Government that, in response to COVID-19 risks, the elections be conducted utilising a fully non-attendance model using postal voting (supplemented by iVote). At that time, the Electoral Commission estimated that switching to full postal voting would mean only \$29 million in direct costs would need to be recovered from councils, which was \$17 million less than the (then) estimated direct costs of running the postponed elections in September with attendance voting. I also advised an additional \$37 million in direct costs would be required to conduct full attendance elections with COVID-19 mitigation measures.

Combining these figures resulted in an estimated total cost-saving opportunity of up to \$54 million had the full postal voting option been adopted at that time.

The Greens are not committed to an election system that is the cheapest, but we would like certainty. Indeed, residents across the State deserve to know if there is certainty. I ask the Government if the \$37 million figure is still the additional cost that will be incurred to run a COVID-safe election in December. Is that the right figure? If not, what is the right figure? What are the plans for a COVID-safe election in December? Who will be paying the additional cost? Will it be passed on to councils and, through them, ratepayers? Will it be picked up by the State Government? I note that the Government has said it has given the Electoral Commission, I think, an additional \$7 million to run these elections. The Electoral Commissioner has said at a minimum another \$29 million is needed to meet the costs. Has that yet been committed? Has the Electoral Commissioner got the money that he said he needs to run a safe election? None of those questions have been answered by the Government.

Instead, the Government has introduced a one-page piece of legislation to have the ability to rewrite the entire Local Government Act by regulation for this upcoming election. The Government will not say what it will be and will not show members the draft regulation, but we should just trust it. How can we trust a government that has been so culpably negligent for the past 18 months? How on earth could we trust a government that was told in July of last year by the Electoral Commissioner that he needed extra money, resources and powers but gave him none of it? The Greens will not sign off on this blank cheque. I foreshadow that The Greens have a number of amendments to this bill that will ensure there is direct democratic oversight of whatever regulations this Government makes and done in time so that we can disallow them in this Chamber before the December elections.

The Greens first amendment will limit the regulation-making power so that a regulation must not be made after 11 November 2021, which gives members an entire sitting week to review and, if necessary, disallow regulations that are undemocratic or excessive. Of course we should have that power. The Greens, unlike Labor, are not interested in giving the Government a blank cheque to rewrite the Local Government Act for the upcoming council elections. It is ridiculous and I cannot understand why Labor would agree to that result. The Greens propose to put into the bill provisions that say the Minister must not recommend to the Governor that a regulation be made under this section that expands use of postal voting or postpones the conduct of an election unless the Minister has given a report to the Presiding Officer of each House of Parliament containing the advice of stipulated persons that the regulation is necessary. The two obvious people from whom we need to get that advice are the Chief Health Officer and the Electoral Commissioner.

Under the current bill all that is required is an assertion from the Minister that the proposed regulations are in accordance with advice issued by the Electoral Commissioner—but we do not see that advice—and also that the proposed regulations are reasonable to protect the health, safety and welfare of persons from risk of harm. There is no reference to even getting the advice of the Chief Health Officer, let alone seeing it. They are not checks and balances. They are not protections for residents or for democracy. That is why The Greens amendments require not only for the advice to be obtained but also for the advice from the Chief Health Officer and the Electoral Commissioner to say that the regulation is necessary, and for The Greens and the people of New South Wales to see the advice. If The Greens think it is necessary, there will be time to disallow regulations that are excessive or go beyond what is reasonably necessary to meet the COVID-19 crisis.

The communication from the Electoral Commissioner suggested the prospect of two-tranche elections: half the council elections in December and the other half at an unspecified time next year. We want to put a backstop on anything to that effect. Our foreshadowed amendment No. 4 states that if there is a postponement, it cannot go beyond 20 February 2022. People deserve elections. Local government deserves elections, and they have got to be done before 20 February 2022. I think we heard the Government say in some quiet fireside assertions to the Opposition that it is not contemplating postponing the elections, but the powers it is being given allow it to postpone them indefinitely. The Government can literally rewrite the whole Act; any restrictions in the Act can be written out by regulation. Maybe the Opposition is fine with an indefinite postponement of local government elections. I do not know, but it seems to be. If so, the Opposition should talk to its stakeholders because I do not think its local councillors are fine with it. I doubt the Opposition's local council candidates are and I know that residents across New South Wales are not.

With that brief contribution, The Greens do not oppose the bill, but we have a series of essential checks and balances that we hope a majority of members of this Chamber support so that we actually have a democratic council election and have oversight of terrifyingly broad regulation-making powers being given to the Minister for Local Government. If ever one wants to wake up in a cold sweat, think about the Minister for Local Government being given terrifyingly broad regulation-making powers to overwrite the Local Government Act.

The Hon. JOHN GRAHAM (16:16): I recognise the role played by our shadow Minister, Greg Warren in the other place, and I thank him and the Hon. Tara Moriarty for shepherding through the Local Government Amendment (COVID-19—Elections Special Provisions) Bill 2021. I also thank Local Government NSW from whom we sought advice as we navigated this issue. I will speak briefly in this debate as the shadow Special Minister of State. Our biggest concerns with this bill in its original form were some of the comments of the Electoral Commissioner over time and some of the temptations in some legislation in front of this Chamber about a wholesale move to postal voting or an expansion of the iVoting system, which I have spoken about before. The Opposition was centrally concerned about that when it looked at this legislation. We want elections to take place.

I agree with the comments made by speakers here and in the other place about the lack of preparation that has taken place. These elections should have been better organised. We have to do better. Voting is a fundamental democratic right and we should not be dealing with this—pandemic or not—right at the last moment. I do not understand why this issue has been so difficult to sort out. However, the Opposition does not oppose the bill. We support it because the Government has inserted specific provisions that make it clear that across-the-board postal voting or iVoting will not be used to conduct this election.

The Government has also made clear that, if the Electoral Commissioner uses those provisions, the intention is to use them in local government areas that might be locked down at the time in order to make sure people can vote safely. If that happens, that is probably a product of the time we are in. It is a very imperfect solution, but if that is the extent of how this bill is used—and I place on record that is the assurance the Opposition has been given—we will happily have these elections conducted. If it is not the case, the Government can expect the Opposition will be very critical, as will a range of other councils and organisations. The Government should stand warned that these are extraordinary powers that are being granted very late because they have been asked for very late, and we do not understand why that is the case.

What principles are Opposition members applying? We think it is important that no sudden changes are made to electoral law. Where possible, members should talk through issues and agree on them. However, that dialogue has not been made easy by how late the issue of local government elections has been dealt with, by the lack of funding for the Electoral Commissioner and by the chaotic approach of the Government. Democratic elections, whether local government or State, proceeding in an orderly fashion is an important long-term principle to the Opposition. It is fundamental that democracy in New South is trusted, which is why the Opposition has taken the approach to the bill that is has. Trust in democracy is fundamental to what members do in the Parliament.

The Opposition has concerns about the funding obstacles that the Electoral Commission has placed in front of members of Parliament at a range of forums, including at budget estimates and before the Public Accountability Committee, which looks at integrity agencies. I congratulate Mr David Shoebridge on his chairing of that committee. I agree with him that the Opposition will not indicate a view on the scheduled proposed amendments. He has not done himself any favours in attracting friends to The Greens amendments with his contribution to debate. It is remarkable that he is critical of the bill for allowing some form of postal voting when, despite all his concerns, he has introduced the Local Government Amendment (Postal Elections) Bill 2021, which would introduce the method 100 per cent. That is not the position of Opposition members. We are not prepared to accept a 100 per cent approach because it is a real concern that we have. We also do not understand the contradictory position of Mr David Shoebridge.

Adapting local government elections in light of COVID is a serious issue, so I will not respond to provocations from members opposite. We need to get funding right not just for local government elections; Opposition members are also concerned about funding for State elections. In a more contested and difficult electoral environment, where it is harder than ever to keep elections secure, for the Electoral Commissioner to say to members of Parliament that he has concerns about election funding should be of real concern. The issue goes to trust in elections and, ultimately, in the Parliament, the maintenance of which is in all of our interests. I commend the bill to the House.

Debate adjourned.

ELECTRIC VEHICLES (REVENUE ARRANGEMENTS) BILL 2021

Second Reading Speech

The Hon. SCOTT FARLOW (16:22): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

Advances in transport technology, in particular the growth of electric vehicles [EVs], are transforming the way that people travel. Electric vehicles offer some clear benefits over petrol and diesel vehicles. They are cheaper to run and maintain, quieter and produce fewer pollutants than other vehicles. France, Japan and the United Kingdom plan to end sales of petrol and diesel vehicles in the next 10 to 20 years. Norway plans to end sales as early as

2025. Many car makers are responding by committing to electrify their fleets and retooling their production lines towards electric vehicles. Volvo will be a fully electric car company by 2030. General Motors will phase out internal combustion engines in light-duty vehicles by 2035. Hyundai will phase out internal combustion engines by 2040.

However, electric vehicle sales currently comprise less than 1 per cent of total vehicle sales in New South Wales. Three of the biggest reasons for this low take-up are the higher up-front costs of electric vehicles, concerns about the availability of charging infrastructure and the lack of models available for sale in the State. The Government's nation-leading Electric Vehicle Strategy, which was announced in June 2021, responds to those challenges and sets up New South Wales to have more than half of new cars sold as electric vehicles by 2030.

The purpose of this bill is to implement key parts of the Electric Vehicle Strategy, including providing rebates of \$3,000 for electric vehicle purchases, a \$171 million investment in charging infrastructure and a pathway to transition the Government vehicle fleet to electric vehicles by 2030. The strategy also commits to phasing out vehicle stamp duties for electric vehicles and phase in an efficient distance-based road user charging mechanism. The road user charge will provide a new and sustainable own source revenue base, which will allow the State greater autonomy and certainty in prioritising road expenditure. By aligning the charge to distance travelled, it will also help to keep revenues in line with the public cost of providing roads.

For a fiscally responsible government, it is also important to ensure that revenue for the long-term funding of roads remains adequate. Currently New South Wales partly depends on road funding from the Commonwealth, which collects excise on fuel. This Commonwealth revenue stream will decline over time as electric vehicle take-up increases and create uncertainty around the extent of any pass through to States. New South Wales also collects motor vehicle taxes, including over \$800 million per year in vehicle stamp duty. That is economically damaging, as it imposes a high cost on transferring vehicles.

The distortionary effects of vehicle stamp duty mean that each additional dollar of vehicle stamp duty can cause nearly \$1 of additional economic damage. That is reflected in lower productivity and lower incomes. Vehicle stamp duty presents a barrier to people seeking to buy a new or used car, adding \$900 to the cost of a \$30,000 vehicle and \$3,000 to the cost of a \$78,000 vehicle. Phasing out stamp duty will help to significantly reduce the up-front costs of electric vehicles, driving more onto our roads. I bring to the attention of the House that the bill was brought in cognate with the budget appropriation bills in the other place and forms a core part of this Government's economic and environmental plans.

I turn to the specifics of the Electric Vehicles (Revenue Arrangements) Bill 2021. This bill amends the Duties Act 1997 to phase out vehicle stamp duty on electric vehicles. Applying retrospectively from 1 September 2021, the registration of battery and hydrogen fuel cell electric vehicles sold for a dutiable value of up to \$78,000 will be exempt from vehicle stamp duty. That will reduce the up-front cost of vehicles by up to \$3,000, and is expected to save motorists around \$200 million over the next four years. The recent outbreak of COVID-19 prevented Parliament from considering this bill alongside the June budget legislation, as originally intended.

Despite that interruption, the bill will retrospectively apply the stamp duty exemption, ensuring that people who have registered an eligible electric vehicle since 1 September 2021 will benefit from the exemption, as originally intended. A person purchasing a new eligible vehicle valued at up to \$68,750 will also be able to claim the \$3,000 rebate that the Government is offering on the first 25,000 electric vehicles purchased. That rebate will also apply retrospectively to vehicles registered for the first time since 1 September 2021. A person receiving the rebate and the duty exemption will save up to \$5,540.

The bill also establishes the framework for a road user charge on vehicles that receive a stamp duty exemption. That charge will commence no earlier than 1 July 2027 or when battery electric vehicles make up at least 30 per cent of new vehicle sales. By delaying commencement of the road user charge, we avoid smothering a growing EV sector, and will exempt those vehicles from stamp duty and road user charges until the uptake of electric vehicles is well and truly underway. When the road user charge commences, the stamp duty exemptions will be expanded to cover all zero- and low-emission vehicles, including hybrid electric vehicles. That will continue to drive down stamp duty revenue as the market for electric vehicles grows. The road user charge will be set at an initial rate equivalent to 2.5 cents per kilometre in today's dollars, with a lower rate applying to hybrid vehicles to reflect their ongoing payment of excise on fuel.

A number of the details of implementing the road user charge will be set in regulations. While it is critical to create a legislative framework to secure the future road infrastructure funding, technology can move a lot between now and the start of the new charges. The legislation allows flexibility for the law to adapt to technology and vehicle usage over time. For example, the bill sets out a framework that allows for the road user charge to be prepaid. Under that system, a person could purchase a certain number of kilometres of travel and top up periodically as needed.

However, the bill also allows for regulations to establish a post-pay system where a person can travel first and pay later. A post-pay system is more complicated than a prepay system. However, there may be demand for such a system as the market evolves. The bill allows for a post-pay system to be designed in the future so that the option is available when there is demand. This bill paves the way to abolishing an economically harmful transaction tax while also supporting the growth of the New South Wales electric vehicle market. It will help to drive the uptake of electric vehicles while securing the ongoing funding of New South Wales roads with a modern, more efficient and fairer distance-based charge. I commend the bill to the House.

Second Reading Debate

The Hon. DANIEL MOOKHEY (16:29): The Electric Vehicles (Revenue Arrangements) Bill 2021 seeks to legislate key aspects of the New South Wales Government's \$490 million Electric Vehicle Strategy. I am pleased to lead on this bill for the NSW Labor Opposition in this place on behalf of Labor's shadow Minister for Transport, Jo Haylen. I am delighted to confirm that the Opposition will support the bill. However, I flag that Labor will move an amendment to bring forward the statutory review to a period of two years. I will provide further details on that later.

The bill enables the introduction of a road user charge for electric vehicles in New South Wales, payable by owners of certain zero- or low-emission vehicles, based on each kilometre that the vehicle travels in a public place, whether inside or outside of New South Wales. The rate will be set by Transport for NSW each year, with battery and hydrogen fuel cell electric vehicles indexed at the full rate and plug-in hybrid vehicles indexed at 80 per cent of the full rate. Drivers will be required to report an odometer reading to Transport for NSW or to provide an estimate in a way that Transport for NSW considers reasonable according to the bill. Drivers will be able to pay before or after kilometres have been travelled. If paid before, drivers must pay in 1,000-kilometre increments and it will be an offence to drive additional kilometres above what has been paid for. If the post-paid option is used, drivers must notify Transport for NSW that they have chosen that option. Furthermore, the bill sets out a series of penalties and offences for failing to properly report a road user charge.

The bill also exempts certain zero- and low-emission vehicles from the payment of stamp duty under the Duties Act 1997. While the bill is imperfect and does not represent the approach that Labor would pursue in government, Labor supports the bill as an important measure to expand the infrastructure for, and availability of, electric vehicles in New South Wales. As always, Labor will judge the bill by its results. Labor supports the uptake of electric vehicles in New South Wales. Australia currently has one of the lowest rates of electric car ownership in the world. In 2020 our global electric vehicle market share equalled only 0.78 per cent—amongst the lowest in the world. In comparison, recent data suggests that close to a quarter of cars sold in Europe in August were fully electric vehicles or plug-in hybrids, the first time ever that more electric vehicles [EVs] were sold than diesel cars. Surveys consistently show that around 50 per cent of Australians would consider buying an electric vehicle. However, that interest is not translating into EV sales. It is worth considering why that is the case.

The first issue is supply. The range of models available to consumers in Australia pales in comparison to that of other jurisdictions. The Electric Vehicle Council reports that there are 32 passenger electric vehicle models from 12 different car makers currently available for purchase in Australia, with sticker prices ranging from \$40,990 to almost \$850,000. An additional 27 models are due to come online before the end of 2022. Why are car makers skipping Australia when it comes to rolling out electric vehicle models? Put simply, it is too expensive. In other markets, including Europe, governments are providing incentives in the form of carbon credits while at the same time penalising the sale of combustion-engine vehicles.

One expert from The University of Queensland put the value of credits of each EV sold in the European Union at around \$26,000 per vehicle. In Australia, any prospective electric vehicle buyer currently gets nothing. The Electric Vehicle Council CEO, Behyad Jafari, has pointed out that 80 per cent of the new vehicle sales markets around the world have CO2 standards and Australia does not. He cites that as one of the reasons Australia does not get a broader variety of electric vehicles and is instead fast becoming a dumping ground for polluting vehicles that manufacturers cannot sell anywhere else.

That brings us to our second problem—consumer choice or its absence. The lack of models means that those available in Australia tend to be more expensive, like Teslas, and are therefore out of reach of most families and households. Consumers like to be able to choose between car models, and the relative lack of choice acts as a deterrent. In Australia, around 50 per cent of all new car sales are sports utility vehicles and 25 per cent are dual-cab utes, but electric vehicle options in those markets are scarce. That is a shame because the purchasers of those kinds of vehicles might just be the drivers who could make the biggest dent in emissions if they were able to choose electric options. People who use their vehicle for work can have the biggest impact if we remove their use from the emissions equation. The benefit for tradies in particular is immense given the potential to be able to power tools from their vehicle. It is clear that we need to address the lack of availability and variety of electric vehicles if we are to increase their uptake.

The third issue is range anxiety, and that has also curtailed the uptake of EVs in Australia. Range anxiety is simply the fear that a driver will run out of battery power before reaching a destination that allows them to recharge. Part of the issue with range anxiety is that drivers do not necessarily understand how they actually use their vehicle. A recent study by Griffith University showed that despite many EV owners citing range anxiety before they purchased an EV, it dissipated once the vehicle was purchased. One of the reasons was that most weekend travel did not exceed 70 kilometres and up to half of owners travelled no more than 50 kilometres per trip. The Electric Vehicle Council reports that newer EV models have a range upwards of 550 kilometres from a single charge and that the average Australian drives around 38 kilometres per day, which means that an EV owner can go for an average of 10 days without a charge.

Another reason for range anxiety is the scarcity of charging infrastructure. As of July 2021 there were 783 charging points in New South Wales, including 153 direct current chargers and 630 alternating current chargers, most located in Sydney. That equates to roughly 0.17 charging stations per EV. While the Electric Vehicle Council reports that 80 per cent of current EV owners charge their vehicle at home, it is clear we need a rapid and serious investment in public and private EV charging infrastructure if we are to overcome range anxiety and realise our potential for an EV future.

What does an electric vehicle future look like and what are the risks of not acting now to realise it? Electric vehicles are critical to meeting our future emissions targets. The Grattan Institute reports that nearly 20 per cent of Australia's total emissions come from the transport sector, with over 60 per cent attributable to light vehicles. It argues that the best way to cut transport emissions is to supercharge the transition to electric cars. To reach net zero emissions by 2050, which is the New South Wales Government's target, ClimateWorks modelling shows that between 50 per cent and 76 per cent of new car sales in Australia need to be electric by 2030. In fact, there is a real question as to whether the Government's strategy goes far enough. It claims to allow for 52 per cent of new car sales in 2030-31 to be electric, just barely inside the range suggested by ClimateWorks. The Climate Council goes further, arguing that we need 75 per cent of new car sales to be electric to achieve the more ambitious target of net zero emissions by 2035. No matter which way we cut it and remembering that the current proportion of EV new car sales is less than 1 per cent, there is a lot of work to do.

Other countries are turning to bolder measures. The United Kingdom has banned combustion engine vehicles by 2030 and hybrid vehicles by 2035. If anyone has ever breathed London air, they would understand why the UK is eager to transition from diesel vehicles to electric vehicles, accepting of course that Australia has petrol. The European Union will ban all new combustion engines by 2035 and Japan is considering doing the same. As those markets move to phase out combustion engines, particularly right-hand markets like the UK and Japan, it is likely that more polluting and comparatively expensive vehicles will end up in Australia. I say "expensive" because the overall cost of running an electric vehicle is far less than a traditional combustion vehicle. It is estimated that an average Australian driving 15,000 kilometres a year spends \$2,160 on petrol per year or 14c a kilometre; an EV owner travelling the same would spend roughly \$600 per year or 4c a kilometre, unless recharging off solar panels in which case the cost would be zero. Maintenance costs are also far less than in a traditional internal combustion engine.

EVs have far less complicated engineering and require less servicing so, at a point when the cost of electric vehicles is comparable to or lower than the cost of a vehicle with an internal combustion engine, the overall total cost of ownership of an EV will be far less, particularly as the cost of petrol continues to rise. At this stage the benefits of owning a vehicle with lower running costs is available only to those who can afford to pay the high capital cost of an expensive vehicle now. There is a real risk that if we do not act to increase the number and range of electric vehicles in New South Wales, particularly those at a lower price point, working families will be lumped with the polluting vehicles that cost a fortune to run. They may also miss out on the ability to actually earn money from their vehicles too. Bi-directional power, where a car battery can be used to power a home or give power back to the grid, saves owners paying peak electricity or, indeed, enables them to earn some cash when they sell power back to the grid. *Global Sustainable Energy Solution* notes:

The average EV has a battery sized at 43kWh and the average commute is 16km each way. Taking into account that the Australian home uses 19kWh of electricity daily and the average fuel economy of EVs is 18kWh/100km, a fully charged EV that undergoes the average commute has the capacity to supply power to a home for *almost 2 days*.

So EV owners may be able to cut their household energy bills but they may also be able to earn money from parking their vehicles too. The ABC's *Catalyst* recently told the story of Gary Hogben, who lives in the UK and has earned more than A\$1,000 a year while his car sat in the driveway. Gary sells power from his EV battery to the grid during periods of peak demand and recharges during off-peak periods. Most EVs in Australia right now are not compatible with vehicle-to-grid [V2G] bi-directional power but that is also to change by 2025, when all new EV vehicles will be vehicle-to-grid capable and hopefully the price of bi-directional charges will be able to come down as the technology improves, making them more readily available.

The potential is staggering. Researchers at the Australian National University Battery Storage and Grid Program suggest that if the 19 million cars on Australian roads were electric and fitted with a V2G capacity, it would be the equivalent of more than 10,000 Tesla big batteries in storage. That has huge implications for Australia's national energy market, for energy security, and for local manufacturing and jobs. As EVs become more prevalent and popular, we cannot lose the opportunity to create local jobs. PricewaterhouseCoopers found that Australia could see an additional 13,400 jobs in 2030 due to building the infrastructure we need to support three million electric vehicles. Those jobs will come in mining when we source the lithium, nickel and cobalt that are essential to batteries, and copper for wiring. As the duty MLC for Barwon, I am especially excited by that. If we get this right, we can create jobs in battery manufacturing and refurbishment here in New South Wales rather than offshoring these jobs as we export our minerals to China only to reimport the finished product to Australia.

We can also be world leaders in the manufacturing and maintenance of charging infrastructure. The Government plans to have rapid expansion of a charging network across New South Wales, and there is no reason we cannot work to ensure that those chargers are built, installed and maintained by New South Wales workers. A key opportunity is in harnessing the extraordinary potential and capacity of startups and our technology companies to be at the forefront of grid integration software and hardware development as EVs evolve. We have to invest now in training our mechanics and our automotive workers, who we will need to help maintain EVs. Electric vehicles are complex, evolve quickly and operate at much higher voltage than do other industrial equipment, such as electric golf carts or forklifts. Ensuring that mechanics and workers are trained will be essential to keeping workers up to date with the latest technology and, most importantly, safe.

New South Wales can be a world leader of manufacturing in the EV supply chain, not just be an exporter of materials and importers of parts. These are the opportunities that the Government's strategy fails to realise. In this regard, we need greater ambition. So EVs offer a very bright future, but realising a future whereby we harness the potential for battery storage, empower consumers and households to reduce their vehicle running costs thereby enabling them to earn money, support local jobs and cut emissions all requires urgent action—now. So what does the bill before the House today offer us? Apparently the bill is central to the Government's \$490 million Electric Vehicle Strategy. The Minister has already outlined the key aspects of the strategy, but the key planks include rebates of \$3,000 on the purchase of the first 25,000 electric vehicles sold for under \$68,750 from 1 September 2021.

The strategy offers fleet incentives to assist councils, industries and businesses to purchase electric vehicles through reverse auctions and promises to transition the government vehicle fleet to all-electric models by 2030, which I understand the Minister for Finance and Small Business might be responsible for. It invests \$171 million over four years to build an electric vehicle charging network and to create EV tourist drives in regional New South Wales, including installing ultra-fast chargers every 100 kilometres on major New South Wales highways. The Berejiklian Government subsequently released its electric vehicle charging master plan, which outlined that Government's plan to create EV super highways and commuter corridors across the State and coordinate investments by electric vehicle charger companies. I presume that the Perrottet Government will continue with that.

Importantly, the strategy proposes the phasing out of stamp duty on the sale of electric vehicles under \$78,000 from 1 September 2021 and then from all EVs and plug-in hybrids from 1 July 2027 or when EVs make up 30 per cent of all new car sales. Then, from that point on, there will be the introduction of a road user charge. The road user charge and stamp duty exemptions are the focus of the bill we confront today. As I have said, the bill phases out stamp duty on the sale of electric vehicles under \$78,000 from 1 September 2021 and then from all EVs and plug-in hybrids from 1 July 2027 or when EVs make up 30 per cent of all new car sales. From that point onwards, a road user charge will apply. The Government has set the road user charge at 2.5c per kilometre, indexed to the consumer price index, not 4 per cent per annum, applicable to eligible EVs from 1 July 2027 or when EVs make up 30 per cent of all new vehicle sales. Under this Government's plan, plug-in hybrid EVs will be charged a fixed 80 per cent proportion of the full road user charge.

According to the Government's calculations, the average petrol and diesel vehicle owner pays approximately \$613 a year in fuel excise whereas, under New South Wales' new road user system, EV drivers will pay an average of \$315 annually or roughly half that of owners of internal combustion vehicles. The hard truth is that it costs money to build and maintain the roads and infrastructure we need to keep the State moving. In 2018 the CSIRO predicted that revenue from fuel excise will drop by almost half by 2050, leaving a significant hole in road funding. Properly funding our roads ensures that they remain safe for all road users, including transport workers and their families, and we need a mechanism to ensure that this funding is sustainable. But we must also balance that with an acknowledgement that EVs have far less environmental impact and ensure that a road user charge does not disincentivise the uptake of low-emission vehicles.

Based on the calculations provided by the Government, Labor takes the Government at its word that its proposed user charge achieves that balance; but, as always, we will judge the Government by the results. I note that the decision to delay the road user charge until such time as the market has matured was welcomed by groups that include the Electric Vehicle Council, the NRMA and environmental groups. Of course, I caution that as we handle this transition we cannot allow a circumstance to exist whereby the only people who are paying diesel or other fuel excises are working families, especially if they become entrapped to drive cars with internal combustion engines. The Government's plan means drivers will be required to report an odometer reading to Transport for NSW or provide an estimate in a way that Transport for NSW considers reasonable. Drivers will be able to pay before or after kilometres have been travelled. If paid before, drivers must pay in 1,000-kilometre increments and it will be an offence to drive additional kilometres above what has been paid for. As I said earlier, if the post-paid option is used, drivers must notify Transport for NSW that this option has been chosen.

The bill allows Transport for NSW to approve devices to measure the number of kilometres travelled; to require persons to present information to calculate a charge; to work with other States and Territories to collect payments; and for proceedings for an offence to be dealt with summarily by the Local Court or by way of penalty notice. I would be eager if at some point the Parliamentary Secretary could explain why Transport for NSW is doing that and what the role of Revenue NSW is; maybe the finance Minister could explain it.

Labor raises concerns about the current structure of the penalty regime associated with reporting odometer readings and questions whether a penalty regime is the best approach. We think a wider two-year review is critical to mitigate any unintended consequences for EV owners as the scheme is implemented. The bill is potentially lazy legislating in that it fails to capture the capacity of EVs to record and transmit this information. Why are we using a logbook when the reality is that modern cars are effectively smartphones on wheels, capable of recording and transmitting odometer readings? That technology is in widespread use in the trucking industry. I ask the Minister or the Parliamentary Secretary to clarify whether all options have been explored to remove the onus from owners to report mileage.

Labor also seeks clarification on how Transport for NSW will monitor the provision for the road user charge to be payable on private roads. How will mileage on private roads be discerned separately to mileage on public roads, especially as more of our roads, particularly in Sydney, are private? As I signalled earlier, NSW Labor will move an amendment to bring forward a review of the Act to a period of two years after it commences. That is essential because it is clear that, as the uptake of electric vehicles gathers pace, we need to assess that the Government's settings are working and are in the best interest of the people of New South Wales.

The Government has said that its strategy is intended to increase EV sales to 52 per cent by 2030-31 and help New South Wales achieve net zero emissions by 2050. According to the modelling I detailed earlier, the Government's plan may not be enough to achieve the emissions reductions we need. Bringing the review forward ensures that this bill and this scheme are having the impact we expect them to. The bill has garnered support from the NRMA, the Electric Vehicles Council and the Nature Conservation Council of NSW. They recognise the need to act, and act urgently, to support the uptake of EVs in New South Wales. They know that in the race to increase the number of EVs on our roads, New South Wales is starting from behind the blocks. The NSW Labor Opposition supports the bill because we know that we do not really have any further time to waste.

Labor has a proud record when it comes to supporting electric vehicles in Australia. We took a bold, principled and considered policy to the 2019 election that would see electric vehicles making up half of all new cars by 2030. That policy was derided by the Liberal Party and The Nationals. Michaelia Cash shamelessly accused Federal Labor of coming for tradies' utes and set back progress on EVs for years. How things change. The Liberal members opposite knew that that campaign was hogwash and not one of them denounced it when they should have. They should know that our support for the bill is in part because we know we cannot waste another minute on the absurd backward climate denialism of the New South Wales Liberal Party and its Federal counterparts.

It is not just us saying it; the former Minister for Transport and Roads had a crack at the Federal Liberal-Nationals Coalition in a speech to the Committee for Sydney recently before opting to abandon his constituents and the people of New South Wales to join the Federal Government. On the issue of electric vehicles, NSW Labor and Federal Labor are pragmatic, optimistic and, most importantly of all, consistent. I commend the bill to the House because EVs pose no threat to the weekends and the sooner we have a Federal Liberal Party that grows up, the more we will be able to get on with the job in this State.

Ms ABIGAIL BOYD (16:52): On behalf of The Greens and as the party's treasury and transport spokesperson, I contribute to the debate on the Electric Vehicles (Revenue Arrangements) Bill 2021. The bill seeks to abolish stamp duty on the purchasing of new electric vehicles [EVs]. I wish I could stop there because then I could sit down and say that The Greens support the bill wholeheartedly. As the Hon. Daniel Mookhey has made clear, the market for electric vehicles is in its infancy and we have to be so careful right now. That is why

giving any kind of incentive, like abolishing stamp duty, would be a fantastic thing. The bill also seeks to impose a distance-related road user charge [RUC] on registered operators of electric vehicles. In the process, it also creates four new offences in relation to failure to pay for kilometres driven on roads in New South Wales by registered operators or to otherwise comply with the administrative aspects of the scheme, as well as delegating to regulations the power to make further offences.

Originally presented cognate with the budget, the bill was separated out prior to the current lockdown. As such, I remind members that the bill is entirely about providing a stamp duty exemption and introducing a user-pays tax for road users and is unrelated to the other far more positive budget announcements in relation to, for example, more charging infrastructure across the State, which The Greens welcome. While we are supportive of the removal of stamp duty for new EVs, replacing the stamp duty with a road user charge is of far more concern going forward. The road user charge paves the way for a privatised road user system while also providing a disincentive for EV uptake in the long term.

Let us take a step back and look at what the community has lost out on over the past few decades of privatisations and neoliberal economic policy. Things that were once free for all in society to use are no longer free. Things that once were considered community assets—our schools, hospitals, town halls, libraries and parks—are increasingly becoming user pays, out of reach for those who cannot afford them. And it is at its starkest when it comes to our roads. I remember as a kid running around on our road. At the top of the road, there were steps leading up to my primary school and on the weekend we would walk through the school, as there were no security gates, to get to roads—

The Hon. Wes Fang: Relevance?

Ms ABIGAIL BOYD: Roads, Wes, where friends lived further up the hill. We viewed that whole suburb as effectively being ours. Every bit that was not a private house or business was ours. The footpaths, the bushland interspersed between residential areas—

The Hon. Mark Latham: Did you sleep out there? It is a wonder you are still here.

Ms ABIGAIL BOYD: We did sometimes. We did sleep on the road; we loved the roads. They were our roads in our towns. I remember when the F3 was first built, now the Pacific Motorway or the M1, pretty much our entire suburb turned out for a party the day before it opened. We got to stand on the actual motorway when there were no cars and no tolls. We threw a little party. I was 16 or 17 and I ran up and down wondering about the enormity of this enormous stretch of glistening new highway.

The Hon. Wes Fang: Point of order—

Ms ABIGAIL BOYD: We are talking about roads, Wes.

The Hon. Wes Fang: As much as I enjoy the story, we are debating the EV policy of the Government. I ask that the member be drawn back to the leave of the bill at hand.

Ms ABIGAIL BOYD: To the point of order: For the member's benefit—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The member will not need to debate the point of order; I do not uphold the point of order. To be clear, the approach I take when we are in Committee is that members need to speak clearly to the amendment that is before us. That is not the tradition that is applied to the second reading debate, where I think the term "wide latitude" is used. The member is taking that to the fullest extent; nevertheless, I am not here to make a precedent in regard to it. The member may proceed.

Ms ABIGAIL BOYD: I think it is important to put on record my love for roads and also my love for cars. I had my first car when I was 17. I used to tinker with the engine. I had a little mechanics book and I used to really enjoy playing with the cars in the backyard.

The Hon. Mark Buttigieg: Wes wants horses.

Ms ABIGAIL BOYD: Horses? Not so much. I love the horses; I am not going to ride them or use them as transport. I have driven up and down the M1 hundreds of times a year since the day I first got my P-plates on my seventeenth birthday. It is an absolutely essential piece of community infrastructure. It allows people from suburbs north of Hornsby to travel daily to university and work, expanding the range of studying and employment opportunities for those on the Central Coast and Newcastle, while businesses around Greater Sydney benefit from that larger pool of talent that those areas on the edges of Sydney provide.

Roads are vital community infrastructure because they are vital economic infrastructure. The quicker and more efficiently you can move people from where they are to where they want to go, the more productive our society is. There is just no question about that. An efficient road network combined with affordable and accessible

public transport options is key to a healthy statewide economy, benefitting every one of us regardless of which particular part of the State we live in.

That is why roads and transport have always been core government business, paid for by the Government out of general revenue. That was until the Liberal-Nationals Coalition got into power. Now drivers are told that roads need to be user pays, with every person for themselves. The Government ignores the statewide benefits of roads, saying that the costs should not be borne at a State level but that individuals should be the ones to pay. So it is that bit by bit Sydney's roads, all but 11 of which are operated by Transurban, have become some of the most tolled in the world.

The Government has fooled us into thinking that this is just the way it has to be. Gone are the days of roads belonging to the people. Now roads are something to be commodified, sold off to the highest bidder for mega profits. If you suffer hardship as a result, do not blame the Government because it does not own the roads anymore. Any concession or cashback to people hit hard by toll roads simply because of where they live and the need to get to each day is apparently some sort of benevolent gift from the Government. However, in reality, the gift giving goes straight from the Government to Transurban, which continues to profit regardless of how tough things get for individuals. It is against the backdrop of the gradual shift from roads being assets of communities into things that can be only built or maintained if individuals pay for them that we are debating the bill.

Do not forget that the Government's original idea was to try to shove the bill through both Houses in the same week that it was first announced. It would represent a major tax reform with huge ramifications for individuals to be passed within a week from start to finish. The Greens argued for an inquiry into the bill to give people a chance to digest it, present their views and at least better it. However, neither the Government nor the Opposition were so inclined to support that motion. The only good thing to come out of the latest COVID outbreak was that it put a stop to the bill being rushed through in the way that it was intended. Since that time, The Greens have had constructive conversations with the Minister's office and hopefully found common ground on some issues, which I will discuss in more detail in Committee of the Whole.

I turn to The Greens concerns with the scheme proposed in the bill. I will start with the proposed rationale. Various reasons are proposed for the so-called "EV tax". Top among them is this idea that electric vehicles need to pay their fair share. I would like to think this is just a misguided notion, but I feel it is far more likely that it is a deliberate marketing attempt by those who stand to benefit from the scheme to try to justify what is, in effect, a scheme to make every road a toll road. The idea is based on the mistaken understanding that the fuel excise levy is used to pay for roads. Firstly, the fuel excise levy, which is a Federal tax, goes into general revenue. Whether or not it helps to pay for roads is entirely academic. In reality, charging a fuel tax and choosing to spend money on roads are completely divorced from one another. If there is no fuel excise levy or an electric vehicle tax, the Government says that roads will not get built or maintained. It says that there is no other way. That is the same train of thought that leaves people with the mistaken impression that privately owned toll roads are needed. It is complete rubbish.

Secondly, if the Government is talking about cars needing to pay for their individual impact on the roads, surely drivers would be charged more depending on the weight of their car and how much impact it has on the environment. That is clearly not within the design of the fuel excise levy, which is a flat amount per litre of fuel bought and would result in truck drivers paying 20 times what they pay now. Thirdly, the impact of internal combustion engine [ICE] vehicles on society is far greater than any wear and tear on the roads. They are highly polluting. In fact, 10 per cent of Australia's total greenhouse emissions come from these cars.

The fuel excise levy is a beautiful example of a polluter-pays system that should be carried over to big polluters. Fourthly, there are ways to reduce the dent that the fuel excise levy makes on disposable income. Buying a less polluting, more fuel-efficient car as well as driving in a fuel-efficient manner will reduce drivers' fuel excise levy costs. Buying an electric vehicle will mean that drivers will pay no fuel excise levy at all because no pollution is emitted. If drivers charge their electric vehicles from solar panels on the top of their homes, the impact on the environment will be minimal.

You might think that you would be rewarded for those choices. You also might think that by choosing to pay more up front on the cost of an electric vehicle, at least for now—I will turn to that in a minute—you would get to enjoy the ongoing savings from not paying the fuel excise levy. In fact, those savings have created a massive incentive for people to buy an electric vehicle. The great news is the price differential for the average electric vehicle is rapidly coming down. You can now buy some models with an electric engine for \$40,000. With the energy savings that brings, you can make up the initial outlay within just a few years. However, those savings will not be possible if the Liberal-Nationals Coalition has anything to do with it.

According to the Government, the fuel excise levy is an inefficient road user charge that needs to be fixed, starting with electric vehicles and ending up applying to every car on the road. That is because soon drivers will

have no choice but to buy an electric vehicle. The Government forecasts that electric vehicle sales will comprise at least 50 per cent of the car market by 2030. Around the world, countries are banning internal combustion engines vehicles and the largest car manufacturers are all competing to be the first to phase them out as quickly as possible. Within 10 to 15 years, you would be lucky to find an internal combustion engine vehicle on the road.

Do not be fooled. The Electric Vehicles (Revenue Arrangements) Bill seeks to replace the stamp duty on cars in New South Wales with a road user tax for every car on the road. Drivers will not be able to escape it. I understand the desire of State and Territory treasurers to introduce the tax, which they have worked on for years to get up and running. They saw the opportunity to develop a new revenue stream before the Federal Government. I have sympathy with them. A conversation needs to be had about revenue sharing arrangements in this country, but that is another story. What is more relevant now is where a new road user tax would leave the people of New South Wales, who would be faced with the current stamp duty on all cars being replaced with a flat per-kilometre charge every time they leave their driveways.

The bill would effectively make every road a toll road. I will break down the numbers to give members an idea of what that will mean in practice. At current prices, if you buy an electric vehicle at the cheaper end of the market such as an MG ZS EV, which costs around \$44,000, your stamp duty saving would be \$1,320. Once the road user tax kicks in, you would be paying an average of \$320 per year, erasing the stamp duty saving within four to five years. However, if you buy a Tesla for over \$155,000, as some Ministers have been lucky enough to do, you would spend \$6,865 in stamp duty. You would be lucky to have paid that much in road user tax after 20 years, assuming the rate stays at close to 2.5c per kilometre. The tax is a huge incentive for those buying luxury electric vehicles but no incentive at all for regular people looking to take advantage of the booming low-cost electric vehicle market.

As flawed as it is, at least stamp duty is a progressive tax. More stamp duty is paid on more expensive items. The road user tax is regressive. Starting at 2.5c per kilometre, it is a flat tax regardless of how much the car you drive costs, how efficiently you drive, where you source your electricity, where you live, how much income you earn, and whether or not you have public transport alternatives. I am sure that Tesla drivers are very excited by the prospect of the road user tax replacing stamp duty on cars. It will be an incentive for them to buy another Tesla. However, it looks like a disincentive for the non-luxury end of the market. The choice between paying \$1,320 up front in stamp duty or \$500 in road user tax gives someone like me who lives on the Central Coast and has no good public transport alternatives no financial incentive to buy an electric vehicle. If I did buy one, I would purely be doing it out of a desire not to add more petrol emissions into the air.

The road user tax introduces four new offences, including a fine of up to \$2,200 if a driver cannot provide information required to the authorities in time or drives further than their prepaid distance. You can see how much of a disincentive the scheme would be. If I were to buy an internal combustion engine vehicle, I would pay much less in stamp duty than would be due two to three years after having bought an electric vehicle at the same price point. I would also avoid the administrative burden and the possibility of getting fined massive amounts under the road user charge scheme. I would be pretty inclined to buy the internal combustion engine vehicle.

Of course the Productivity Commission's white paper from earlier this year quite boldly suggests that the road user charge amount should be bumped up to 6c per kilometre. That means that people like me, who live on the outskirts of Greater Sydney, would be paying over \$1,000 every year in road user charges—all because I want to drive an environmentally friendly car. The only way this bill would give most people an incentive to buy an EV is if they planned to sell it before the RUC starts taking effect. So what will we see then? In 2027, when this legislation takes effect, will a whole bunch of people try to sell their hybrids and ICEs?

But let us look in more detail at the very worst part of this bill, which is the offences. Unlike the fuel excise levy, which is paid up front and based on how much fuel you actually buy, the RUC amount is not known in advance. It can be prepaid either up front in lumps of 1,000 kilometres or paid after the event. If you choose prepaid, you pay in lots of 1,000 kilometres. If you go over the amount you have prepaid, you will get fined \$2,200. Whether prepaid or postpaid, if you do not provide sufficient evidence to prove how much you have travelled you get fined \$2,200. There are no fines if you cannot pay the fuel excise levy. You cannot end up in jail because you bought petrol but failed to pay the fuel excise levy. If you cannot afford petrol, your car stays in the driveway. But with the road user tax, you can charge your battery using electricity from solar panels on the top of your house, be desperate to go and pick up your child from school, and not be able to drive out your own driveway because you could end up with a \$2,200 fine.

Of course there should be consequences for just not complying with legislation, but does it have to be in this form? Does it have to be in another set of provisions that could end up with people in this State being declared bankrupt or sent to jail? Of course not—the consequence could just be that you cannot register your car until you have paid the RUC amount. You cannot transfer it. We are perfectly capable of introducing that sort of consequence for a scheme like this but instead we have opted for a punitive scheme that will end up resulting in

people who are doing it tough doing it even tougher—whether or not that is the Minister's intention. What if we try to make some exemptions for people like the one in the bill about not paying for kilometres driven on private land? Then, as the Opposition has pointed out, things get rather complicated and administratively burdensome.

How much of your car usage was from driving around your own property? Are you going to keep a logbook for that and then sign a statutory declaration later and face a \$2,200 fine if you get it wrong? Are you going to allow a GPS tracker to be installed in your car to monitor where you are driving day to day? That is what Transurban is doing in the US. They are working out how much you owe based on time of day and the degree of congestion on certain streets, with people in absolute shock when they find out how much they have been charged for something as simple as dropping off their kids at school at a time of peak congestion—which you would expect if you have ever tried to pick up the kids from school. The privacy concerns involved in this bill are enormous.

Finally, I will talk about the environmental impacts of the bill. A well-designed road user charge scheme could reduce congestion and take cars off the road, incentivising people to use public transport or active transport instead. However, this is not one of those road user charges. This one ignores the fact that so many people in our State have no choice but to drive. Whether it is because of their work, because of mobility issues, or simply because they live in the many, many places in this State that do not have decent, accessible public transport, many people drive because they have no choice. With this road user charge forming such a large part of the State's eventual revenue base, it will be in the Government's interests to keep people driving as much and as far as possible, and not to move people off the roads and onto public transport.

So here is a scheme that will not ease congestion, will not reduce car usage and has every chance of actually disincentivising the electric vehicle market, just when EVs were the perfect solution for curbing some of the worst impacts of car usage in our State. We are making our own incentives by virtue of how much people would save a few years after they buy the EV. In conclusion, this bill represents a major tax reform that will have significant and long-lasting effects on our freedoms, our privacy and our environment. It should never have been rushed through like this. It would have benefited from the improvements that inevitably would have been made to it if it had gone through an inquiry process, and it is a great shame that it did not.

The Greens have proposed a number of amendments to try to improve the bill and we are hopeful that some of them will be accepted, particularly our amendment that requires such an inquiry to be instituted before the bulk of the scheme is set to take effect. I hope that at that time all parties will be open to considering changes that will help this scheme to avoid the obvious pitfalls and unintended consequences, and create instead a reform that may actually do some good for the environment and the economy alike.

The Hon. MARK LATHAM (17:14): Before I deal in detail with the Electric Vehicles (Revenue Arrangements) Bill 2021, I make the point to the House that I share the concerns expressed by Ms Abigail Boyd about the way in which the bill is being rushed through Parliament. This Chamber is at its best when we have the committee process examining legislation in detail and when a committee is consulting with the public and with experts to determine whether provisions such as those in the bill—unique provisions by the standards of this Parliament—can be approved. At the conclusion of my remarks I will seek to refer this bill to Portfolio Committee No. 6 – Transport and Customer Service for inquiry and report.

This is a poorly drafted, poorly conceived and grossly inequitable bill. One Nation opposes it and will try to amend it to make it less damaging. The best way to amend it would be through an extensive committee process. The bill is based on two delusions. The first is that government can pick winners and throw taxpayers' money at economic markets to refashion millions of market decisions and consumer preferences that are exercised every day. How can the combined knowledge set of government be superior to that of millions of producers and consumers acting in their own best interests, knowing what they need to buy and sell using their own money? Government—a bunch of puffed up politicians, and bureaucrats with clipboards—can never beat the market. Whenever that has been tried, such as in the old Soviet Union, it has been a dismal, pathetic failure. Yet governments—now the Perrottet Government in New South Wales—keep on trying.

The new Premier said he believes in smaller government, free enterprise and the rights of the individual. Why does he not practise that? Why is it not being practised in this legislation? The bill is trying to pick winners and show preferment to certain types of car manufacturers and legislate that with massive subsidies in New South Wales. Why is the new Premier wasting other people's money—taxpayers' money—in this bill, which is an economic model of Perrottet preferment? By contrast, I believe in the power of markets and the wisdom of consumers to make their own choices. When it comes to climate change consumerism, Australia is something of an outlier. We have the highest rate of rooftop solar take-up in the world. Consumers are not silly. They see our brilliant sunshine and they know it can help with their household energy needs.

But at the other end of the spectrum, Australia has a very low take-up rate for electric vehicles. Again, consumers are not silly. We are a big country with faster travelling distances, both in our sprawling cities and in

the bush. So naturally people do not want the inconvenience of having to recharge their vehicle, especially when electric vehicles are so incredibly expensive. No amount of government spending can change that reality, especially when, in the case of this bill, electric vehicle manufacturers have gouged back half of the Government duty rebate with immediate price hikes. In July, immediately after this bill was part of the last State budget, the price of the 2021 Hyundai and the MG-EV increased by \$1,000.

The second delusion of government is that politicians can ever know more about technological change and the commercial viability of new technologies, such as electric vehicles, than do companies and consumers. Before being elected to Parliament, Dom Perrottet was an insolvency lawyer; Chris Minns, a Labor Party official; Jo Haylen, Julia Gillard's administrative officer; Matt Kean, a Hornsby accountant; Stuart Ayres, an Australian Football League [AFL] development officer; and Mr David Shoebridge, a workers compensation lawyer. These are all fine and noble occupations, but how do they qualify anyone for spending other people's money on electric vehicles that consumers in this country do not want? This is why I am an advocate for market competition, not Perrottet preferment and the subsidisation of rent seekers—the largess of corporate welfare.

It is raining—not just literal rain—corporate welfare in New South Wales this week. That poor old battling billionaire Twiggy Forrest gets a \$3 billion portion of the subsidy for hydrogen technological experiments. Distorting markets is the fastest way of destroying public economic benefit and wasting government money. But that is not stopping the MPs I mentioned earlier. Apparently they are expert in all possible new technology. In this bill there is fully electric, plug-in, hybrids, low emission, zero emission—they have covered the field. There is nothing that they do not know about when it comes to automotive technology and extracting hydrogen from water.

The bill would shamefully take money from the real battlers in Campbelltown, Blacktown and Singleton to subsidise the purchase of electric cars up to the value of \$78,000. I hope the Australian Labor Party is hanging its head in shame that it has not developed a means testing mechanism so that Blacktown, Campbelltown and Singleton are not funding Mosman, the lower North Shore and the wealthiest parts of the eastern suburbs. Equity is needed in the provisions in the bill so that people who cannot afford a \$78,000 electric vehicle do not have to subsidise those who can.

The MPs I mentioned have dazzling expertise in battery storage, pumped hydro and Chinese wind farms. Back in the day I suspect those characters were also advocates for carbon capture and storage and thermal climate change measures, all of which were complete flops in Australia and wasted billions of dollars of public money this century. Now the Government is telling us to get on electric vehicles. Australia has a 1 per cent take-up rate for electric cars. Consumers have made an informed choice but the Government still wants to bet honest working-class taxpayers' money from Blacktown, Campbelltown and Singleton on electric vehicles.

New affordable technological miracle vehicles are always said to be just around the corner. The beauty of the free market approach is that other people's money is not bet on the wing and the prayer that electric vehicles will no longer be luxury items and can be driven without constantly needing recharging. That shows a stunning arrogance from those who want to second-guess technological change by betting with other people's money. They presume to know more about commercial decisions than commerce itself and the consumers who drive commercial exchanges. They refuse to learn the lessons of economic history.

The Electric Vehicles (Revenue Arrangements) Bill seeks to subsidise electric vehicles for cars made not in Australia but primarily in China. Why does Australia not have a car manufacturing industry? Government protection and billions of dollars of subsidies over decades have killed the industry by placing a dead hand on innovation and competitiveness as well as on the upgrade of plant capital and workforce skills. Huge amounts of money were wasted on global companies that simply moved to more competitive jurisdictions when it suited them. After billions of dollars of subsidies have failed to maintain an Australian car industry, what does the Perrottet Government do? It throws even more money at overseas cars. However, the cars will not be coming from Europe because the European Union provides carbon credits to car manufacturers to offset the cost and financial penalties on the sale of petrol-powered cars. Therefore, manufacturers in Europe sell their cars in Europe to get the carbon credit. That is why prices are so high in a nation like ours and why China, as it does in so many areas of the renewable energy and climate change industries, rubs its hands and makes money creating industries and jobs at our expense.

That is the problem with the approach in the bill. If electric vehicles are so wonderful and a genius like Minister Kean drives one, why do they need subsidies at all? If they are so attractive, why do working people in places like western Sydney, the Hunter Valley and the Illawarra have to fund them? If people are so worried about climate change and they think they can save the planet by driving an electric vehicle, why do 99 per cent of Australians not do so? That is the absurdity of the bill. The problem with the Government is that the more it spends in key areas, the worse public outcomes become. This Government has spent a record amount on education but the State's school results have never been weaker. Now it is engaged in a funding merry-go-round for electric vehicles and so-called "climate change measures". Five years ago the Baird Government said that New South

Wales taxpayers should not fund power generation. Under Minister Kean, New South Wales is underwriting a new energy sector that includes windmills, solar farms, batteries, pumped hydro to extract hydrogen from water and, through this bill, electric vehicles. What next? What other technological insights that spend other people's money will those geniuses have?

Under Premier Mike Baird, government intervention was a bad thing. This Government cannot get enough of it. With no mechanism for making electric vehicles more affordable and to address the supply shortages out of Europe, this bill is a classic example of making the poorest parts of the community pay for the wealthiest. It is Blacktown subsidising Mosman, Campbelltown subsidising Linfield, Wollongong subsidising Pymble, Singleton subsidising St Ives. Who can afford a \$78,000 car in any of those working-class areas? One Nation will propose amendments to introduce a means-testing mechanism that will make the bill fairer. Its current economic and environmental premises are very weak and shallow. An equity principle should be built into the bill at least. The Australian Labor Party purports to represent and care about people in Blacktown, Campbelltown, Wollongong and Singleton—well, not Singleton so much. It is like what Dan Minogue said about Arthur Calwell, "Arthur, they're praying for you but they ain't voting for you." That is what happened to Labor in Singleton. One Nation welcomes the Labor amendments. We cannot have a system where Cessnock subsidises Vacluse and Wallsend subsidises Wahroonga. Equity needs to be built into the bill, which will be part of the objective of the One Nation amendments.

Ms Abigail Boyd has concerns about the complexity, failings and oversights of the bill. One Nation members share some of those concerns, particularly regarding privacy. We also have other concerns that push the need for a committee process. The bill contains some incredible statistics that have obviously been made up such as, in 2030, 50 per cent of New South Wales drivers will be driving electric vehicles and that in 2040 that figure will be 100 per cent. Page 44 of the *Future Transport 2056 NSW Electric and Hybrid Vehicle Plan* outlines modelling that underpinned the excellent Productivity Commissioner's white paper and shows that sales of electric cars as a share of all new car sales would only rise to 6 per cent by 2025, 28 per cent by 2030 and 60 per cent by 2040. The big gap between what Minister Kean and his predecessor as Treasurer, Dominic Perrottet, are saying and the modelling that the Productivity Commissioner was using in his report should be examined. How many times will members of this House let Minister Kean off the hook when he comes up with dodgy numbers that are not supported by modelling? We did not even see the modelling for his electricity legislation. It is the role of members of this House to analyse areas where modelling conflicts with a Minister's claims.

For the most part, the issues that Ms Abigail Boyd raised from her political perspective were valid. From my perspective, I acknowledge that there are significant deficiencies in the bill. We need a committee to look at the complexity, efficiency and equity arguments. We also need to see what can be done to ensure that working-class people do not subsidise cars that are made in China. How many times will this State underwrite Chinese industrial development and jobs, like it has done with solar panels—none of which are made in New South Wales? Twelve months ago Minister Kean set up a committee, on motion by the Hon. Adam Searle, to try to generate manufacturing jobs for solar panels. I do not think the committee has even met. It is the same with windmills. They all come from overseas, predominantly China. The problems in the European supply chain mean that this Government is spending huge amounts of taxpayers' money, predominantly from people in working-class areas, to fund the electric vehicle industry while the Chinese are rubbing their hands with glee. On that basis, I move:

That the question be amended by omitting "be now read a second time" and inserting instead "be referred to Portfolio Committee No. 6 - Transport and Customer Service for inquiry and report."

The Hon. JOHN GRAHAM (17:29): The Opposition supports the State's transition to electric vehicles [EVs], and I do so as the Opposition spokesperson on roads. We want action in this space, and in some ways that might distinguish our position from that of the Hon. Mark Latham. I agree with a number of the points he made. First, I do not think it was appropriate to rush the bill through with the budget. That attempt by the Government, which was a repeat on its approach with energy, was ill judged. I am glad we have had the months we have had—pandemic permitting—to consider the bill in more detail. Racing the bill through in budget week would have been a real discourtesy to this House and to New South Wales.

The Opposition wants to see action. I have concerns about the way the Government is approaching corporate subsidy with a bucket of money. That is increasingly the way the Government is operating. There is no market discipline or design. I have emerging concerns about the way the Government is seeking to regulate and engage with business. Paul Keating said, "Never get between a Premier and a bucket of money." In New South Wales, the person who did have to get between a Premier and a bucket of money was always the Treasurer. That was who we relied on to hold the line and keep the fiscal discipline. What hope have we got with Matt Kean in that role? That is my concern. The last line of defence is folding and he is at the Hornsby Quarry with a \$90 million gold bucket. My concern is that we will see the grants culture of the Government supercharged—

The Hon. Scott Farlow: Point of order: While wide latitude is allowed when it comes to the second reading debate, grants programs have nothing to do with the bill before the House, and I ask that the member be drawn back to the substance of the bill.

The Hon. Daniel Mookhey: To the point of order: The bill does anticipate the use of subsidies and many other things that are akin to grants. It is relevant to the purposes of the debate in order to judge the powers we may be giving to the Treasurer according to the Treasurer's record in using them, and therefore the \$90 million quarry my colleague refers to is within the parameters of a second reading debate.

The Hon. JOHN GRAHAM: I am about to move on, Mr Assistant President.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): I assumed the honourable member was going to move on and for that reason I allow him to continue.

The Hon. JOHN GRAHAM: We do want action. The Opposition has many views about the terms on which we get through the journey, but we are glad that the direction is clear, the goal is set and agreed between the Government and the Opposition, giving business confidence, and that is a good thing. Again, I draw dangerously close to the position advocated by the Hon. Mark Latham. The Opposition wants the changes in the bill to work for ordinary drivers, not just for those who can afford it. That is a real concern with the approach in the bill. Australia has one of the lowest rates of electric car ownership in the world. My colleagues have put that on the record already. We have to do better; Europe has done better.

I hope members saw the fantastic article in the paper today detailing the impact that Norwegian pop group A-ha had on the take-up of electric vehicles. In 1989, two of the A-ha trio came across a Fiat Panda that had been converted to run on batteries. It had a range of 45 kilometres and was able to seat two people. They drove it around Norway and stubbornly refused to pay road tolls and ignored all the subsequent fines. Their actions have apparently become folklore and they have been credited with leading the Norwegian Government to abolish road tolls for electric vehicles. Norway is one of the leading countries in the world for electric vehicles.

The Hon. Damien Tudehope: Are you going to emulate them?

The Hon. JOHN GRAHAM: I am not promising to emulate it.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): Order!

The Hon. JOHN GRAHAM: Perhaps A-ha are the heroes we need in New South Wales to take on the Government's toll mania. The bill is encouraged by the Opposition. My colleagues have already referred to some of the places around the world that are going much further and faster than New South Wales has managed. By 2030 the sale of new petrol and diesel vehicles will be banned in the United Kingdom and only zero-emission vehicles will be sold from 2035. Japan was referred to. California in the United States has led that country in electric vehicle adoption for decades.

California did that originally not for the climate impacts but for clean air. That has been a key driver for them. They have had challenges. They have battled with people discontinuing their use of electric vehicles. They found that charging has been particularly important to people who do not continue with EVs, and that emphasises that as New South Wales moves to electric vehicles we must have a whole strategy around charging. New Zealand has looked at road user charges. Again, they have had challenges. The road user charges have not necessarily been able to drive the uptake of electric vehicles. Between July and December 2021, New Zealand has had to introduce a discount similar to what we are now considering in New South Wales.

The Opposition does not oppose the bill, but we have a number of concerns. They include the Government's intended use for the revenue from the road user charge, making sure that the odometer reading system works, and the need to ensure that drivers are not paying more than they would have under the existing schemes. First, the bill has no provision for where the revenue might be used; that is in the strategy, but none of those protections appear in the bill. The bill has no detail about the process concerning the failure to provide odometer readings; there are penalties, but questions remain as to how they will be applied. Importantly, the bill provides no reassurance that regional drivers will not be unfairly disadvantaged, and that is a real concern. A regional driver currently pays more in fuel excise compared with a city driver, but they will continue to pay more—perhaps a lot more—in road user charges. The Opposition has real concerns about that.

The Opposition would not have put the scheme in the bill in place. Regional drivers are not the only ones affected, as was referred to in the Legislative Assembly. The scheme is another flat tax on the outer suburbs of Sydney. We know that electric vehicles will be bought in the inner suburbs of Sydney and the tax will fall on the outer suburbs of Sydney. That is how the scheme will work. The outer suburbs already face a time barrier to accessing good jobs in the CBD or in Parramatta. In addition, they will now face another tax barrier very similar to the tolls they experience. The flat road user charge will be another big tax barrier on top of the time barrier for

the outer suburbs of Sydney. The Opposition supports the bill. The scheme is not what Labor would have designed, and that is one of the reasons we want the Act to be reviewed two years after its assent.

The Hon. Wes Fang: You are criticising your Victorian mates; that is what you are doing.

The Hon. JOHN GRAHAM: I acknowledge the interjection because one of the reasons we are not moving amendments to the 2.5 per cent charge is to keep Victoria and New South Wales in harmony. That is a consideration as States seek to step into the electric vehicle area and regulate it. Keeping the charge in the bill makes it more likely that the revenue power will rest with the State in the long term. That is a factor that the Opposition is weighing up as it considers the bill. Those are not the only potential implementation issues. The bill has been accompanied by a flurry of publicity—another Matt Kean extravaganza. We have seen the bill rolled out, but it has many implementation issues that are not addressed. We have no idea how some of the measures in the bill will work.

I have 25 issues. How will the demand for and supply of efficient charging infrastructure be balanced so that drivers are not queuing and waiting for others to charge? How will remote parts of the State be serviced effectively? How will rapid response capacity to service charger malfunctions or outages be provided? How will surge capacity be provided, for example, for major tourist events? What does that mean for the Parkes Elvis Festival? How will chargers be locally available to service all makes and models of EV? How will heavy vehicles be integrated into the system? How will the transition affect jobs in service stations across New South Wales? Will mechanics need training? Will it be free to charge a vehicle or, if not, how will a fair cost be determined? Do we have the power to legislate to correct the road user charge for interstate driving? How will claimed off-road electric vehicle use be calculated, monitored and enforced? How will the road user charge interact with the existing pay-as-you-go road user charge that is rebated for heavy vehicles, given that heavy vehicles do not fall under this scheme? How is the 80 per cent road user charge factor derived?

Why are we using the Sydney CPI for something that affects drivers right across New South Wales? If the Sydney CPI is reasonable, why are we not using that for tolls instead of putting them up 4 per cent every year? Will early purchased electric vehicles remain exempt until onsold? What is a reasonable method for a person to calculate their future usage of public roads? How will the odometer declaration process be made efficient? How will it be monitored and enforced? What happens if the odometer malfunctions or is tampered with? How does Transport for NSW decide it is unreasonable to require an odometer reading? The issue of GPS technology and how it is used in future already has been raised. How will it be used by other agencies—for example, enforcement agencies?

These are all issues that should be considered and need to be considered before the road user charge is implemented. In the Opposition's view, they can be considered by a committee and the Opposition will move by amendment that the bill be referred to a committee. Behind the press release there are plenty of implementation issues that must be addressed. I state for the record that we need to talk about the total cost to drivers that will be imposed across New South Wales. I raise this in the context of the Opposition's concerns about the sheer cost of tolls on Sydney commuters but that it is not the only charge. Families are paying the fuel excise to the Federal Government. Most of them are not paying the luxury car tax, which is another tax that is imposed on some vehicles, but they are paying for vehicle registration, licence fees, motor vehicle duty and some of them are paying a parking space levy. Many of them are paying parking meter fees mainly to local government and many, many of them are paying tolls as they move around the city more and more.

It is not just the fact that there is one of these charges; it is the accumulation of charges that fall heavily on our outer suburbs and on people who are already in a time of disadvantage from being unable to access good work. We should really be very cautious as we head down this road. It is a very important caution related to any work we do in this area. How big are those charges? In 2011-12 Federal figures sourced from a range of data sources, but specific to New South Wales, show that in this State the charges were \$3,540; and in 2018-19, they had increased to \$4,195, which is an increase of \$655—not in nominal terms but taking into account the CPI. All those vehicle-related charges have had real increases—vehicle registration fees, driver's fees, stamp duty and tolls. Those figures for New South Wales do not count the big boost to tolling and revenue collection in the past couple of years. That is simply not included in the figures. That is what is going on for the average driver.

Other members who have participated in this debate have referred to some of the disincentives to acquiring electric vehicles that we have to overcome in terms of carbon benefits, so I will not reiterate those. My colleague Ms Abigail Boyd referred to the fact that road funding from the fuel excise is not necessarily linked or applied to roads. I would put a slightly different angle on that and say that we need to secure road funding in the long term. That is so important to assist ordinary people to move around the State—in the bush, in the suburbs and in the city. Although the fuel excise is not specifically dedicated to funding roads, I think we should recognise as we debate this bill just how significant Federal Government funding is. The net gain from the fuel tax system is expected to be \$11.4 billion in 2021, according to Department of Industry, Science, Energy and Resources figures,

and 29 per cent of that is estimated to be raised in New South Wales. Between the three levels of government, spending on roads was a combined \$28.5 billion in 2018-19. There has been big investment. We know there are still challenges in various places so we must bear in mind the significant amount of support coming in at the moment that must be continued in some way between all three levels of government.

I state three things the Opposition is hoping to see: Firstly, we want to see this change happen and we want it to be driven faster, so the Opposition supports that change. Secondly, as my colleagues have said, we also want to move to manufacture and to build here, and, because of our mining resources such as our lithium, nickel and cobalt, that is not a pipe dream. The construction of a battery manufacturing operation in New South Wales or in Australia is not off the table. Certainly in Australia, but also New South Wales, we have those resources. It makes a great deal of sense to manufacture those batteries close to those sources of mineral wealth. Once the batteries are built, rather than shipping the heavy batteries backwards and forwards to manufacturing sites, that offers the prospect of rebuilding the car industry in New South Wales. That is a long-term vision but it is something that members of Parliament should be discussing. The idea builds off the State's mining and mineral wealth, which is a core resource. That is what we should be considering.

Thirdly, as we make choices, we need to consider what the cities will be like in New South Wales and, when we make a big choice, we should consider whether those vehicles will be owned as share vehicles or privately owned vehicles in each household. There are big consequences about how cities make that choice. Those consequences depend on the taxation and regulatory decisions that are made. That will fundamentally shape the space we use in cities, as well as the equity that citizens experience as they try to move around their cities. There are some big choices to make as we regulate in this area. Having made those remarks, I join my colleagues in commenting on this bill. I look forward to it being passed. I am pleased we are not debating the amendments today.

The Hon. MICK VEITCH (17:47): I join in debate on the Electric Vehicles (Revenue Arrangements) Bill 2021. I acknowledge the rather heavy legislative framework ahead of us, so my comments will be brief. In supporting the legislation I place on record the issue of infrastructure in regional New South Wales. One would hope that measures such as this would generate the uptake of electric vehicle purchase and usage, but in regional New South Wales infrastructure must be put in place to assist that. There is a twofold approach to this.

The Hon. Mark Latham referred to the good folk of Singleton and the Hon. John Graham referred to the surge when everyone turns up with the Assistant President to celebrate the Elvis Festival but, as things currently stand, the reality is that the infrastructure simply does not exist in regional New South Wales to do that. The NRMA has undertaken a program to try to increase the capacity for charging stations across regional New South Wales, but when the folk of Sydney start down the Hume Highway through the Assistant President's town of Goulburn to head for the snow in winter, there is always a large number of vehicles. If all motorists are moving towards electric vehicles, have we measured the infrastructure requirements to support that fleet? As things currently stand we cannot provide that infrastructure, so those vehicles will have to stay in Sydney.

We need to investment in meeting the infrastructure requirements across all of New South Wales, including all the regions, so there is equity in accessing our roads network. When people pay big dollars for their electric cars in Sydney, I am certain they will want to take them further than Sydney. The reality is, as matters currently stand, the infrastructure does not hold up. I say this to the Government: If we are heading down this path, we must make sure that we have early investment in the required infrastructure to support the fleet of vehicles that will be heading out into the regions. Currently, the infrastructure is just not there.

The Hon. SCOTT FARLOW (17:49): On behalf of the Hon. Don Harwin: In reply: The Hon. Daniel Mookhey said to me from one end of the Chamber that this is a big neoliberal conspiracy, and at the other end of the Chamber someone said that we are bunch of commies for introducing this legislation. I think that shows the Government is striking a balance in this legislation to steer a path to the future and bring everybody along with it. I thank the Hon. Daniel Mookhey, Ms Abigail Boyd, the Hon. Mark Latham, the Hon. John Graham and the Hon. Mick Veitch for their contributions to the debate on the Electric Vehicles (Revenue Arrangements) Bill 2021. The Hon. Mick Veitch commented on the need for charging infrastructure. That is part of the Government's Electric Vehicle Strategy. The Hon. Mark Latham referred to consumer choice and providing a network.

Charging is part of the consumer choice and the equity that needs to be provided across the State. That is why part of the strategy and the announcements by the then Treasurer and now Premier, the Hon. Dominic Perrottet, and the environment Minister and now Treasurer, the Hon. Matt Kean, is the \$171 million for a charging network across New South Wales over the next four years. That will improve electric vehicle uptake throughout the market and allow the market to make those determinations because it knows it is backed up. The Hon. Daniel Mookhey referred to taking range anxiety away. I thank the Hon. Mick Veitch for his contribution and for putting on record the views of regional New South Wales. I know the Hon. Wes Fang has been interested in electric vehicles, but I do not know whether he has purchased one yet. He has talked to me on many occasions about

mapping out his route. One of my staff members has an electric vehicle. When coming down from Lake Macquarie they have much less range anxiety than I do in a petrol vehicle.

The Hon. Daniel Mookhey spoke rightly about the lagging rates of EV uptake in Australia because of the lack of models for sale, the lack of charging infrastructure and the higher up-front costs. The Electric Vehicle Strategy was designed specifically to address those barriers, including by significantly expanding charging infrastructure and incentivising the sale of more affordable EV models in the State. The honourable member flagged the Opposition's intention to move an amendment relating to a review of the legislation in two years' time. The Government also wants to ensure that the legislation is working as intended and remains fit for purpose now and into the future; therefore, it intends to support the amendment of the Hon. Daniel Mookhey in the Committee stage.

I note the honourable member's concerns about the penalty regime that may exist. I reassure all members that, much like a speeding or parking ticket, penalty notices are designed to impose a relatively small penalty for minor breaches of the law, and there is discretion not to issue a penalty notice when a reasonable excuse is offered, or to provide a warning or a grace period. I also acknowledge the Opposition's concerns about the administration of the scheme. The Opposition can be assured that minimising administrative burden is an absolute priority of the Government. The Government will continue to monitor technological advances to make sure the implementation of the scheme is as seamless as possible. The Hon. Daniel Mookhey commented about Behyad Jafari, who I know quite well and I am sure the Hon. Daniel Mookhey knows incredibly well. The member provided a lot of quotes from Behyad Jafari from the Electric Vehicle Council, but one that he did not provide was when he said when this policy was announced:

New South Wales has introduced Australia's best electric vehicle policy to date. I know the whole industry is buoyant about the effect it will have on electric vehicle availability and sales.

That is not similar to what he said about Victoria, I must say. I think he has had quite a bit to say about Victoria. In fact, on 22 April 2021 the Electric Vehicle Council issued a press release entitled "Victoria EV Tax Worst EV Policy in the World". That shows what Labor is doing in other States and the difference in New South Wales. The Hon. Daniel Mookhey also said that this would not be the approach that Labor would take in government. I am interested in his comments, and also the comments of the Hon. John Graham in the Chamber, about the United Kingdom banning non-electric vehicles in 2030. They talked about Norway doing it in 2025. Is that the policy that Labor would take in government, or is it a policy like what is being implemented in Victoria? I am sure that is something for the Opposition to tell us over the next 15 or 16 months before the next election. Ms Abigail Boyd has an affinity with the F3—

Ms Abigail Boyd: Love the F3.

The Hon. SCOTT FARLOW: She loves the F3 and loved running around the road when it opened. I know the Hon. Don Harwin loves the F3, as does the Hon. Taylor Martin. Ms Abigail Boyd seems to think that that was never a toll road. I can remember going to my grandmother's at Ettalong and stopping at the toll booths to pay. I did some research and found that from 1965 to 1990 tolls were on that road. It was not a frolic of great consumer benefit and largesse forever and a day, but that is the case now. It is not a toll road at the moment and will not be one.

Ms Abigail Boyd also spoke about the importance of making sure that all people can access the benefits of EVs and the importance of putting more electric vehicles on the roads before introducing any road user charge. I reassure Ms Abigail Boyd that the Government has very carefully designed the package to significantly drive the uptake of EVs before the introduction of the road user charge. That is why it is set at either the year 2027 or 30 per cent of new car sales—an approach that has widely been welcomed by the electric vehicle industry and environmental groups.

I also acknowledge the concerns of Ms Abigail Boyd about the penalty regime and refer to my earlier comments in response to the contribution of the Hon. Daniel Mookhey. The Government also shares the honourable member's concerns about privacy, and I think they were also expressed by the Hon. Mark Latham. The Government agrees that people's right to privacy is of utmost importance, and information collected under the scheme must be treated as private. The Hon. Daniel Mookhey touched upon private road use and how that will be factored in. If we are to equate it to fuel excise, there is no account for private road use in fuel excise either. The EV charge into the future is seen as replacing fuel excise. Ms Abigail Boyd also discussed configuration of how the EV charge would be worked out to take into account economic status, the cost of the car and a person's income. That would be completely unworkable if such a system were put in place.

I thank the Hon. Mark Latham for his contribution to the debate. I note his concerns about the importance of electric vehicles. The truth of the matter is that if New South Wales were to sit on its hands and do absolutely nothing, car makers themselves would be making that determination. Volvo has already outlined its phasing out

of internal combustion engines by 2030, Volkswagen is moving along a similar path, Toyota has announced it is ceasing production and General Motors has its own phase-out plans. So the market is moving itself. If New South Wales were to sit and do nothing, the market would still be moving itself. We cannot afford to shun the uptake of electric vehicles. We want to make sure that New South Wales does play its role to support their uptake. If we do not, as was mentioned in the debate, we risk becoming the world's dumping ground for less efficient cars that are more expensive for consumers to run. We will not have choice in the market, as the Hon. Daniel Mookhey rightly outlined.

In relation to the Australian car manufacturing industry and the perils that have befallen it, I grew up in Strathfield and know the stories about going down the road and seeing where Ford was making the Ford Laser at Homebush, Land Rover was making the Range Rover in Enfield and Mitsubishi was down the road at Lidcombe. It was glorious days for the Australian car industry, but those days are not coming back for internal combustion engines. I must say I note the optimism of the Hon. John Graham, and I hope it is realised in terms of Australia's potential place because of our comparative advantage for electric vehicle manufacture into the future.

The future of electric cars on our roads is bright. Electric vehicles are cheaper and quieter to run than petrol-powered cars. They require less maintenance and, of course, produce less air pollution. The Government wants all people in New South Wales to benefit from an electric vehicle future. That is why it released the biggest and best electric vehicle strategy anywhere in the country, which has been backed up by the Electric Vehicle Council. Tony Weber from the Federal Chamber of Automotive Industries said:

The direction being set by the NSW Government has the capacity to kick start serious EV penetration into Australia.

The Government's electric vehicle strategy will make New South Wales the easiest place in Australia to buy and drive an electric vehicle while also ensuring that the State has sustainable road revenue sources into the future, which is fundamentally important.

Debate adjourned.

CHILDREN'S GUARDIAN AMENDMENT (CHILD SAFE SCHEME) BILL 2021

Second Reading Speech

The Hon. TAYLOR MARTIN (18:00): On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a second time.

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

Leave granted.

In the annals of this historic parliament, there have been many innovative legislative and policy initiatives that have shaped our communities and the very fabric of what makes us true citizens. Ensuring the care, safety and wellbeing of our children and young people stands central to who we are as a society.

New South Wales was the first jurisdiction in Australia to establish independent oversight of the out-of-home care system, we are the only jurisdiction with an independent accreditation scheme, we have the most robust Working with Children Check Scheme in the country and the most extensive reportable conduct scheme, recommended for national adoption by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission).

Notwithstanding this, the public record shows that institutions, including government agencies, entrusted to protect and care for many children and young people, failed in that duty of care. It is incumbent on this House to respond to these failures and ensure that an appropriate and effective child safety scheme is implemented in this State.

To that end, I have the great privilege of introducing the Children's Guardian Amendment (Child Safe Scheme) Bill 2021. Introduction of this bill is a turning point—a watershed moment—in our State's duty of care to children and young people. This bill underpins the Government's priority to protect children from abuse in organisations and, consequently, further strengthens the Government's ability to improve outcomes for children and young people in New South Wales.

It is not possible to introduce such important legislation without first acknowledging the survivors of institutional abuse, their hurt, and the impact of past failures of government and non-government organisations to protect them. We know that failures arose because leaders in these organisations did not put children at the centre of their operation and purpose. Many victims and survivors told their stories to the royal commission to prevent harm to children now and into the future. We honour their courage. We are sorry for the hurt and suffering this abuse has caused and continues to cause.

The Children's Guardian Amendment (Child Safe Scheme) Bill is the culmination of a three-year process following the Government's response to the final report of the royal commission on 23 June 2018.

The royal commission shone a spotlight on thousands of cases where organisations across Australia failed to protect children in their care from abuse. The New South Wales Government accepted the overwhelming majority of the 409 recommendations made by the Royal Commission. We committed to working hard, and to taking action to keep children safe. The bill I am introducing into this House today is a demonstration of that public commitment.

The royal commission recommended 10 Child Safe Standards that would make institutions safer for children, and we accepted them. We also accepted that child-related organisations should be held to account for their implementation of child safe practice through strengthened oversight and regulatory practice.

The 10 Child Safe Standards provide a framework for making organisations safer for children. The standards are holistic and interrelated. Each standard is of equal importance. Together, they operate collectively to drive cultural change in organisations. Implementation of the Child Safe Standards is mandatory. Organisations will be required to create an organisational culture where the safety and welfare of children is front and centre, where their voices and interests are protected, where abuse of children is prevented, identified, reported, and responded to and where the compromises of the past are not repeated.

Consultation on the approach to regulating the Child Safe Standards in New South Wales has been extensive. In 2019, the Office of the Children's Guardian [OCG] undertook consultation on the policy parameters of the Child Safe Scheme recommended by the Royal Commission, meeting with representatives from over 50 government agencies, non-government agencies, regulators, and peak bodies that represent child-related sectors. The OCG released a Consultation Report in July 2019 that reflected and built on stakeholder feedback around the key elements of the regulatory model.

In March 2020, the OCG conducted targeted consultation with government stakeholders on the scope of the scheme. Between August and November 2020, 1,500 responses to a Child Safe Survey aimed at gauging the extent organisations were implementing the Child Safe Standards, were received. The responses provided valuable information to inform the development of capability building resources and supports.

Consultation on the Exposure Draft of the Children's Guardian Amendment (Child Safe Scheme) Bill, between December 2020 and February this year, was the final part in this comprehensive consultation process. There was overwhelming stakeholder support for the Child Safe Scheme, the objectives of the bill and the various components of the scheme. Indeed, there is an eagerness in the sector to implement these changes to meet our shared objective to improve child safe practice. Our thanks go to the many non-government organisations, peak bodies, New South Wales government agencies, and individuals who responded to the invitation and provided valuable feedback. Stakeholder feedback has been critical in determining the best way forward.

I will now outline the provisions of the Children's Guardian Amendment (Child Safe Scheme) Bill.

Schedule 1 contains a suite of amendments to the Children's Guardian Act 2019. The bill introduces a new, overarching framework into the Act, reflected across two new parts – parts 3A (the Child Safe Scheme) and 9A (Enforcement measures). Some consequential amendments have also been made to the Act to ensure the new scheme is seamlessly applied across all functions of the Children's Guardian.

The primary object of the bill is to embed the 10 Child Safe Standards recommended by the royal commission, as the primary framework that guides child safe practice in organisations in New South Wales. This is reflected in an amendment to section 6, the main objects provision of the Children's Guardian Act.

The Royal Commission highlighted that racism and lack of cultural safety can increase Aboriginal and Torres Strait Islander children's vulnerability and may prevent them from speaking out. Cultural safety is an important protective factor for Aboriginal children and young people's well-being.

To address this, the bill includes an amendment to the guiding principles of the Children's Guardian Act. Under the newly drafted section 8(e), connection to family and community will be embedded in the Office of the Children's Guardian's decision-making about organisations, with the ultimate goal of the child feeling safe and secure in their identity, culture and community.

Respect for cultural and social difference must be considered in the provision of child-related services under the new section 8 (e1). During consultation, we heard that cultural safety was an important factor that should be included by a prescribed agency in their child safe action plan. The amendment to the guiding principles goes further and will ensure that cultural safety is considered across the full spectrum of the Children's Guardian's functions.

Part 3A is arranged into six divisions, together forming the new child safe scheme.

Division 1 contains the objects of Part 3A and some key definitions in section 8B. The objects reinforce the purpose of the legislation, that being, to protect children from harm by adopting the Child Safe Standards as the primary framework that guides child safe practice, and to implement the new regulatory approach to the Child Safe Standards.

The two key terms in the bill—"child safe organisation" and "head of a child safe organisation"—have been included in the Dictionary of the Children's Guardian Act, in Schedule 6.

"Child Safe organisations" must implement the Child Safe Standards. A child safe organisation is comprised of: entities listed in Schedule 1 of the Children's Guardian Act, excluding designated agencies and adoption service providers; religious bodies that provide services to children, or in which adults have contact with children; local government authorities; and clubs or other bodies providing programs or services of a recreational or sporting nature for children, where the workers are required to hold a working with children check clearance under the Child Protection (Working with Children) Act 2012.

There is capacity within the bill to expand the scheme by regulation to align with the broad scope recommended by the Royal Commission more closely. Any decision to expand the scope of the scheme would be subject to further consultation.

Out-of-home care and adoption service providers will continue to be regulated by the Office of the Children's Guardian under the NSW Standards for Permanent Care. These standards are broadly consistent with the Child Safe Standards.

The NSW Child Safe Standards for Permanent Care were introduced in 2015 and are subject to review every five years. The review has been delayed because of the COVID-19 pandemic. However, the upcoming review of the accreditation and monitoring framework will address a range of challenges in the out-of-home care and adoption sectors, including implementation of the Child Safe Standards and how the sectors can be regulated within the broader context of the Child Safe Scheme to streamline oversight and reduce regulatory burden.

A key message coming out of the Royal Commission was the need for a consistent approach and framework to organisational child safety. We are committed to working toward this goal.

The "head of a child safe organisation" will be defined according to the same sequenced model that a "head" of relevant entity is defined across sections 17 and 66 of the Children's Guardian Act.

Division 2 contains the pillars of the Child Safe Scheme—the 10 Child Safe Standards as recommended by the Royal Commission, and the requirement for the head of the child safe organisation to ensure the organisation implements the Child Safe Standards through an inclusive list of systems, policies and processes.

The 10 Child Safe Standards set out in section 8C are principle-based, outcome-focused, and flexible enough to be adapted by organisations of varying sizes and characteristics. They operate as a benchmark against which organisations can assess their child safe capability and set performance targets.

The list of policies and procedures in section 8D(1) is intended to set the baseline expectations for systems, policies and procedures that organisations may use to implement the Child Safe Standards. The standards are flexible—they can be implemented by organisations in different ways depending on the size, resources, and workforce of the organisation. Section 8D (1) has been drafted with this flexibility in mind in keeping with the intention of the Royal Commission to focus on changing organisational culture as opposed to setting prescriptive rules that must be followed or specific initiatives that must be implemented.

Section 8D (2) makes it clear that a reportable conduct policy must be implemented to ensure that organisations meet the requirements of the Reportable Conduct Scheme. The Reportable Conduct Scheme helps keep children safe by monitoring how organisations investigate and report on types of conduct made against their employees, volunteers or certain contractors who provide services to children. It is a key part of the child protection system.

The new section 8E will allow the Children's Guardian to require the head of a child safe organisation to give the Children's Guardian information about these systems, policies, and processes within a reasonable time, not less than seven days.

The Child Safe Scheme will be buttressed by "child safe action plans". Significant public sector agencies, known as "prescribed agencies", that are responsible for the provision of services to children will be required to develop and implement child safe action plans. Division 3 establishes the framework for these action plans.

Child safe action plans are intended to promote sector wide reform and embed child safety across existing regulatory schemes. The new section 8F provides that a child safe action plan contains the strategies a prescribed agency will take with related bodies to build awareness about the importance of child safety in organisations, build the capability of organisations to implement the Child Safe Standards, and improve the safety of children.

Section 8G sets out the public sector agencies that will be a "prescribed agency" for the purpose of child safe action plans. These agencies are included because of their influence on the child safe organisations that they regulate and oversight. The Department of Education, Ministry of Health, NSW Education Standards Authority, and Inspector of Custodial Services are some examples of the prescribed agencies that are set out in section 8G. Section 8H establishes that a "related body", for the purpose of child safe action plans, is a child safe organisation that the prescribed agency funds or regulates.

The expectations around what agencies should include in their plans will be commensurate with what they are reasonably able to achieve within their financial and resource capacity, and the expectations of their stakeholders. Examples of actions could include: developing sector specific child safe organisation websites to provide information about how to protect children, create child safe environments and identify and report signs of abuse—including existing legislative obligations; including a requirement that child-related organisations implement the Child Safe Standards in contract arrangements; promoting child safe organisations in existing policy frameworks; and distributing child safe tools and resources to organisations through government agencies and their existing relationships with organisations.

In some cases, it will be preferable for a Directorate within a prescribed agency to develop their own child safe action plan. For example, the Quality Assurance and Regulatory Services Directorate within the Department of Education is the Regulatory Authority for early childhood education and outside school hours care services in New South Wales. Given this Directorate's regulatory role overseeing early childhood education, it is well placed to develop their own child safe action plan for the child safe organisations that it regulates. Section 8I (2) has been drafted with this flexibility in mind.

Division 3 also contains the architecture for child safe action plans, including consultation requirements, the process for submitting plans to the OCG for approval, publication of the plans on an agency's website, progress reporting and plan review.

Reciprocal information exchange will be available to the OCG and prescribed agencies through an amendment to section 180 of the Children's Guardian Act.

Capability building will be the foundation of the Child Safe Scheme. Division 4 establishes a framework through which the Children's Guardian will work collaboratively with child safe organisations, government agencies and the broader community to raise awareness about child safety and build both knowledge of the Child Safe Standards and the skills to implement them.

The OCG has been working closely with stakeholders over the past two years to implement the Child Safe Standards and prepare organisations for the scheme. This has included the release of a detailed Guide to the Child Safe Standards and other resources and supports, both online and face to face. Guidelines developed by the Children's Guardian are not mandatory. Their intention is to help organisations identify what actions they undertake to implement the Child Safe Standards.

From July 2020 to January 2021, the OCG has reached 16,483 people via online training, webinars, and videos. The Guide to the Child Safe Standards has been downloaded over 22,000 times since July 2020. Other resources will be developed over the year to assist organisations implement new requirements. The OCG also has dedicated Child Safe Coordinators for priority sectors, focusing on engagement with stakeholders to build awareness and providing support around implementation.

Education and empowerment of organisations so they know how to implement the Child Safe Standards will guide the OCG's approach to implementation.

The cornerstone of the capability building component of the scheme will be a "self-assessment tool". During the process of monitoring a sector, the OCG may require heads of child safe organisations to complete a short self-assessment tool to evaluate an organisation's compliance with the Child Safe Standards. This is akin to a "health check" for organisations and will provide guidance on how practice can be improved to better protect children.

Division 5 sets out a framework in which the Children's Guardian may monitor the operation of a child safe organisation to ensure the organisation is implementing the Child Safe Standards. The OCG will take a strengths-based approach, proactive and preventative, focused on capability building. The new section 8V is the key provision that sets out the monitoring activities that the Children's Guardian can carry out. Some of the activities include reviewing the organisation's systems, processes, policies and information held by the Children's Guardian about the organisation and its employees and requiring the head of the organisation to complete a self-assessment of the organisation's compliance with the Child Safe Standards.

To ensure that organisations complete the self-assessment tool, a small fine will be available to the OCG to impose.

The apex of the monitoring function is the development of a Monitoring Assessment Report in section 8W. This report will provide general guidance to an organisation (in line with the OCG's publicly available guidance material) and recommendations for improvement. It is a culmination of the educative process and draws a clear line under the monitoring function.

Division 6 establishes the framework for the OCG to investigate a child safe organisation's implementation of the Child Safe Standards. An investigation would generally be undertaken where earlier recommendations and guidance have not been accepted or actioned. Section 8X has been broadly drafted, and provides that the Children's Guardian may conduct an investigation: after receiving a complaint; if the organisation fails to respond to a recommendation in a Monitoring Assessment Report, or the Children's Guardian is otherwise not satisfied with the way the organisation responds to a recommendation; or, for any other reason the Children's Guardian is concerned that the organisation is not implementing the Child Safe Standards.

There is also a clear pathway in section 8E (2) to an investigation where an organisation fails to provide the OCG information about the organisation's systems, policies and processes.

The Children's Guardian may exercise any of the powers in schedule 2 of the Children's Guardian Act for the purpose of investigating a child safe organisation's implementation of the Child Safe Standards. This might include requiring the head of the organisation to answer questions and provide information or inspecting the premises of the organisation without the consent of the head of the organisation.

The OCG must prepare an Investigation Report at the end of an investigation. The Investigation Report must include findings, based on seriousness and risk level, and any recommendations for improvement to the way the organisation implements the Child Safe Standards. Recommendations contained in an Investigation Report may feed into a Compliance Notice or form the basis of an Enforceable Undertaking.

Some consequential amendments will be made to part 4 of the Children's Guardian Act to recognise the ongoing responsibility that organisations not falling within the scope of the Child Safe Scheme have in relation to their reportable conduct systems, policies, and processes. These amendments are directed towards out-of-home care providers, adoption service providers, and public authorities that are not local government authorities.

The Children's Guardian will have three broad new primary functions added to section 128. These additional functions arise from the adoption of the Child Safe Standards and the child safe scheme. They include: taking action to build the capability of child safe organisations to implement the Child Safe Standards and to prevent harm to children; monitoring, investigating and enforcing the implementation by child safe organisations of the Child Safe Standards, and undertaking functions relating to Child Safe Action Plans.

I now turn to the enforcement provisions in Part 9A of the bill.

The Office of the Children's Guardian will take a responsive, risk-based approach to regulation. The regulatory effort for most organisations will be light touch, focused on education and building on the strengths of what organisations are already doing. However, the best interests of children and their protection from harm is paramount. In some cases, the Children's Guardian will be required to take enforcement action to ensure the safety, welfare, and well-being of children. The safety of children in organisations should not be optional.

Part 9A is made up of two key divisions that provide for two different means of enforcement action. Division 1 relates to compliance notices, and division 2 relates to enforceable undertakings.

A compliance notice is a formal notice given to an organisation of their failure to implement the Child Safe Standards through their systems, policies, or processes. This is formal enforcement action where the organisation is not willing to come to the table with solutions to address risks to children. The notice carries a requirement for an organisation to take certain action specified in the notice and provide evidence to the Children's Guardian that that action has been undertaken. The notice must provide details around why the children are, or may be at risk, and a timeframe by which action must be taken. The organisation will have 28 days to seek review of the compliance notice unless an alternate time is negotiated with the OCG. The notices will be publicly available, and failure to comply with a compliance notice is an offence, attracting a financial penalty.

Enforceable undertakings in division 2 are an alternative enforcement measure to the issue of a compliance notice in Division 1. An enforceable undertaking might be used where an organisation is willing to rectify systemic issues in the organisation's approach to child safety, and there is agreement by the head of the child safe organisation about specific action that needs to be taken to address risk to child safety. Publishing the details of an enforceable undertaking ensures compliance. Enforceable undertakings may be used where there are multiple, systemic issues to be rectified. The organisation is required to report on compliance in a way that the OCG sees fit. Breaches will be agreed between the OCG and the organisation, and non-compliance (and prosecution) will be easy to establish. Enforceable undertakings can be amended, by agreement.

As with compliance notices, enforceable undertakings will be publicly available. Failure to comply with the enforceable undertaking is an offence, attracting a significant financial penalty. The offence provisions in sections 152F and 152J have been drafted with a "deeming provision". Subsections 152F (2) and 152J (2) do not create separate offences. Where the child safe organisation does not have legal status, the reference to the child safe organisation is to be read as a reference to the head of the child safe organisation.

Finally, the royal commission highlighted the importance of information sharing in identifying, preventing, and responding to incidents and risks of child sexual abuse. A new information sharing provision has been drafted to allow the Children's Guardian to share information, obtained for the purposes of the child safe scheme or its enforcement functions, with persons undertaking similar child safe functions in another State or Territory or for the Commonwealth.

Providing for these new functions to undergird the suite of existing functions of the Children's Guardian builds on the New South Wales Government's strong framework for protecting children and young people, following legislative changes in 2019 which gave the Children's Guardian greater authority and oversight to protect children and young people.

This Government is committed to seeing child safe cultures existent in all child-related organisations in New South Wales. We need to ensure that any perceived power or influence differentiation across our institutions does not impede a child safe culture. Child abuse cannot be tolerated. Children's rights must be forefront, understood and respected with clear guidance around how this should play out in practice, both in terms of organisational practice and staff interactions with children. Concerns about child safety raised by children and their parents and carers are acted on. The reporting of abuse is not obstructed or prevented. These are the hallmarks of a child safe culture.

Our children daily engage across a range of institutions critical to their health and happiness. They co-partner with family and friends in moulding their young lives, their attitudes, and dreams for the future. Our education system, religious institutions, health, and sporting ventures provide hours of face-to-face contact with our children. Within this embrace, it is our collective responsibility to make decisions for a child safe culture now that will improve outcomes for children and young people across New South Wales into the future.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (18:01): The Opposition supports the Children's Guardian Amendment (Child Safe Scheme) Bill 2021. The bill is proposed as part of the implementation of the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. It cannot reverse the harm done to children, young people and adults who have experienced child sexual abuse. On behalf of the Opposition, I acknowledge those whose experiences during their worst days have helped form a path to reform so that others can be protected. Nothing can erase what they have experienced, but more can be done to ensure that no-one goes through what they went through.

The bill changes the objects of the Children's Guardian Act to embed Child Safe Standards as the primary framework to guide child-safe practices in organisations in New South Wales. The 10 Child Safe Standards recommended by the royal commission are: child safety is embedded in organisational leadership and culture; children participate in decisions affecting them and are taken seriously; families and communities are informed and involved; equity is upheld and diverse needs are taken into account; people working with children are suitable and supported; processes to respond to complaints of child abuse are child focused; staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training; physical and online environments minimise the opportunity for abuse to occur; implementation of the Child Safe Standards is continuously reviewed and improved; and policies and procedures document how the organisation is child safe.

The adoption of the 10 Child Safe Standards will be mandatory for all child-safe organisations. The bill defines "child safe organisations" as local health districts; non-government schools; approved education and care services; statutory health corporations; affiliated health organisations; NSW Ambulance; the TAFE Commission; agencies providing residential care for children; religious bodies that provide services to children or through which adults have contact; clubs or other bodies providing sport and recreation services for which workers are required to hold a Working with Children Check; and any other entity prescribed under the regulations. The bill provides regulatory oversight and enforcement powers to the Children's Guardian. It also requires the Children's Guardian to work with prescribed agencies to develop and implement a child safety action plan that is compliant with the Act. Those new responsibilities, in addition to the Children's Guardian taking on the operation of the Reportable Conduct Scheme in 2020, must be supported by adequate funding by the New South Wales Government to ensure that the schemes work to protect children from harm.

I particularly want to talk about the fact that everyone supports child-safe organisations. I was proudly the shadow Minister for Family and Community Services for a couple of years and I have previously worked in this area. Without sufficient resources, the Office of the Children's Guardian will be overwhelmed. In fact, it is already overwhelmed now. Too often there are mistakes. Some pretty ordinary decisions have been made around people who have been allowed to work with children who should not have been. Pressure was put on the very good public servants at the Office of the Children's Guardian to allow those people to work with children. Recently there was the terrible case of a teacher at a school in the north of the State. She was allowed to move from one jurisdiction to another and ended up working at Moree Public School. Parents at the school were outraged. It is a surprise to everyone to find out that the loopholes that allowed the teacher to work at the school have not been dealt with. The team at the Reportable Conduct Unit is also overwhelmed.

The Opposition supports the bill but in his speech in reply, I ask the Parliamentary Secretary to explain in detail the resources that will be given to the Office of the Children's Guardian to make sure that it can support organisations that have to have a child safe plan. Members of the Australian Services Union, many of whom work in those organisations, have raised with me their strong support for children being safe where they work. They also make the point that some of their organisations are very small. Some are volunteer organisations that do not

have an admin person to create the child safe plan. Instead, some poor volunteer would have to do it very late at night. I ask the Parliamentary Secretary to also talk about the implementation of the plan and the way in which small organisations will be properly supported and consulted.

If the Office of the Children's Guardian is not resourced properly to support organisations to do the right thing, I worry that it will be forced to develop a bunch of tools that make the child safe plan a tick-the-box exercise that no-one takes seriously. When people are doing or intend to do harm to children, a tick-the-box exercise will not cut it. Addressing the issues around culture and support and a strong regulatory framework for Working with Children Checks is incredibly important and the only safety net that children have when people are deliberately trying to do the wrong thing. I know there has been some consultation with organisations such as the Australian Services Union, but I again ask the Parliamentary Secretary to particularly outline how small organisations will be supported and consulted.

Lastly, I will talk briefly about children being taken seriously regarding decisions that affect them. One of the great privileges I had when I was the shadow Minister for Family and Community Services was meeting with children in the out-of-home care system. Sensibly, those children have a lot of privacy protections around them. They are not able to speak openly about what is going on in their complex lives and they have seen way more trauma than anyone would think is reasonable. I accept that child protection workers do it tough. There is a constant pressure on foster and biological families to do things for the kids but kids must remain at the centre. Too often children are not listened to. They know when they feel safe and they know when they do not feel safe. Children have written to me and said, "They are making me go and visit my mum. I don't feel safe visiting my mum," but the grandparents who they are staying with have no power to stop them. I understand that these are complex issues, and I know that it is good for kids to keep some link with their biological family when they are in out-of-home care, but children are not being listened to well enough.

Ann Symonds, who was in this place a long time ago and was one of the greatest champions for children, always talked about the idea of children having their own independent advocates through these systems so that they had someone who was talking on their behalf, not on behalf of everyone else in their lives. The Opposition is not seeking to put that into the bill, but I make the point that if we are serious about children we have to give them agency. We have to listen to them. We have to try to accommodate their needs. They are far wiser than we think they are. They know what is best for them. Too many kids in this State are not listened to by the system and are being forced into situations that they are very unhappy with. I think that is a problem. I hope that with the Children's Guardian and the Child Safe Standards we can yet again put at the forefront children being able to make choices in their own lives. With that, Labor is obviously in support of the bill. I understand that there will be some amendments; we will deal with those in Committee.

The Hon. MARK LATHAM (18:10): One Nation fully supports the work and recommendations of the Federal royal commission into child sexual abuse, but we raise fundamental concerns about expanding the powers and role of the Office of the Children's Guardian and the Advocate for Children and Young People in the bill. In so doing, I raise the age-old question: Who will guard the guardians? I have had a series of negative experiences with the Office of the Children's Guardian and the advocate. Clearly they are political activists getting outside their legislated remit and the findings of the royal commission to venture into areas of child gender fluidity and other political activities that run the heavy risk that those who are supposed to be guarding the children are actually venturing into fields of abuse, as defined by mainstream families in New South Wales who would not regard the promotion of gender fluidity in three- and four-year-olds in a preschool as acceptable. In fact, they would regard that as damaging to their children and a denial of their parental rights.

Then we come to page 75 of the publication by the Office of the Children's Guardian entitled *Empowerment and participation*, where it recommends that childcare centres—and one assumes, if this bill passes, all the agencies in New South Wales that have contact with children as young as three—do not assume a child's gender identity, and that they ask for their preferred pronouns and respectfully use them. There are 13-year-olds in New South Wales who do not know what a pronoun is, such are the failings of our education system. Three-year-olds are being asked for their preferred pronouns. What sort of madness are we coming at here with these political activists in the Office of the Children's Guardian? The Leader of the Government shakes his head. He has not got a three-year-old.

The Hon. Taylor Martin: He said it is terrible.

The Hon. Don Harwin: I was actually agreeing with you.

The Hon. MARK LATHAM: I am glad to hear that. I thought he was shaking his head in disapproval. He is nodding his head, as it turns out. I welcome that. I apologise for what I said and I accept the commentary that it is terrible. It is terrible that three-year-olds would be asked for their preferred pronouns in a setting in New South Wales where there are much higher priorities in terms of genuine child protection. The bill goes

beyond the remit of the royal commission in that those in the Office of the Children's Guardian are political activists. This is an instance of mission creep. It is also a problem that the bill contains no ministerial oversight. It is a huge leap of faith putting work into the hands of these activists, with the Minister having no legitimate role in putting some boundaries around the work of the so-called Children's Guardian and the advocate.

If child protection is so important in New South Wales, where it is absolutely critical why would the Minister not have a direct role? Why would we not empower the Minister to be involved in protecting young children in this State and ensuring that is what the Office of the Children's Guardian and the advocate are doing under the proposed legislation? One of the One Nation amendments will give ministerial oversight to these activists to put some boundaries around them and bring some common sense to the nature of their work. I mentioned negative experiences with these public servants through the course of this year. In February parents using the Only About Children childcare centre at Warriewood West contacted me, very concerned about the centre's decision to use gender fluidity texts as the books of the month for children as young as three. The books included *Pink is for Boys* and *Julian is a Mermaid*. The parents wrote to me:

Our 3 year old son is still learning to talk, use the toilet and (like most kids) struggles with big emotions.

They made a point that most New South Wales parents would agree with:

Child care should be providing and concerning themselves with the essentials of our child's wellbeing and not planting thoughts into our precious little one that are irrelevant and inappropriate to his learning at this age. We strongly stand against this disturbing ideology that is blatantly targeting our children through these books, which is harmful to their mental health and wellbeing.

Only About Children is a large childcare provider, with about 75 centres across Australia. I presume that its other centres are also following this practice, as advocated by their education manager. I contacted the education manager who said that they are following the guidelines in the document that has been put out by the Office of the Children's Guardian under the banner of Child Safe Standards.

I raised this with the former Minister, Gareth Ward, who said that the Government was very proud of the Office of the Children's Guardian and that it effectively had nothing to do with him because it is an independent statutory office. I raised it in the media and called upon the Office of the Children's Guardian to step in and say that there is nothing in the findings of the Federal royal commission or the remit of the Office of the Children's Guardian to say that a childcare centre should be reading gender fluidity books to a three-year-old. It refused. The office had the opportunity to do the right thing, step in and say, "No, our guidelines are not requiring that." But it refused to do that and allowed this childcare chain to go on its merry way, under the banner of the Office of the Children's Guardian, having gender fluidity books read to three- and four-year-olds. As for the document about the pronouns, we find that it did something similar in a separate document later in the year.

Clearly, if you support child protection you need to ask the question: Who is guarding these so-called guardians? One Nation will be moving amendments to that effect in Committee, particularly ensuring that at least the Minister—someone elected by the people of New South Wales—can be a guardian, not unelected public servants racing off and being political activists in this space. I was very disappointed with the response from Minister Ward, who wiped his hands of the matter. I hope that Minister Henskens will pay greater attention to what is going on with these political activists and put some boundaries around them. I come to the basis of the legislation. The Child Safe Standards were a recommendation of the 2017 report of the Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse. Standard 4 reads as follows:

Equity is upheld and diverse needs are taken into account ...

Let us be clear about this: The royal commission said it was not being prescriptive and outlining details about how the approach to equity and diversity would be administered under the Child Safe Standards. I read the ample documents—volumes of them—and there is no recommendation about gender pronouns for three-year-olds or about reading gender fluidity books to three-year-olds.

In fact, the royal commission made it clear that these are general principles not to be administered by people racing away with them on their own frolic with detailed implementation. Saying that equity is upheld and diverse needs are taken into account is something of a motherhood statement, with no supporting detail as to what it should or could mean in practice. Certainly it makes no mention of the activities of the Office of the Children's Guardian. Indeed, the royal commission went out of its way not to prescribe or recommend detail. At page 14 of volume 6 the royal commission declared:

The standards are designed to be principle-based and focused on outcomes and changing institutional culture as opposed to setting prescriptive rules that must be followed or specific initiatives that must be implemented.

How prescriptive and politically active would you have to be to say that three-year-olds should be asked for their gender pronouns in a childcare centre? Clearly that practice is against what the royal commission said in volume 6: Do not be prescriptive and do not go into the details. The report makes mention of the vulnerability of LGBTIQI+

youth along with other groups, primarily those who are Aboriginal, are disabled, have diverse religious beliefs, have diverse cultural backgrounds, have prior trauma and live in remote locations. Yet again, the commission was careful not to prescribe particular institutional remedies. At page 170 it stated:

We do not propose to define in detail what is required to implement child safe institutions for each of these circumstances.

They are very general principles. From reading it, it seems the main recommendation and the main concept is that, in particular, there are Indigenous kids and disabled kids so keep an eye on them; keep an eye on them and make sure they are safe. It did not go into the sort of detail and political activism that we are now seeing from the Office of the Children's Guardian and the children's advocate. In June 2020 the Office of the Children's Guardian issued its own Child Safe Standards document, which was used at Warriewood West, repeating the generalities of the royal commission's work. It made no specific statements to justify the teaching of gender fluidity to small children.

In that light, the office should have stepped in at Warriewood West and said, "We have general principles here and we expect a childcare centre to follow general principles but not use us as an alibi for something as specific as reading gender fluidity books to three and four year olds." The office has allowed outfits like Only About Children to go down that path without correction and without bringing them back into line with the actual findings of the royal commission and the true role of the Children's Guardian and the Advocate for Children and Young People in New South Wales. This is agency activism at its worst.

The Office of the Children's Guardian was established for the purpose of child protection, with core functions of overseeing the mandatory reporting system, Working with Children Check and the safety of the adoption and foster child systems. Now it has issued guidelines to thousands of organisations in New South Wales that were misused. The office did nothing to correct that and then went further with its so-called *Empowerment and participation* document that went down the path of activism with gender pronouns. Furthermore, the office has also issued a guide for faith-based organisations under the banner of implementing the Child Safe Standards.

At page 20 of *Engaging sensitively with survivors – a guide for faith organisations*, next to a picture of an Islamic woman, the guide recommends a number of welcome statements, consultative mechanisms, training packages and reach-out policies concerning LGBTI people. There was no mention of this in the royal commission recommendations. There is no evidence of it furthering child safety. Rather, it is another example of the office's activism, in this case running against the grain of the religious teachings of the organisations that are being promoted and targeted in the document. Vague motherhood statements and intentions from the royal commission are being turned into Office of the Children's Guardian centres of authority and control in New South Wales.

What sort of organisation are we dealing with here? Incredibly, the office has developed a public consultation draft of the bill dated 15 December 2020, yet in the months that followed I am not aware of members of Parliament being consulted. I know for a fact that the oversight committee on child safety was not involved in the process by which the draft bill was circulated or the consultation that followed. I know I did not receive it in my office and I do not know of a single MP who received the exposure draft of this legislation or had any element of consultation. Members of Parliament have been sidelined and so has the joint select committee that offers oversight. That process in itself has been faulty.

I now refer to another unhappy experience with the so-called guardian and the advocate when they came to our parental rights inquiry for Portfolio Committee No.3 - Education. I will not go into all the details but it is very clear from reading the transcript that they were engaged in further activism by saying they consulted young people in New South Wales by what they referred to as a representative sample and that young people were saying that they had had gender fluidity teaching in the high schools. When the details were examined the sample was limited to an inner city high school near their office at Strawberry Hills and an LGBTI support group in a rural high school. It was a jaundiced and loaded survey to deliver a particular result. I think that was very bad practice by the advocate in particular. I later found out from one of the members of the joint select committee, the Hon. Greg Donnelly, that he had asked the advocate, Zoe Robinson, in April last year about gender dysphoria and raised issues about that in a letter. The reply was as follows:

In the work that has been done by our Office to date—

and this was on 11 September—

children and young people have not raised gender dysphoria as an issue. We have not conducted any specific consultation with children and young people about this topic.

So in September last year it was a non-issue. They came to the inquiry by Portfolio Committee No. 3 - Education on the Education Legislation Amendment (Parental Rights) Bill 2020 and suddenly there is a new survey document saying that gender fluidity should be taught in the classroom that came from an inner city high school and a support group at another high school. They turned nothing into the false impression that this was the view

of young people. These are pretty sharp practices that again point to the reality that we need ministerial oversight of these particular activists.

For many months in the lockdown I was puzzled as to why the so-called advocate was not out there advocating for young people, because the great tragedy of that lockdown was the young people, teenagers in particular, who lost the sense of what is society. They lost the sense of having contact with their sporting friends, their school friends and their best friends. The tragedy of what they have been through is grossly underestimated. I have spoken to GPs in south-west Sydney who say that there is a sharp increase in the number of young people who have reported acidic build-up and reflux problems from the stress, worry and disconnection from society. This is a cruel practice. This lockdown was a cruel practice against young people in New South Wales. At a minimum they should have been included in the picnic provisions and whatever bubble provisions to get out on a weekend, at least, having done their homeschooling Monday to Friday.

Young people should have had the picnic opportunities available to be able to catch up with their friends on the weekend instead of being so tragically isolated and all aspects of their health damaged. What was the so-called Office of the Advocate for Children and Young People doing during this period? They produced a Spotify playlist—a contest, presumably spending public money, where you win a prize if you send in the best songs for young people on Spotify. Is that really the role of the children's advocate? I mean, no-one has ever had a Spotify list, have they? No-one has ever done Spotify on radio.

The Hon. Penny Sharpe: Point of order: I know the Hon. Mark Latham has many views about these matters but his comments are straying beyond the long title of the bill. He will get an opportunity with the children's advocate during the upcoming budget estimates and I encourage him to pursue the issue at that time. Mr Assistant President, I ask you to suggest to the Hon. Mark Latham that he confine his comments to the long title of the bill.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): I am sure the Hon. Mark Latham was just about to do that.

The Hon. MARK LATHAM: I was indeed, of course, Mr Assistant President. I was just making the point that resources and effort can be wasted when the primary objective of these well-resourced institutions is to protect children in New South Wales. I raised the Spotify example to say isn't the bigger priority to spend every available resource on the 70,000 children in New South Wales tonight and every other night that are at risk of significant harm, or ROSH, as it is known? Is that not the paramount objective of child safety in New South Wales—not bureaucratic organisations and public servants doing Spotify and surveys while eating up resources with bureaucracy and paperwork? Isn't the real thing that we need to do in child protection in New South Wales the 70,000 children who will not be sleeping so safely and soundly tonight?

That is the real tragedy. That must be the burning objective. I think what is happening is a dreadful shame. I know this is a view I share with the Leader of the Opposition. This should be a supreme priority for Government, harnessing all the resources of Government, non-government bodies, charities, welfare organisations, genuine children's advocates in the community, to make sure we dramatically lower that 70,000 number. I am saying that that is what we should be doing instead of worrying so much about legislated roles for public servants, more bureaucracy and more money spent on offices, paperwork, surveys and music lists. Let's actually get real about this to the point where young people are genuinely protected in the community.

We can think that in the virtue signalling of our times that doing this sort of thing protects children. It does nothing unless there is some genuine resourcing of visits to the homes and of recommendations for the children who are doing it terribly tough in New South Wales on a regular basis. That is genuine child safety. I will be having more to say with amendments in the Committee stage. I think the bill can be substantially improved in many respects. I have levelled criticisms against the advocate and the so-called guardian. I hope they can take on board that the material to which I have referred is all factual and this is all advocacy in my work as a parliamentarian that I have experienced during the course of 2021. I hope the Minister does a lot better than his predecessor, Gareth Ward.

Mr DAVID SHOEBRIDGE (18:28): Via video link: The Greens support the Children's Guardian Amendment (Child Safe Scheme) Bill 2021 because it embeds the Child Safe Standards as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse and puts those standards as the primary framework to guide child safe practice in government agencies and organisations across New South Wales. For The Greens, protecting children and young people by providing the conditions by which they can flourish in safety and security is core to our work in Parliament. I am hopeful that with majority support by members in this Chamber we can indicate that the bill has majority support in Parliament, too.

For years I worked with survivors of child abuse, many of them having survived from institutional child abuse. I have seen the devastating and lifelong legacy that abuse and neglect can and inevitably does have on individuals, their families and their communities. Institutional failures to prevent and respond to abuse have ruined thousands and thousands of lives. I am hopeful that with the passage of the bill, which is underpinned by the work of the royal commission, we can do something serious and measurable to reduce that damage in the future.

I believe the reforms will make important changes towards creating a culture of institutional accountability within organisations. The bill will do that by putting in place not just a legislative framework but a series of agencies, not least of which is the Children's Guardian, which will hopefully be the way in which we get accountability and compliance with the child safe measures. I note that the enforcement measures in the bill include powers for the Children's Guardian to issue compliance orders and to enter into enforceable undertakings with organisations that are subject to the child safe provisions. The Greens believe that providing the Children's Guardian with greater authority and oversight to protect children and young people is an important step. We disagree with the contributions of another member that those kinds of powers should reside with a Minister. We are firmly of the belief that an independent statutory authority is the best place to have those kinds of powers, which we want to ensure are exercised in an impartial and non-political fashion. For that reason, we support the powers being with the Children's Guardian.

I note that it is also positive that to some extent the bill considers the importance of connection to family and community for Aboriginal and Torres Strait Islander children in this State. As anybody who has listened will know, for more than 60,000 years—and that is at least 2,000 generations—First Nations families and their extended kinship structures have been raising their children in culture and on country. There is a wisdom and strength in that, that bureaucracies and child protection structures continue to refuse to acknowledge. The Greens firmly believe that we should ingrain within the law much greater respect for First Nations-led responses and solutions. The bill can be strengthened by ensuring that First Nations communities are at the forefront of protecting their own children. I will not read on to the record the some 126 recommendations from the *Family is Culture* report, which talks about fundamental reform to empower First Nations communities, Aboriginal-led community organisations and Aboriginal families and kinship structure as an essential way of keeping Aboriginal kids safe, but we should be mindful of that report when we look at this particular legislative structure.

The Greens believe that First Nations communities need to be empowered to lead the creation of plans and systems to keep their kids safe. That is consistent with the principle of self-determination, and there should be strengthened procedures in the bill to provide that. As such, The Greens intend to move an amendment to new section 8J regarding consultation to explicitly require that any organisation that engages with First Nations children and young people must consult with the relevant Aboriginal-controlled organisations and engage with Aboriginal communities when establishing the Child Safe Standards. I note that Aboriginal children and young people continue to be disproportionately represented in the child protection system, and that is a matter that we should take collective responsibility to reverse. The fundamental way we do that is through self-determination and empowerment of Aboriginal communities and Aboriginal organisations, and we should ingrain that in the bill as well.

I will deal briefly with the specific provisions of the bill. The Children's Guardian Amendment (Child Safe Scheme) Bill 2021 is designed—and I think it achieves it in part, I hope—with the legislative purpose of making organisations safer for children and young people by strengthening both oversight and the practise of child safety. It amends the Children's Guardian Act 2019 to put in place the Child Safe Standards that were recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. With the passage of this legislation, that will become the primary framework to guide child safe practice for organisations in New South Wales. This has come decades too late.

I said before that I have worked with brave survivors and victims of institutional child abuse throughout the entire time I have been in Parliament. I have seen their bravery, but I have seen that that bravery and strength has had to come because far too many institutions have failed them in the past. Again, I credit the royal commission with its groundbreaking work of being survivor focused in the work it did as a royal commission and survivor focused and child focused in the recommendations that came from the royal commission, and it demanded of parliaments that we do not just get a royal commission but that we implement its recommendations. Tonight, we are actually doing some of that in the Legislative Council.

The bill has also gone through a reasonable consultation process by the Coalition Government. The Government released its response to the recommendations of the final report of the royal commission in June 2018. I would have liked to have seen that earlier, but nevertheless it was a considered response. Thankfully, the majority of the recommendations from the royal commission were adopted by the New South Wales Government. As part of that, there was an adoption of the 10 Child Safe Standards put forward by the royal

commission to make institutions safer for children. What we see with this reform is the implementation and embedding of those 10 Child Safe Standards in legislation and, hopefully, practice in New South Wales.

What does the bill do? It adopts the Child Safe Standards as the primary framework that guides child safe practice. The Government has not sought to tinker with those Child Safe Standards; it has adopted them in the form recommended by the royal commission. That gets a tick from The Greens. The bill requires significant public sector agencies that are responsible for the provision of services to children to both develop and implement child safe action plans to actually put into practice the Child Safe Standards.

The bill requires and empowers the Children's Guardian to work with organisations to raise awareness of child safety and build the capacity of organisations to actually implement the Child Safe Standards and promote Child Safe Standards more broadly. The Children's Guardian is not just a passive body; it is out there trying to build capacity in agencies and NGOs. Importantly, the bill gives the Children's Guardian powers to monitor the implementation of the Child Safe Standards and the power to compel the production of documents to ensure that that is happening. It gives the Children's Guardian powers to investigate complaints and, if concerns are raised, to see whether or not an entity is implementing the Child Safe Standards. The bill also gives enforcement measures to the Children's Guardian, including the issuing of compliance notices, which carry penalties if there is non-compliance with them, as well as allowing the Children's Guardian to work with organisations—not just simply penalise them but work with them—and have them enter into enforceable undertakings to try and change practice on the ground.

Last but not least, the bill allows the Children's Guardian to share information obtained for the purposes of its child safe scheme in New South Wales and its enforcement functions with persons undertaking similar child safe functions in another State, Territory or the Commonwealth. It is a fact that child predators do not respect borders. Organisations that fail in New South Wales are also at significant risk of failing child safety in South Australia and any other part of the country where they practise. We need to be putting the safety of children ahead of concerns for privacy and the like that some of these organisations may otherwise have been entitled to. We need to be able to share information around the Commonwealth to ensure that we keep children safe.

We have engaged with stakeholders in response to the bill; we have engaged with them throughout this process. Broadly, stakeholders are in support of the bill. They have worked with the Government, and the Government put out the consultation draft in December 2020, I think. The feedback we have had from the stakeholders is that they broadly support the bill. As the Leader of the Opposition in this place raised in her contribution, which I listened to and endorse, concerns have been raised about whether or not the legislation comes with adequate funding for the Children's Guardian. We are yet to see that and we look to the New South Wales Government to ensure the budget is there for the Children's Guardian to do the work that it is required to do under this bill—that is, to help establish the Child Safe Standards regime, to ensure that it has got the resources to be an effective monitor and, if necessary, to engage in enforcement and prosecution action where there has been a breach of Child Safe Standards. All of that can only be done if there are adequate resources for the Children's Guardian. We are not yet persuaded that those resources have been provided by the Government.

I note that if we are expecting government agencies and non-government organisations to effectively implement the Child Safe Standards, then they need the resources from the Government to do that as well. They cannot be expected to keep doing more and more with less. If we want child safe organisations, and I hope we do and we are coming together to say that today, the New South Wales Government needs to find the funds for its own agencies and for the non-government organisations that do so much of this work in New South Wales to implement it.

Finally, I note that concerns have been raised about some of the penalty provisions by the Legislation Review Committee which, in particular, was concerned about section 167 which provides for circumstances in which directors can be liable for offences committed by corporations, including if made by act or omission unknowingly concerned in or party to the commission of a corporate offence. Those kinds of strict liability offences do raise concerns for The Greens, and we will monitor it closely going forward. The Greens firmly believe that if there are to be criminal penalties it needs to come with mens rea, some of kind of intentional act, unless there are compelling reasons not to.

In this particular case, because we want to ensure that the Child Safe Standards are embedded in organisations, and we want the leadership of agencies and non-government organisations to understand how important it is, we can see an argument for the inclusion of these provisions such as section 167 into the Act. That being said, it causes us some discomfort, and we will be reviewing how those provisions work in practice. I think the whole of the Parliament should be doing that to ensure that we do not unintentionally criminalise innocent action. I conclude by saying The Greens support the bill. We look forward to discussing with the Government and Opposition the amendments we are proposing to new section 8J during the Committee stage. I rarely say this, but I commend the Government for bringing this legislation to the Parliament.

Debate adjourned.

Adjournment Debate

ADJOURNMENT

The Hon. NATALIE WARD: I move:

That this House do now adjourn.

CLIMATE CHANGE AND RENEWABLE ENERGY

Ms ABIGAIL BOYD (18:42): In the lead-up to the Twenty-sixth United Nations Climate Change Conference of the Parties, known as COP26, the Australia Institute's Climate and Energy Program released its annual *Climate of the Nation 2020* benchmark report tracking Australian attitudes on climate change. An all-time high of 75 per cent of Australians are concerned about climate change and seven in 10 think Australia should set targets and implement domestic action to limit global warming to 1.5 to two degrees Celsius. The Murdoch press appears to have read the room and this week performed a remarkably athletic backflip on its climate change position, kicked off with a 16-page spread across all of its mastheads other than *The Australian*.

What has happened? Has the war drum of unrepentant climate change denialism that has set the marching beat for a generation of politicians and commentators finally fallen silent? Of course not. The new climate denialists are no fools, and they can read polling data as well as anyone. They have simply wrapped themselves in a 16-page disguise, littered generously with billionaires, mining executives and uncritical reports of greenwashing campaigns from some of this country's most prolific emitters.

Speaking of dangerous and prolific emitters, as much as it pains me to say it, Andrew Bolt was right when he said that the editorial campaign is rubbish and designed simply to provide political cover for Scott Morrison as he fumbles his way to a flimsy emissions reduction target for 30 years in the future. The truth of the matter is a jobs rich, clean energy future in New South Wales is not just possible, it is inevitable. Renewable energy generation from solar and wind is now the cheapest form of energy on the market and the cheapest form of energy in the history of industrialised humanity. From the same Australia Institute report, 63 per cent of Australians said they prefer investment in renewables as a pathway for economic recovery. Cue the nuclear brigade.

We have been treated to a renewed flurry of articles espousing in the eradiated glow of the promised land of a renewed nuclear industry in Australia. Uranium mining is environmentally destructive, extremely water intensive, produces radioactive waste that cannot be disposed of safely and leaves mine sites that are impossible to effectively remediate. Nuclear power is slow to react to changes in supply and demand and so works poorly with solar and wind—the technologies that the public are actually demanding. Nuclear power also produces climate-damaging emissions: mining, processing, plant building, storage and waste disposal all produce huge quantities of dangerous greenhouse gas emissions.

Thankfully, for 30 years we have had a ban on uranium mining in New South Wales and Federal laws currently do not allow nuclear power in Australia, but that could all change very quickly. Before this House is a bill to repeal the ban on uranium mining that has stood for the past 30 years. This week the Treasurer, and Minister for Energy and Environment, expressed his excitement about the potential for nuclear reactors in our energy system.

The Murdoch media is doing what it does best and whipping up a fervour for a destructive and dying industry to benefit its corporate mates. Around the world countries like Germany are winding down their nuclear power programs. Why would we now try to build ours up? There is no public appetite to begin on the pathway towards a nuclear industry. The risks are too great and the potential benefit is vanishingly small. As much as the Minerals Council and its mates in the Murdoch press might hate to hear it, our future energy sources will not be reliant on the mining industry. And then there is the fact that if we want to drastically cut our emissions as soon as possible, an energy source that takes 10 years to build just does not cut it.

Our State has such an exciting future ahead of it: a future without the toxic emissions from coal-fired power stations, a future with clean and green industries and energy generation revitalising regional towns and communities, and a more comfortable and prosperous future. Why would we jeopardise that future by taking decisions now to continue to enrich those corporations and industries that have already proven themselves undeserving of their social licence. So to the cynical operators at the Murdoch press, we see you. We see what you are doing and you are not fooling anyone. Get on board with a real ambitious and legislated 2030 target, powered by renewables, and a moratorium on new coal, gas and oil projects or get out of the way, because the people of this State will not be buying a drop of your radioactive snake oil.

HAWKESBURY AGRI TECH HUB

The Hon. SHAYNE MALLARD (18:47): I recently attended the launch of Western Sydney University's Hawkesbury Agri Tech Hub. This is yet another exciting development taking place in western Sydney on the doorstep of Western Sydney Airport and the new aerotropolis. As a boy from Penrith with a background in horticulture, this is a project I am particularly passionate about. Growing up in Penrith, I know how difficult it can be to access a good job close to home in western Sydney. But that is no longer the case. With the New South Wales Government's investment in infrastructure in western Sydney, the area is being transformed into the kind of place ideally suited for an Agri Tech Hub. The Government has delivered the road, the rail and even the air connections to revitalise the area for generations to come. It has funded new parks, hospitals, schools and sporting grounds to make it not only a place to work but also a place to live, invest and raise a family. That investment is being seen in projects like the Agri Tech Hub.

The hub will span six hectares and operate a high-tech commercial, teaching and research greenhouse complex. The first of its kind in Australia, the hub will benefit from its location just 30 minutes from the new airport at Richmond at the Hawkesbury Agricultural College and the adjacent aerotropolis agribusiness precinct. The hub will promote best practice techniques and technology across western Sydney and New South Wales by combining cutting-edge agri-tech research with rapid export opportunities. In 2017 exports from western Sydney were worth an estimated \$57.8 billion, 14 per cent of it from the food and grocery manufacturing sector. Thirty per cent of those food and grocery manufactured goods were destined for foreign markets.

It is clear we already have a strong competitive advantage when it comes to exporting produce overseas. Foreign markets value our high-quality goods. The Agri Tech Hub will take this advantage to the next level, improving the quality and the efficiency of produce in western Sydney. That produce will be exported globally via the Western Sydney Airport, a 24/7 international airport equipped with an integrated logistics hub that can handle time-sensitive ambient, cold chain and live animal products. Western Sydney University has set three objectives for the hub. The first is that "the development of the University's Hawkesbury Agri Tech Hub strategy leverages the concentration of industry, teaching and research innovation in agriculture and horticulture located at Hawkesbury Campus."

With existing expertise in climate science, soil science and environmental sciences, the Hawkesbury Institute for the Environment is perfectly suited to conduct the work in Australia's first dedicated agri-tech hub. I have no doubt that the hub will go on to employ some world-class researchers educated in Australia's first STEM-focused multiversity being built at the Aerotropolis. The hub's second objective reads:

There is a focus on developing intensive, high-yield, technology interfaced agricultural commercial practice to provide a continuum between teaching, research, innovation and commercial activation.

With the Government's plans for a designated agribusiness precinct within the Aerotropolis, the opportunity to integrate technology and commercial agriculture has never been stronger. Taken together, the projects provide a clear pathway for cooperation between research and commercial agriculture in western Sydney. The research produced in the hub can be applied to agribusinesses in the precinct and elsewhere in New South Wales. Those agribusinesses can then export their produce to half the world within 10 hours through the 24/7 integrated logistics hubs of Western Sydney International Airport. The hub's third objective reads:

This presents opportunity for industry partnership, with a focus on protected cropping of high yield and high demand produce, as well as innovative technology and subsequent educational benefits.

Industry and research organisation partnerships are what the aerotropolis is all about, enabling businesses to take advantage of the world-class training provided through the new STEM multiversity and the New Education and Training Model. I pay tribute to and acknowledge the leadership of Western Sydney University, particularly the team led by Vice-Chancellor Barney Glover and ably assisted by Assistant Vice-Chancellor Dr Andy Marks, who facilitated this launch and this facility. Beginning with James Ruse, Australian farming started in western Sydney. With the Agri Tech Hub supported by a dedicated agribusiness precinct at the aerotropolis and a 24/7 international airport, it is set to reach its next frontier in western Sydney.

AGRICULTURE PORTFOLIO

The Hon. MICK VEITCH (18:51): Recently I was reappointed the shadow Minister for agriculture in the Minns shadow ministry. On returning to this important portfolio I noticed that there are a number of issues requiring leadership from the New South Wales Government. This is, after all, a multibillion-dollar food and fibre sector. The last time I was in the role the Minister was a former colleague of ours, the Hon. Niall Blair. I quite enjoyed our sparring sessions on the floor of this Chamber. We certainly ensured that primary industries issues were front and centre of the debate in this place. I quite often disagreed with the nature and substance of the policies and programs that the former Minister put in place, but I could never fault him on his work ethic and his

passion for the sector. I know it is not healthy to compare the reigns of former Ministers with those of current Ministers, and I suggest to the House that time will be the judge of the current agriculture Minister.

One day I shall return to the issues that bedevilled the response to the mouse plague, but today I express my concerns about the Government's response to the shortage of workers to bring in this year's harvest. This important sector has done it tough over the past few years, with fires, floods and one of the worst—if not the worst—droughts in living memory. Nature has been kind over the past year or so when it comes to the weather, and we are facing the prospect of a bumper harvest season. That is welcome news right across the State. However, there is one very concerning issue: the labour supply needed to bring it all in, harvest our fields, pick our fruit and vegetables, and shear our sheep. This is not a scenario that has just landed on our doorstep. We got a glimpse of the potential impact last year, and now this issue is smack-bang in front of us, with apparently very little action from the Government.

We are now midway through spring and the harvest season is upon us, yet the Government has dithered and delayed to such an extent that it is making announcements as late as this week on measures to try to get our harvest in. Why so late? Someone has been asleep at the wheel and the blame must lie squarely at the feet of the Minister. Border restrictions have impacted getting workers out into the regions. In 2018-19 around 40 to 50 per cent of the national casual and contract workforce employed on farms were international workers; around 11,000 were employed in New South Wales alone. That workforce measure or supply has largely disappeared. As I have said, this was not a sudden shock to supply. This was something all policymakers knew was coming. Other jurisdictions—good Labor governments in Victoria and Queensland—have responded well, putting in place financial incentives to attract seasonal workers to farms, as well as critical coordinator roles to ensure worker movement from harvest region to harvest region is as efficient as possible.

Yet New South Wales has not followed this path, despite the pleas of groups like NSW Farmers. NSW Farmers have released a 10-point plan that includes the following: certainty for mobile workers and farm businesses; a targeted communications campaign; coordination assistance; incentives to participate in agricultural work; localised initiatives; facilitation of the timely flow of international seasonal workers; creation and deployment of harvest-ready training and upskilling; assistance for agricultural businesses to strengthen COVID-19 mitigation measures; appropriate accommodation options; and the establishment of an agriculture seasonal workforce working group. All I have seen from the Minister is the establishment of a task force, announced on the first day of spring this year. As I said at the time, it was a plan for a plan. It should have been established 12 months earlier.

I do not take issue with the task force. I take issue with when it was announced. It should not have been announced a few weeks out from harvest season. It should have been announced last year, when we knew workforce shortages were going to be a problem. This week the Government has announced the initiative to allow public servants in the Department of Regional NSW and the Department of Primary Industries to take five days leave to help secure the harvest. I have met with NSW Farmers, the Australian Workers' Union, the Shearing Contractors' Association of Australia and other stakeholders and discussed this issue. We canvassed both short-term solutions and long-term policy settings. What we have not seen from this Minister or this Government is an adequate and proportional response. It has been assumed for decades now that there is an interdependent, freely flowing labour market, but that is just not the case.

We need to invest in our domestic labour resources. That means investing in TAFE so that not only do we have the workers ready and able to bring in our harvests and shear our sheep, but we also have the teachers, trainers and mentors imparting skills and knowledge to the next generation of agricultural workers. Governments have been caught out by COVID, which has smashed many of the assumptions that we bring to the policy and program table when planning for regular economic activities like seasonal harvests. We need proactive, nimble and dynamic leadership in all policy areas, and none more so than our \$15 billion food and fibre sector. We need to ensure we have the plans, policies and programs in place not only to protect our sector from COVID-style shocks, but also to grow the sector, increase employment and support our farmers. The State, the regions and our farming sector deserve a whole lot better.

COVID-19 PATIENT HEALTH CARE

Ms CATE FAEHRMANN (18:56): On 25 August Wilcannia elder and community spokeswoman Monica Kerwin spoke out against the treatment of a young COVID-positive woman in her community who was struggling to breathe. She went to the local hospital for help but was barred from entry and left to sit outside. The woman was treated and discharged the following day by the Far West Local Health District. Monica Kerwin posted a video on Facebook that night in which her frustration and fury at what was happening in her community were palpable. I will read out some of her comments because I think it is important that they become part of the record of the Parliament of this State. She said:

They turned her away and left her outside, like a dog to sit in the cold.

They don't have a COVID plan here, they don't have ventilators, they don't have anything. I think they've just got body bags.

This is how (NSW) Health is treating our people.

How many more Aboriginal people are they going to treat like this?

As a resident of Greater Sydney, where COVID-positive patients are, in the main, closely monitored in and out of hospital by health staff, I know I was not the only one who found Ms Kerwin's words shocking. To think that in New South Wales someone—anyone—would be barred from a hospital and left to sit outside in the cold whilst in urgent need of medical care is truly a disturbing thought. Wilcannia hospital was unable to treat the young COVID-positive woman because at the time they did not have a single ventilator. This is despite the fact that throughout July and August Wilcannia was experiencing some of the highest per capita infection rates and active cases in all of New South Wales, and despite claims from the health Minister that our intensive care units and critical care network are well equipped and prepared for COVID outbreaks. Clearly he was not referring to regional New South Wales.

The roots of this problem extend far beyond the recent COVID outbreak in the community. The town of Wilcannia has been in a public health crisis for years and has had the lowest life expectancy rate across the entire country for many years. Maari Ma Health Aboriginal Corporation wrote to the Prime Minister in August, stating:

... positive COVID-19 patients are still being ... forced into overcrowded accommodation with people who have yet to contract the disease. This would only – and has only – occurred in Aboriginal communities.

Despite years of calls from residents and First Nations communities for improved health care and living conditions, the bare minimum, if anything, has been done. Dr Peter Malouf from the Aboriginal Health and Medical Research Council of New South Wales has said:

This Government ... is very lacking in engagement, particularly in listening to the voices of Aboriginal people in communities ...

He has also said:

... the problem with this current outbreak is that Aboriginal voices are silent, particularly in communities where they are so vital to the response.

When COVID hit Wilcannia in July and August, the Government decided not to take responsibility for its failure to address the dismal health conditions in the town, but instead blamed residents. Health Minister Brad Hazzard compared the actions of residents attending a funeral in Wilcannia, where there were no health restrictions, to the actions of people at a party in Maroubra, where stay-at-home orders were in place. The Minister called the funeral attendees "selfish". He has since said that he regrets any hurt caused but has offered no apology to Wilcannia residents, whose communities have experienced some of the highest COVID case numbers per capita in the State and who for years have suffered from substandard access to health care. The Minister has also tried to blame them for the current rural healthcare crisis caused by this Government's years of inaction.

Residents deserve much more than an apology from the Government. They deserve to be able to access culturally appropriate, quality health care, social services, accommodation and education. They do not deserve to be left out in the cold, ignored by the Government and blamed for an outbreak that was not their doing while their community suffered.

NET ZERO EMISSIONS

The Hon. BEN FRANKLIN (19:00): "Net zero for New South Wales" certainly has a nice ring to it, and this Government is well on its way to achieving it. The State was one of the first jurisdictions in the country to commit to net zero emissions by 2050. As Parliamentary Secretary for Energy, it is something that I am extremely proud of. This Government is not only committed to net zero emissions by 2050 but also set to halve emissions within a decade. By 2030, New South Wales will halve its emissions on 2005 levels while at the same time—and this is critical—doubling the economy. This Government is also setting up the State to be a renewable energy powerhouse. The global demand for low-carbon products and investment is only increasing, and the Government is investing in industry and technologies today to meet the needs of tomorrow.

However, cutting emissions cannot come at the expense of cutting jobs. I know that is something you are very passionate about, Mr President. The Government is creating new industries and opportunities as it transitions from more traditional forms of energy production to more renewable and sustainable energy sources. It is investing in and building for the future. Government members recognise the significant responsibility they have to address the issue of climate change. The State's net zero strategy is exactly what practical action looks like. Halving 2005 emission levels by 2030 in New South Wales will be achieved through the Government's Net Zero Plan Stage 1, which includes the nation-leading Electric Vehicle Strategy that was discussed earlier, the \$750 million Net Zero Industry and Innovation Program, the Waste and Sustainable Materials Strategy and—how could

members forget, the thing that we were here day after day for—the delivery and passage of the Electricity Infrastructure Roadmap.

Under the Net Zero Plan, the Government will make New South Wales the easiest place in Australia to buy and drive an electric vehicle. It will provide rebates of \$3,000 and phase out stamp duty to support the purchase of electric vehicles. It will also build a network of electric vehicle charging stations up and down the State's major highways, partnering with bodies like the NRMA to get that done. Earlier this year I opened one in Tenterfield. Under the Net Zero Plan, problematic single-use plastics will be phased out, better waste disposal opportunities will be created for infrastructure and biogas generation from waste will be invested in. The Government will also invest \$750 million to work with Australian industries to research and develop clean, affordable and accessible technologies for hard-to-abate industries like heavy-duty transport, cement and steel. Simply put, we are embarking on a new, clean industrial revolution!

The Net Zero Plan is expected to attract more than \$37 billion in private sector investment. It will create over 9,000 direct jobs and fuel the creation of tens of thousands more decades into the future. Most importantly, the plan will also cut energy prices for families and businesses. New South Wales is at the forefront of helping Australia to decarbonise. Yesterday the Government unveiled its hydrogen strategy, which will offer \$3 billion worth of incentives for green hydrogen that will set up the State for success. That strategy follows a \$70 million commitment to establish hydrogen hubs in New South Wales. People in regional New South Wales are the clear winners in this Government's plan to protect and ensure the future of the State. The hydrogen industry will be focused in the Illawarra and the Hunter, where renewable energy zones will be established, as well as in New England, the Central West and southern New South Wales. Workers in those regions will be futureproofed with long-term, high-paying and sustainable jobs.

As the world transitions away from traditional sources of energy such as coal, New South Wales must be ready to fill the needs of a global market. The State must be ready to maintain its position as a leading exporter of energy—something that it has always done. The world is clearly embracing renewables to fulfil its energy needs, and by 2050 the hydrogen industry is forecast to be bigger than the coal industry. New South Wales must be ready for that, and it will be. The Net Zero Plan is not just about setting targets for the sake of it or to tick a box. It represents real change and is supported by dedicated action that this State needs to take now. The Government is making inroads in a way that no other government in this State's history has done. Are the plans bold? Yes. Are they ambitious? Yes. Do they achieve environmental and economic goals at the same time? Absolutely.

COVID-19 AND WESTERN SYDNEY

The Hon. SHAOQUETT MOSELMANE (19:05): New South Wales is back in business and western Sydney, the engine of the economy, is back in action. I thank the two million people in western Sydney, as well as all the essential workers and healthcare staff—paramedics, nurses, doctors, hospital managers and cleaners—in New South Wales. I also thank all the business owners throughout New South Wales, particularly in south-west and western Sydney, for their perseverance and cooperation, and for keeping their staff on the payroll and therefore their families protected from the pain of unemployment. I thank all the mums and dads for their perseverance in getting through the tough lockdown for 3½ months with three, four, five or sometimes even six children and little breathing space. During the lockdown members of Parliament did not have to go through the stress of worrying about monthly salaries; they were received without delay. That was not the case for many workers. For them, it was tough, and we owe them a great debt of gratitude.

I express my condolences to all the families who have lost loved ones due to the Delta variant outbreak. The case of the Ibrahim family, who lost their mum and dad within a couple of weeks of each other, highlights the shocking impact that Delta has had on many families. While the people of western Sydney did it tough, the Government shamefully blamed those with "other backgrounds" as being responsible for the continued spread of the virus. I found it disgusting and insulting to the many hardworking, law-abiding migrants from western Sydney. The Government must rectify the damage that it has caused the people of western Sydney by introducing necessary policies to help them get back on their feet. Simply lifting the lockdown does not magically clear the debt it owes. The Government must also help with energy and rental costs, council rates and other costs associated with the hardship that people have endured.

One approach is to extend COVID economic support to families and extend the payroll tax reductions for businesses. Small businesses still have to pay deferred rental payments. Just speak to Allan Zreik, a small business owner and President of the St George Chamber of Commerce or Mr Mohamed Moubayed, President of the Rockdale Chamber of Commerce. They will explain how tough it was to keep their businesses running. We cannot simply move on as if nothing had happened and leave behind the people of western Sydney.

The statistics speak volumes. Job advertisements are down over 60 per cent in parts of the west and south western Sydney. Similarly, small businesses in the same area have suffered losses in trade of up to 70 per cent.

Since the start of the lockdown nearly 18 per cent of jobs have been lost in parts of the south-west in areas where 20 per cent of adults are on disaster support payments. We should focus our recovery effort on western Sydney and we should make our budget decisions with its residents in mind. They deserve our highest attention and financial assistance. As I said earlier, western Sydney is the engine of our economy and it is also a population growth area. In two decades Parramatta's population is set to increase by 204,000; Camden by 227,000; Liverpool up 229,000 and Blacktown by 264,000 people.

Our priority is building infrastructure where Sydney is growing. That sense of urgency and attention must be extended to regional New South Wales after suffering years of drought, bushfires, floods, the pandemic and being chronically under-resourced. To many in Sydney's west and rural and regional New South Wales, the words "we are all in it together" are hollow words. As the Leader of the Opposition said in his budget speech, "the Liberals have played politics of geography their entire decade in power and the two million people of western Sydney are sick to death of it." It is now time for the people of New South Wales to turf out this Liberal-Nationals Government.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 19:11 until Tuesday 19 October 2021 at 14:30.