



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

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LEGISLATIVE COUNCIL

Thursday, 21 October 2021

The PRESIDENT (The Hon. Matthew Ryan 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

CROCODILE FARMING

The Hon. EMMA HURST (10:01): I seek leave to amend private members' business item No. 1386 outside the order of precedence by omitting "Hermès" in paragraph (2).

Leave granted.

The Hon. EMMA HURST: Accordingly, I move:

- (1) That this House notes that:
 - (a) Australia accounts for 60 per cent of the global trade of crocodile skins;
 - (b) each year, thousands of Australian crocodiles are caged and brutally slaughtered and turned into expensive handbags, belts and shoes;
 - (c) on 30 August 2021, photos and footage released by Kindness Project revealed the shocking conditions in which crocodiles are held on farms in the Northern Territory operated by fashion brand Hermès; and
 - (d) Hermès is currently planning to expand its operations in Australia and build a new intensive farm that will house up to 50,000 saltwater crocodiles.
- (2) That this House calls on the New South Wales Minister for Energy and Environment, the Hon. Matt Kean, MP, to raise the issue of crocodile farming at the next Environment Ministers Meeting, and ask the Federal Minister for the Environment, the Hon. Sussan Ley, MP, to deny export permits for crocodile skins.

Motion agreed to.

Committees

PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE

Extension of Reporting Date

The Hon. COURTNEY HOUSSOS (10:03): On behalf of the Hon. Tara Moriarty: I move:

That the reporting date of Portfolio Committee No. 1 - Premier and Finance for its inquiry into the Public Interest Disclosures Bill 2021 be extended to 23 November 2021.

Motion agreed to.

Motions

KYOGLE LIONS COMMUNITY FOOD PANTRY

The Hon. BEN FRANKLIN (10:03): I move:

That this House:

- (a) notes that the Kyogle Lions Club officially opened their new Community Food Pantry on 30 September 2021;
- (b) notes the Kyogle Lions Community Food Pantry:
 - (i) offers free fruit and vegetables and other grocery items at reduced prices to vulnerable members of the community; and
 - (ii) supports over 500 people a month.
- (c) recognises that the pantry was previously operated by the Seventh Day Adventist Church and was significantly renovated and expanded upon by the Kyogle Lions Club to offer more support to the community;
- (d) notes the service could reopen thanks to support from:
 - (i) community and Kyogle Lions volunteers;
 - (ii) local businesses;

- (iii) local tradies;
 - (iv) Foodbank NSW and ACT;
 - (v) a generous rent reduction from the building owner; and
 - (vi) a grant from the New South Wales Government.
- (e) thanks and congratulates project manager Roz Knights and the Kyogle Lions Club on the success of their project and the meaningful and valuable support they are providing to the community.

Motion agreed to.

INTERNATIONAL DAY OF ACTION ON BIG BIOMASS

Mr JUSTIN FIELD (10:04): I move:

- (1) That this House notes 21 October 2021 is the International Day of Action on Big Biomass which aims to raise global awareness about the importance of protecting forests as action on climate change and to highlight the risks to native forests around the globe from the biomass industry including their burning for electricity or for other energy production.
- (2) That this House notes increasing efforts to open up the biomass to energy sector in New South Wales to burn native forest biomaterial for electricity production or use gasification technology to produce hydrogen.
- (3) That this House notes that the recent bipartisan report of the Legislative Assembly Committee on Environment and Planning found in its August 2021 report entitled *Sustainability of energy supply and resources in New South Wales* that native forest biomass is not a renewable energy source.
- (4) That this House supports the use of genuinely renewable and sustainable biomass from plantations and agricultural wastes for energy production in New South Wales but expresses its concerns about the potential impact on New South Wales native forests of expanding access to native forest biomaterials for the biomass to energy sector.

Motion agreed to.

HUNTER MANUFACTURING AWARDS

The Hon. TAYLOR MARTIN (10:04): I move:

- (1) That this House notes that:
 - (a) on Friday 15 October 2021 the winners of the 2021 Hunter Manufacturing Awards were announced;
 - (b) the awards were presented online due to the COVID-19 pandemic restrictions;
 - (c) the awards inspire and encourage vibrant and enduring manufacturing in the Hunter; and
 - (d) winners of awards included:
 - (i) Rising Star: Sonia James;
 - (ii) Outstanding Start Up: MGA Thermal;
 - (iii) Excellence in Building Workforce Capability for the Future: Morgan Engineering;
 - (iv) Excellence in Export and Global Supply Chain: Chamberlain Group;
 - (v) Excellence in Innovation: SwitchDin;
 - (vi) Excellence in Manufacturing Capability: Elecbrakes;
 - (vii) Excellence in Product Design: Ampcontrol;
 - (viii) Excellence in Sustainable Operations: Molycop;
 - (ix) Collaboration Partnership: Steber International, Ampcontrol and the University of Newcastle;
 - (x) Manufacturing Leader: Steven Dee;
 - (xi) Manufacturer of The Year - Less than 50 Employees: Brain Industries; and
 - (xii) Manufacturer of The Year - 50 employees or more: Molycop.
- (2) That this House congratulates all winners of the 2021 Hunter Manufacturing Awards.

Motion agreed to.

HUNTER REGION NSW VOLUNTEER OF THE YEAR AWARDS

The Hon. TAYLOR MARTIN (10:04): I move:

- (1) That this House notes that:
 - (a) on 1 October 2021, the 2021 Hunter Region NSW Volunteer of the Year Awards were held by The Centre for Volunteering;
 - (b) the awards were presented online due to the COVID-19 pandemic restrictions;

- (c) the awards celebrate the efforts of the Hunter's volunteers across several categories;
- (d) the 2021 Hunter Volunteer of the Year was Kevin Stokes, who received his award following 36 continuous years as a volunteer at the Hunter Region Botanic Gardens; and
- (e) other awards presented were:
 - (i) Senior Volunteer of the Year: Kevin Stokes;
 - (ii) Young Volunteer of the Year: Hayley Johns;
 - (iii) Adult Volunteer of the Year: Leanne Pitt-Barile; and
 - (iv) Volunteer Team of the Year: Lego Therapy Volunteer Team.
- (2) That this House congratulates award recipients for their dedication and commitment to volunteerism and the Hunter community.

Motion agreed to.

Rulings

LEGISLATIVE COUNCIL CUSTOMS AND PRACTICE

The PRESIDENT (10:12): Honourable members, whilst I am not naturally a person that stands upon formality or position, I make the following observations regarding certain customs and practices of this House. As members would know, upon entering and leaving the Chamber, members should acknowledge the Chair. This usually takes the form of a short bow or nod to the Chair. Acknowledging the Chair serves a number of purposes. It is a mark of respect to the office, but also it is a courtesy to the House as a whole and contributes to the orderly conduct of the House and the demeanour of honourable members. On a more practical level, the Chair is more likely to know who is in the Chamber and how to allocate the call if members acknowledge the Chair when they enter or leave the Chamber. I remind all members on walking in and out of the Chamber to show respect to the Chair, irrespective of who is occupying it at the time.

Bills

MODERN SLAVERY AMENDMENT BILL 2021

Debate resumed from 14 October 2021.

The Hon. JOHN GRAHAM (10:13): I speak for the Opposition on the Modern Slavery Amendment Bill 2021. I start by referring to one of the most important, but also one of the least important, people in this debate. I do not think he would mind that last tag. That is our former colleague the Hon. Paul Green. I think members know he was one of the most important people in this debate because he championed it. He was so proud to introduce this piece of legislation to the House, with the help of many members, including yourself, Mr President. The bill was very popular at the time, but the Hon. Paul Green was a very important person for the bill. He had the perspective that he was one of the least important people for this piece of legislation. In his speech he quoted Proverbs 31:8:

Speak out on behalf of the voiceless and for the rights of all who are vulnerable.

The Hon. Paul Green understood the reason this legislation was so important. As proud as he was of it, he knew it mattered more to New South Wales, the country and the international anti-slavery movement than it did to him. He knew it mattered more to vulnerable people than it did to him. As proud as he was, he understood the important people in this debate are those who are most vulnerable. The protections in this bill were always aimed at helping and giving a hand up to those people. His role was acknowledged by the former Premier and co-sponsor of the Modern Slavery Bill 2018 when she introduced it in the other place. In her second reading speech the Premier said:

I urge all members in this place and people in the community to read the Hon. Paul Green's speech in the other place, if they have not already done so. I thank the honourable member for his tireless efforts both inside and outside the House.

This is familiar territory for members in the Chamber who spoke some time ago in debate on that bill. If colleagues are looking for their speeches, they will have to shuffle around in the drawer and reach for the 2018 folder. It was that long ago when we first dealt with this matter. In 2018 the Modern Slavery Bill passed the Parliament to acclaim and applause and received royal assent on 27 June 2018. Some 1,211 days have elapsed between Parliament passing that bill and the introduction of this amending bill. The original bill was passed more than three years ago. I dug out the speech I made in 2018. The important thing that I am glad I said was, "It is a fundamental act of compassion to drive this through." I was slightly more optimistic than events have turned out to warrant when I said:

Today we act in New South Wales but, importantly, in doing so we assist the fight around the world. I congratulate the committee and its chair and the Parliament. Today in this jurisdiction we take a big step in tackling the problem that was identified in 1930 by the International Labour Organization.

In late 2021 it is profoundly disappointing for the members of this House and for the Parliament as a whole that the Modern Slavery Bill, assented to on 27 June 2018, is now proposed to commence on the first day of 2022. The Minister has outlined the provisions of the bill quite well. It makes a range of changes. Crucially, the bill specifies the date of commencement of the Modern Slavery Act. Secondly, it amends the functions of the anti-slavery commissioner. Thirdly, it repeals provisions that require commercial organisations to prepare modern slavery statements. That is a crucial amendment.

The key change of concern to the Opposition, which I will address in more detail, is removing any requirement for businesses in this State to report on modern slavery under the New South Wales scheme, leaving companies to report only under the Commonwealth scheme. As the Minister pointed out, the effect of that is to require reporting only for those companies with a consolidated revenue of greater than \$100 million. Casting our minds back to 2018, when the original regime passed through the Parliament it received significant acknowledgement. That was captured well in the excellent report of the Standing Committee on Social Issues on its inquiry into the Modern Slavery Act 2018 and the draft amending bill. With respect to the reaction to the Act, the report stated:

... the Sydney Archdiocesan Anti-Slavery Taskforce characterised the NSW Act as 'the strongest and most comprehensive Anti-Slavery Act in the world', while the Australian Red Cross pointed out that New South Wales was the first jurisdiction in Australia to legislate against modern slavery and only the second jurisdiction in the world to provide for an Anti-slavery commissioner. The Australian Red Cross also expressed the view that the NSW Act would not only play a significant role in addressing modern slavery in this state, but also 'make an important contribution to addressing modern slavery in Australia and internationally'.

That was the reaction. The Act met with acclaim, not just in this Parliament but as it travelled outside of the Parliament. That is the reason we are disappointed with the approach that the Government takes today. What approach will the Opposition take in response? Firstly, we welcome the fact that there is now a date for implementation of the Act. Certainly we are keen to make sure that occurs and that action is taken in this field. That is a crucial part of the bill. Secondly, the significant and detailed amendments, the improvements, that are outlined in the committee's report are very welcome from the Opposition's point of view. They are steps forward in the detail of the Act and the regime that is being proposed. We welcome those improvements and we are keen to ensure that they are part of the regime that comes into force on 1 January 2022.

Thirdly, I place on record our concern about the significant issues of substance in the bill that weaken the original regime. Firstly, the specifics concerning the role of the anti-slavery commissioner and, secondly, the complete removal of business reporting and associated penalties. I flag that the Opposition will move amendments during the Committee stage of the bill. We will detail those amendments at that stage, but I indicate that we will oppose the removal of section 24 of the Act, which provides that businesses with an annual turnover of more than \$50 million must report on their supply chains to ensure that slavery was not used at any point.

In his second reading speech, Minister Harwin mentioned that the 2018 bill was introduced a week before a Federal bill was introduced and indicated that section 24 overlapped the Federal legislation. That is the crucial element of the Government's defence for removing the reporting requirements in section 24. However, when we debated the Modern Slavery Bill 2018 and it was passed with acclaim through this House, and when the former Premier co-sponsored it to acclaim through the Legislative Assembly, we knew about that Commonwealth legislation. My view at the time was:

... regardless of what the Commonwealth Government does—and I hope it does act—it is appropriate and important that the New South Wales Parliament take a strong stand. I support the bill on that basis, but I also support an international approach.

The key is recognising that modern slavery is a pernicious problem. Its networks are difficult to track down. If we do not act locally, nationally and internationally, it is not possible to tackle this difficult problem. That is the view that the Opposition takes when seeking to regulate in this area. In debate on the original bill, we put on record our view that a wholesale local, national and international approach was necessary. Our position today is consistent with that. We do not accept that because the Commonwealth has also moved in this sphere, which we knew about at the time, should be a bar to the New South Wales Parliament also taking action. In any event, the current bill's removal of the supply chain provisions does not address a precise overlap. Those corporations with an annual turnover of between \$50 million and a consolidated revenue of greater than \$100 million will avoid a transparency obligation that currently exists in the Act and is not duplicated at the Federal level. Further, the New South Wales Act has enforcement provisions in the case of a failure to report or false reporting.

The Commonwealth approach has no such provisions, which is another crucial reason that the New South Wales Parliament should act. In its support of the supply chain reporting provision, the Standing Committee on Social Issues noted in its March 2020 report that an estimated 1,650 organisations fell in the gap between the

\$50 million and \$100 million reporting category and the two slightly different reporting measures. Again reiterating my view from 2018, putting obligations on companies is a good measure. It will be important over time as we legislate on modern slavery and will help to fulfil the obligation of our State and country to tackle the problem around the world. I noted at the time the evidence given by Fortescue Metals and how it dealt with its supply chains. The Fortescue Metals Group provided a really good example of how this works in practice, so I quote them again:

The risk assessment process for a company—and let us say a company has 3,000 suppliers ... from 3,000 suppliers having applied that risk assessment process, you might end up with between 10 and 12 in the high-risk category. Then that allows you to actually focus. You cannot do much with 3,000; you can do a lot with 10 or 12.

To me, that was a good insight about how companies might deal with the process and should be encouraged to deal with the process. However, that encouragement falls away if the reporting falls away with the bill that has been introduced by the Government. Unions NSW has been outspoken on this issue. Its concern is about foreign workers in Australia because it has found that almost 80 per cent of advertised positions were offered at below the minimum wage. Unions NSW Mark Morey said:

Some people are just fearful of coming forward to complain about employers for the ramifications that may occur from that, such as having their visa cancelled.

We have seen a number of high-profile cases, many of which have been prosecuted by the Opposition in this place, which spelt out why that is such a concern. The biggest of those was the 7-Eleven case, which provided a number of examples of how international students were exploited into working longer hours for remuneration. I thank the Shop, Distributive and Allied Employees' Association NSW [SDA] for spelling out some of those details in its submission to the committee inquiry. I will put a couple of those examples on record because they are classic examples of what happened in that case. I quote from the submission:

Sam Pendem was required to work 18 hour shifts in breach of his visa conditions and Australian labour law. He was threatened by his employer they would go to the Department of Immigration to have his visa cancelled if he complained about his pay or visa conditions.

Another worker resigned from his job after getting a back injury at work:

He later confronted his employer for unpaid wages but his employer's solicitor sent him a letter threatening to report him to the Department of Immigration for working more than 20 hours a week.

I thank the SDA and its team for putting those examples front and centre as we debate the bill. Crucial to that view is this position:

This also creates a level playing field among commercial organisations who apply and act responsibly on requirements enshrined in legislation and those who would seek to do the opposite.

That view is fundamental to why we do not see this as red tape or something that is an extra burden on companies. We are cautious about that and Parliament should be cautious about additional burdens it places on companies. We firmly believe it is good for good companies. It is about levelling the playing field and not allowing exploitation to be an advantage. It is about not allowing exploitation to add to the bottom line to the disadvantage of the company that is not prepared to treat its employees as equals and according to Australian law.

In saying that it is good for good companies, we argue that—and this is one of the reasons there is significant support among Government members for those propositions—it is fundamental to making the market work for those companies. We know what will happen without those protections. There is a price and profit advantage for companies that cut corners, which is bad for New South Wales, but it is bad for individuals who are caught in the crossfire. That is why we seek to protect those provisions. The reaction to the Government's amendment bill has been quite strong. The community is significantly disappointed. International Justice Mission Australia CEO Steve Baird said:

While there are some important elements included in the Government's legislation, it simply does not go far enough.

Without reporting requirements, we are failing people being exploited by modern slavery and letting businesses using modern slavery off the hook.

If the NSW Government won't include modern slavery reporting requirements in its Act, it needs to commit to playing an active role in the upcoming review of the Commonwealth scheme to ensure strengthened reporting requirements and a robust compliance regime at a national level.

There are also a number of crucial changes that need to be made by the NSW Government to give it some more teeth.

We are urging Minister Harwin to guarantee in legislation the independence of the Modern Slavery Commissioner. We need to have a Modern Slavery Commissioner that is truly independent from the Minister of the day, something more akin to the Aged Care Commissioner.

It is also crucial that state owned corporations, including local governments are captured by the legislation.

We are urging Premier Perrottet to reflect on this amended legislation and give it back the teeth it needs to tackle the scourge of modern slavery.

That is one reaction from an organisation that has led this campaign. Be Slavery Free has been working behind the scenes to get the Government to proclaim the Act. The group comprises 117 organisations, academics, lawyers and many community and faith leaders. I will not name them all. Many women's organisations are also included and we know how important those issues are to vulnerable women. Together those organisations recently urged the new Premier to act and maintain those aspects of the Act that drive supply chain transparency. They said:

We note that there have been some positive announcements including a commitment to appoint a Modern Slavery Commissioner and to provide support for victims. We welcome these commitments but believe that in isolation from other aspects of the NSW Modern Slavery Act (2018) their impact will be limited. In particular, we believe that legislation or regulation to require steps are taken to ensure modern slavery is excluded from the supply chains of goods and service procured by state and local government is essential. We also ask that the proposed supply chain transparency scheme be included.

So there has been a strong reaction from the groups most concerned about the Government's approach, which is why we will seek to work in good faith through the Committee stage of the bill to get back to the original intent of the bill. At the start of this process in 2018 we put on record that we were happy to work through technical amendments. New South Wales is moving early in this area. The Opposition is open to getting this right, but we are not open to inaction or leaving the problem to rest. We are not open to pretending we can tackle it internationally and nationally without doing anything in New South Wales. That is not an option for the Opposition.

In fact, the Opposition would have preferred to go further in the original bill. I will not rehearse the arguments the Hon. Adam Searle made, but I hope that he will in his second reading debate contribution. He spelt out four or five areas where we would love to see the regime go further. That remains the hope and aspiration of the Opposition, which we have spelt out in policy that we put before the electorate. In dealing with the bill today we will not take the approach that because the Government has dropped the aspiration so low we will seek to return to the original bill that was passed with acclaim. Our hopes remain high, which my colleague will outline further. I thank him for the role he has played. This has also been of real interest to a number of people across our team and the Chamber, so I recognise all members who have dealt with this. From the Opposition I acknowledge the Hon. Adam Searle; the Hon. Daniel Mookhey, who served on the committee; Dr Hugh McDermott in the other place; and my fellow shadow Ministers in this area, Ms Sophie Cotsis and Mr Michael Daley, who have been instrumental in driving the Opposition approach on this recently.

I thank another member of this Chamber who has maintained a vigil over the 1,211 days of this legislation, and that is the Hon. Greg Donnelly. Over that 1,211 days the Government was never in doubt of where the Hon. Greg Donnelly stood on this issue or that he would keep pursuing action in this area. He sat on the committee, and, along with a lot of other members across the Parliament, raised the issue repeatedly. He kept the focus on it to make sure that, whatever the settlement, New South Wales would be taking a step forward and keeping a focus on this area. I thank him particularly. I will return in closing to the former Premier's comments in the other place about our former colleague the Hon. Paul Green. She said this about him:

I thank him for his support and understanding because we all want to ensure a smooth transition and for the intent of the bill to be reflected in our Government's ability to implement it as soon as we can, and that is my intention.

The fact that we have had this delay and that we have a bill that is substandard to that amended approach negotiated with the Hon. Paul Green and other supporters of this legislation is an affront to this Parliament and Chamber in many ways. We do not seek to prosecute that in detail because the real affront here is to the vulnerable people who rely on this Parliament taking action and who rely on New South Wales stepping up. That is the real concern that underlines the Opposition's approach.

For that reason, we will be vigorously participating in the Committee stage, seeking to bring back some of those principles from the original bill and engaging constructively with the Government to see if we can return to the hope that accompanied the debate as this Parliament passed the original bill. It was driven by the Hon. Paul Green and by his important role in the discussion, but really it was driven with a focus on the many people who will rely on this assistance if we get this right. With that, I commend the bill to the House.

The Hon. SHAYNE MALLARD (10:37): I speak in support of the Modern Slavery Amendment Bill 2021. In June 2018 the Modern Slavery Act was passed by the Parliament after being introduced as a private member's bill by the Hon. 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 was well intentioned—no-one denies that. But, unfortunately, the Act as drafted did not achieve all of its intentions due to several technical legal deficiencies that raised a number of constitutional issues. As has been referred to, I chaired the Standing Committee on Social Issues inquiry into the draft amendment bill, the final outcome of which is ultimately what we are dealing with today. We certainly heard evidence during that inquiry

deficiencies in the Act were identified at the time it was proposed to this House and the lower House. That came to light in a serious way once the Act was dealt with in the Houses.

After the Government sought legal advice and advice from operational agencies charged with the implementation of the Act, which I might refer to in a minute, the Government took the view to get the amendments right. It is now in a position to introduce this amendment bill to resolve those issues that were identified. The Act will commence operation on 1 January 2022. The process for addressing the deficiencies in the Act has been longstanding and transparent. As I said, the Government provided a draft exposure bill, the Modern Slavery Amendment Bill 2019, to the Standing Committee on Social Issues as part of its inquiry into the Modern Slavery Act 2018. As I said, I chaired that inquiry. The other members of that inquiry were the Deputy Chair, the Hon. Daniel Mookhey; the Hon. Greg Donnelly, whom I also acknowledge for his passion, interest and care about this issue; the Hon. Ben Franklin; Reverend the Hon. Fred Nile; Mr David Shoebridge; and the Hon. Natalie Ward. Whilst I singled out the Hon. Greg Donnelly, every member of the inquiry was passionately involved and concerned about this issue. Not one of them was disengaged.

The committee consulted with a range of stakeholders, it invited submissions from members of the public and I recall that there was a forum at Parliament House, which I attended. We carefully considered the Government's draft exposure bill. The committee's subsequent report made 17 recommendations, and I am pleased to say that the Government has amended the draft exposure bill to implement many of them. I note that the report was by majority. I do not pretend that it was a consensus report. Indeed, there were some dissenting statements, from memory, from the Hon. Greg Donnelly and the Hon. Daniel Mookhey. Nevertheless, the bill has received the benefit of being examined by a committee with a full and open inquiry process. In fact, many of the people who made submissions and had concerns still maintain contact with me through social media or in other ways, so we established a good rapport.

A key feature of the bill is the establishment of Australia's first substantive anti-slavery commissioner. I think that is really important to note. The previous speaker was pointing out concerns around something that is not in the bill, but there are some things in this bill that make it distinctive internationally, and one of them is the anti-slavery commissioner. The Federal anti-slavery legislation does not have a commissioner. It sits within National Security, in what I think was Minister Dutton's area at the time, but it does not have a commissioner per se. We have established the first one in Australia. This is indeed a landmark moment, building on the work of the former interim anti-slavery commissioner, who came and spoke to us. The role will be given the statutory remit to raise awareness and provide education about modern slavery, which is half the journey.

Crucially, it is expected that the anti-slavery commissioner will ensure that goods and services procured by government agencies are not the product of modern slavery. This will be achieved in a number of ways, including through the issuing of guidelines to ensure that goods and services are not the product of modern slavery and undertaking risk-based audits of the procurement of government agencies. There will also be a public register that will identify those government agencies that have failed to comply with the directions of the anti-slavery commissioner. From memory, that is very much the United Kingdom model—the name and shame approach. The power and purpose of the public database, which will expressly identify New South Wales government agencies that are not compliant with anti-slavery measures, cannot be understated. The New South Wales Government will be leading by example and holding itself very publicly to account to ensure rigour and full transparency in its anti-slavery measures.

The bill proposes a suite of new amendments to confirm and clarify the powers of the anti-slavery commissioner. In some respects, it will even enhance the commissioner's powers. For example, 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. That certainly came out in our inquiry. 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 purposes of exercising a function under the Act. The liability in such a situation attaches to the Crown. The new sections 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 doing their duties.

Further, it will ensure that neither the agency nor the commissioner are liable for complying with that requirement. Individuals cooperating with the commissioner can be comforted in the knowledge that their assistance will be protected and the amendments will provide them with sufficient cover while doing their duties. The amendment bill goes even further to provide the anti-slavery commissioner and staff with a defence of absolute privilege in the event of any defamation proceedings. The proposed amendment is a standard provision to protect public officials and their staff from liability where matters are published in his or her capacity as public officials. The effect of the amendment is that the commissioner will be able to proceed with this important work without fear of libel for acting in good faith in the course of performing the duties of that position.

A further provision will help facilitate the sharing of information between the Commissioner of Police and the anti-slavery commissioner. The new arrangement was requested by the NSW Police Force to assist in the implementation of the Act. It is an example of how the agencies were engaged during the process of amending the Act. The amendment will allow for the flow 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 when the Commissioner of Police reasonably believes that providing that information would prejudice an investigation or endanger a person's life or physical safety.

The new powers proposed for the anti-slavery commissioner will embolden the powers already provided under the Act. The current amendments build on the existing provisions to make sure the commissioner will have all the tools at their disposal to be most effective in their role. A few other elements of the bill responded to the Standing Committee on Social Issues inquiry report. The committee recommended that the Act be amended to include a statutory review conducted in conjunction with the Australian Government's statutory review of the Commonwealth Modern Slavery Act. The original Act did not have a statutory review component. The committee felt that a statutory review would be helpful to address the concerns raised with us, particularly by the corporate world and local government.

The Federal Act was implemented after the Houses passed the New South Wales Act. To respond to earlier comments in debate that we knew it was coming down the pipeline in Canberra, frankly we have been told many times before that something is going to be done in Canberra. We waited a long time and it has not happened. Moving the bill forward in New South Wales with the thought that it might be coming down the line in Canberra was not an unreasonable position to take. Other legislation that we have been promised has not happened. I will make the observation that I made in the committee report on the inquiry. In my view, in an ideal world we would have tough anti-slavery legislation in Canberra that is uniform across the nation, with a commissioner and a national standard, because modern slavery transcends all international, state and local government boundaries. Then the States would not need to legislate.

If we have inconsistent rules around the nation, unfortunately the darker end of those criminal elements involved in these practices—which go from sexual exploitation of people coming to Australia on some sort of visa through to corporate procurement—will move to another jurisdiction where they think they may have more wriggle room in their evil activity. The Federal Government has committed to a statutory review, including of the threshold. The Minister reported that to the House in a previous update. We should watch that closely to see if we can get alignment. Perhaps there is no need for a New South Wales bill if the Federal law is strong enough.

Nonetheless, the committee recommended a statutory review. Implementing a review allows the Government to evaluate the Act's operation, particularly related to its cooperation with the Commonwealth Act, and consider further amendments that may be necessary in New South Wales. Clause 34 of the bill amends the Act accordingly to require the Minister to review the Act's policy objectives following 12 months of its operation. I note The Greens will be moving amendments in Committee. As I outlined in my foreword to the committee's report, which I am sure all members have read, one of the most problematic parts of the Act as it stands are the provisions covering "modern slavery risk orders". I take it that the Opposition is comfortable with the position on the difficulty of those orders. They have been omitted in the amendment bill.

There was an understandable motivation behind these orders, which was to prevent reoffending by individuals convicted of charges under the Act. However, as highlighted in the committee's report and from the evidence received by the committee—and in fact this was the position of government agencies on the earlier bill—these orders risk challenging a fundamental principle of our justice system, that is, the presumption of innocence. Being convicted of a crime does not necessarily indicate that an individual will reoffend when released. This assumption casts doubt on the efficacy of the deterrent and rehabilitation functions of the existing corrective regime. We also had evidence that a whole suite of other tools can be applied to restrict activities of individuals who may reoffend in the existing legal system.

The final committee recommendation I will speak to is of significant importance to the victims of modern slavery offences. Recommendation 15 of the report advised the New South Wales Government to seek to amend schedule 5.7 of the Modern Slavery Act 2018 to give victims of acts of modern slavery access to recognition payments under the Victims Rights and Support Act 2013. These recognition payments of \$10,000 are given in respect of an act of violence of the following kind: a sexual assault resulting in serious bodily injury or which involved an offensive weapon or was carried out by two or more persons; or a sexual assault, sexual touching or sexual act or attempted sexual assault involving violence that is one of a series of related acts. This reflects the breadth of modern slavery. The dark end of it is sexual exploitation within our nation of people who have come here on visas, with goodwill, and who are basically kidnapped and exploited, through to the discussion around the corporate world. It is very broad.

As was highlighted in many of the stakeholder submissions received during the committee inquiry, modern slavery often entails a combination of physical and psychological violence to maintain victims' compliance. I think all members of this Chamber would agree that this is a particularly horrific form of violence, due to the subjugation experienced by the victims. Such traumatic experience is no less deserving of recognition payments for victims than those I described earlier. That is why the bill proposes to amend the Victims Rights and Support Act 2013 to include acts of modern slavery where existing references are made to victims of acts of violence.

Nothing can make up for the suffering that modern slavery offenders inflict. But making these recognition payments available will help victims access the resources needed to rebuild their lives and recover from their trauma. While the bill contains many improvements to the Modern Slavery Act, I have confined my remarks to those areas that I felt most passionate about during the committee inquiry, particularly with regard to the commissioner, which I know has been recognised internationally as a positive step. The additional provisions for the commissioner's role will make a difference in terms of educating the corporate world and our community about modern slavery. It distinguishes the bill from any other Act in the world. I commend the amended bill to the House.

Mr DAVID SHOEBRIDGE (10:52): I speak on behalf of The Greens in debate on the Modern Slavery Amendment Bill 2021. The Greens join with stakeholders from across society—faith groups, law reform groups, human rights groups—to say enough is enough. The Parliament passed the Modern Slavery Act in June 2018, well over three years ago. Despite the legislation having passed this House and being moved by the then Premier in the other place, 3½ years later we still do not have it proclaimed. We still do not have modern slavery legislation in New South Wales.

Every day we do not have it, we see people in the State exposed to slavery-like conditions without an empowered anti-slavery commissioner or a structure of laws to protect them. We also see large organisations, not least of which is the New South Wales Government, failing to remove slavery from their supply chains and procurement chains in the State. Every day is a delay that effectively gives a green light to slavery and slavery-like conditions, not just in Australia but, because of our failure to act, also in the rest of the world. It is time that ended. On the one hand, The Greens are glad to see that we finally have a commitment from the Government to introduce some form of modern slavery Act. It is 3½ years too late, but it is good. But we are deeply troubled that some of the important measures from the 2018 Act have been stripped out of this bill.

I will briefly describe what a groundbreaking piece of legislation the Modern Slavery Act 2018 was. It was internationally recognised as world-leading legislation. In that regard, I note that former United Kingdom anti-slavery commissioner Kevin Hyland acknowledged the New South Wales Act to likely be the strongest Act in the world when it was passed. It was genuinely groundbreaking legislation. What did it do? It established an anti-slavery commissioner for New South Wales. It introduced requirements for commercial organisations with an annual turnover between \$50 million and \$100 million to lodge annual modern slavery statements with the commissioner about the steps they had taken to eliminate modern slavery from supply chains. It required modern slavery statements to describe the action the organisation was undertaking to assess and address modern slavery risks both in their operations and in supply chains, including overseas supply chains.

It required modern slavery statements to be made available online on a public register. It imposed criminal penalties on commercial organisations that failed to meet reporting requirements or that provided false or misleading information to the anti-slavery commissioner. It enabled the NSW Procurement Board to issue directions about modern slavery. It required annual reporting by New South Wales government agencies about the actions they had taken to ensure that goods and services procured were not the product, in whole or part, of modern slavery. It introduced a modern slavery risk order, which would prohibit a person convicted of certain modern slavery offences from engaging in conduct that posed a risk of any further slavery.

It introduced for the first time in New South Wales clear offences of slavery, servitude, child forced labour and child forced marriage. It introduced a new aggravated offence of using a child to produce child abuse material and a new offence of providing information to assist a person to avoid detection. It amended the apprehended domestic violence order framework to ensure that those orders were also available in cases of forced marriage. It amended the Criminal Assets Recovery Act to permit the recovery of any assets gained through the commission of offences of slavery, servitude or child forced labour. It extended the support available under the Victims Rights and Support Act to victims of modern slavery. It required the establishment of a modern slavery hotline to provide advice and support to victims of modern slavery. It also established a joint parliamentary committee to oversee it, and it provided the Auditor-General with authority to conduct risk-based modern slavery audits.

This was groundbreaking legislation. Imagine how much good it would have done if we had it in place for the past three years. But here we are, 3½ years on, and we still do not have it. In the meantime, of course, a very weak Commonwealth Act has been passed: the Modern Slavery Act 2018. The Commonwealth Act commenced on 1 January 2019 and its commencement was used as an excuse by the State Government not to progress the

State Act. There are issues that need to be considered about the interrelationship between the two Acts. I do not pretend that we should ignore the fact that the Commonwealth Act commenced. It had an impact on the State Act, but not such an impact that 3½ years later we should still not have the State Act in place and not such an impact that we should junk key elements of the State Act.

The Commonwealth Act, of course, deals only with supply chain reporting. I will outline the key elements of the Commonwealth Act. First of all, it applies to entities that are based or operating in Australia, but only where they have an annual consolidated revenue of more than \$100 million. It then requires reports to be made annually about the risks of modern slavery in their operations and supply chains and what measures are taken, if any, to address them. Any entities that do not fit the definition of a corporation or do not hit the \$100 million threshold may report voluntarily. The Australian Government has the power to name and shame entities but does not have the power to impose penalties—an extremely large gap in the Federal legislation. The Commonwealth Government is required to report on behalf of non-corporate Commonwealth entities. Again, the reporting requirements only apply to Commonwealth corporate entities or to companies with an annual consolidated revenue of more than \$100 million. It has an online modern slavery register.

In comparison to the New South Wales Act, members can see just how inadequate and limited the Commonwealth Act is. It does not do the job needed to remove the scourge of slavery from Australia and from the supply chains and international links that Australian corporations and entities have. We now come to this bill, which strips out a series of critically important elements from the 2018 bill. For example, the supply chain transparency measures have been entirely stripped from the bill. There are no provisions for businesses to report on their modern slavery risks under the proposed amendments, and the State Government is saying that all of that will pass to the Federal realm. Although there are mandatory requirements for corporations in the Federal realm, it is a totally inadequate regime for dealing with supply chain transparency and addressing slavery in supply chains because there are no penalties in place for non-compliance.

Moving from a \$50 million threshold to a \$100 million threshold has a very real impact on the number of organisations that will be captured. I am grateful for the work of the International Justice Mission, and I credit them for the work they have been doing in the space. Their best estimate is that roughly 1,650 fewer businesses will be captured in New South Wales as a result of moving from \$50 million to \$100 million. That puts a very large hole in the anti-slavery measures.

State-owned corporations have also been stripped out of the Act. Under the previous New South Wales bill, State-owned corporations would have had the same reporting obligations as government agencies. The argument that the Government used last year in the committee process, which has been repeated today, is that there should be a level playing field between State-owned corporations and other corporations in the market and that it is wrong to put reporting obligations on State-owned corporations. I have to be clear about this: The Greens reject that. State-owned corporations are a part of the State of New South Wales, and the State of New South Wales has an obligation to remove slavery from its operations and supply chains. That applies as much to State-owned corporations as to any other part of the New South Wales Government. I cannot conceive of a valid argument that says it is okay for the Forestry Corporation, Sydney Water or any other entity to have lesser reporting obligations on slavery issues than the New South Wales Government itself. I am sure we will discuss that when the bill comes to the Committee stage.

We have also seen the stripping out of penalties. The absence of penalties, Federally and at a State level, means that much of this will effectively become voluntary if there is no stick. Some of this is really hard. It requires a detailed review of supply chains. It requires businesses to go back and look at their suppliers around the rest of the world. It requires ensuring that their practices in New South Wales are slavery free. Some of that is hard work, and if there are no penalties then there is no encouragement or requirement to do the hard work to remove slavery. Penalties must be a part of any bill. The amended bill also greatly reduces the functions of the anti-slavery commissioner, not least because any oversight of businesses has been entirely stripped out. The primary function of the anti-slavery commissioner is to address government procurement, checking over what is called due diligence. I am sure that the due diligence provisions will be the subject of detailed consideration in the Committee stage, toughening up and clarifying what due diligence provisions will be required.

Effectively, the anti-slavery commissioner now has an oversight of the due diligence provisions but is without the independence needed to really hold the Government to account. Under the New South Wales Government's amended model, the only real role of the anti-slavery commissioner is to hold the Government to account. If the commissioner is going to hold the New South Wales Government to account, the commissioner needs to be fundamentally independent of the New South Wales Government and it is not under this bill. The anti-slavery commissioner is effectively a public servant.

How can a public servant, without statutory independence, do the job of holding the State Government to account? The Greens do not believe they can. Key stakeholders do not believe they can. Over the next few weeks

at a minimum, we must be looking for provisions to be put in place so that there is genuine statutory independence. An example that comes to mind is the independence of the Ageing and Disability Commissioner. That is a potential working model to have an independent anti-slavery commissioner. We did that relatively recently in the New South Wales Parliament, and The Greens see it as a potentially good model.

The last big gap in this bill is that it fails to fully rope local councils into the model. Local councils in New South Wales collectively spend more than \$12 billion each year. They manage infrastructure and land in excess of about \$150 billion. They are an important part of the New South Wales economy and they are an important part of our society. Certain aspects of the operations of local councils are covered by the work of the anti-slavery commissioner, but the core procurement provisions are not, as I understand the bill. There is a powerful argument to rope local councils into the procurement provisions. Again, that is a matter that I think will benefit from discussion amongst stakeholders and various parties in this Chamber over the next few weeks as we consider potential amendments to the bill.

I credit those organisations that have been working so hard to keep this issue on the radar, including Be Slavery Free, the International Justice Mission and some of the faith-based organisations as well, who have continued to push for modern anti-slavery laws in New South Wales. This is essential work. The Greens see it as essential work, we know that those organisations see it as essential work and I believe that the people of New South Wales also see it as essential work. It is important to give credit to the Hon. Paul Green, who brought this issue to the Parliament and pushed it in 2017 and 2018. He eventually got the Modern Slavery Act passed through. I am sure he is watching and wondering how it is that the deal and the arrangement he had in 2018 has taken more than 3½ years to finally be implemented. I credit the work that he did.

The Greens do not support the Modern Slavery Amendment Bill 2021 in its current form, but we recognise that we need to get this job done. I acknowledge the work of the Hon. Shayne Mallard as Chair of the Standing Committee on Social Issues. I have not reviewed and addressed the work of that committee because I adopt much of the history that the Hon. Shayne Mallard put on the record in relation to that. That committee said that the Modern Slavery Act should commence by 1 January 2021. I accept that it has been a somewhat unusual year and there is probably an argument for slippage, but we have an obligation to have this commence by 1 January 2022 at the latest. We absolutely do. We need an anti-slavery commissioner in place. We need the New South Wales Government to be the subject of modern slavery provisions. It is the biggest guerilla in the Australian economy and it needs to be covered by modern slavery provisions, but they need to be tougher and tighter than the ones contained in the Modern Slavery Amendment Bill.

I hope that the Government has an open mind to tightening this up, to strengthening it and to engaging with stakeholders. I hope that when we come back after budget estimates we have a productive discussion about amendments, we toughen this bill up where we can and we make sure that, before this House rises at the end of this year, we have a Modern Slavery Act that not only passes this House but also the other place and finally commence by 1 January 2022.

The Hon. ADAM SEARLE (11:10): My contribution to debate on the Modern Slavery Amendment Bill 2021 will, I believe, be the fifteenth occasion on which I have addressed this House on the issue of the modern slavery legislation. I would like to say that I cannot believe that we are at this point—but, unfortunately, I can. I note the previous contributions, which have all been very high minded. Perhaps mine will be slightly less so, because I have to place on record my profound disappointment with the delay in the implementation of the modern slavery regime enacted in 2018 with multipartisan support. I am even more disappointed that the legislation that we are debating today is less than the legislation that this Parliament has already enacted. On 3 May 2018, when I addressed this Chamber on behalf of the Opposition, I said this:

With some reservations, Labor supports the bill. We support a strong, active and modern framework that combats efforts to enslave and exploit vulnerable persons wherever and however it occurs. In our view, this bill does not go nearly far enough in achieving those aims. However, it is a start ...

Later, I said:

The bill starts the conversation on this vital topic and sets in train a process that begins to come to terms with the complex social and economic issues involved.

I then set out, essentially, the case for the legislation—on which I was in common with many other people. I do not think we need to make the case to tackle the scourge of modern slavery and slavery-like practices. It is true that the legislation now in place is, if not the best, certainly amongst the best of its kind in the world. But it was weak. It was very limited. The only reason Opposition members held back on proposing strengthening measures was that we were profoundly aware of the delicate balancing act the Hon. Paul Green had engaged in in order to put together a coalition of support for the legislation, not only in this Chamber but also in the other place.

The legislation emerged from the work done by the Hon. Paul Green as Chair of this House's committee inquiry into human trafficking. Also active on that committee was the Hon. Greg Donnelly, whose commitment to this issue cannot be doubted, and the now President of this Chamber, the Hon. Matthew Mason-Cox. The Hon. Paul Green consulted broadly with civil society and different members of parties in this place and the other place to draft the bill. It went through a number of iterations and was a lot more tentative and less ambitious than we had hoped. But, nevertheless, in the spirit of broad cooperation, parties came together in this place to accept the framework. The bill went through this Chamber with bipartisan support—I think there was only one dissident, the Hon. Dr Peter Phelps. I do not think he voted against it, but he certainly spoke against it. Then, of course, it was introduced into the other place by the then Premier.

When this bill was being debated in this House, I drew the attention of members to three things in the Government contribution which had concerned me. The first was that the Government reserved the right to move amendments in the other place. So we started with a limited, already compromised project and the Government flagged that it might amend it in the other House. It did not seek to put amendments in this House—it waited until the legislation arrived in the other place. Of course, amendments were made. In my view, they weakened the framework even further, and then this House, in order to put something on the statute books, accepted that weakened legislative framework in the hope that something was literally better than nothing. We thought that achieving the legislative framework was vital, that it would establish a benchmark upon which we could build more strength in civil society to tackle the scourge of human trafficking and exploitation in various unregulated workplaces and even worse.

Even with all the things that I have said that might sound critical of the legislation, it was still amongst the best in the world. But the Government, in my view, let the Parliament and the community down by stalling. After the election, the Government introduced an amendment bill and an amendment regulation. We had the social issues committee inquiry, and it is worth reflecting on the dissenting statements of the Hon. Daniel Mookhey and the Hon. Greg Donnelly to that inquiry. I will not quote everything, but at the bottom of page 126 of the report they said:

The Opposition has said consistently that it is prepared to countenance minor or technical amendments to the Modern Slavery Act 2018. It wants the NSW Act to work concurrently with the Commonwealth legislation without ambiguities or conflict. However, it does not and will not support proposed amendments that in effect seek to rebase it with the Commonwealth legislation or remove or diminish key provisions that make it the cutting edge piece of anti-slavery and anti-human trafficking legislation that it is. It is this clear position that the Opposition members of the committee have strongly argued for over the course of the inquiry ...

The Hon. John Graham has indicated that Labor's position, in essence, is that the legislation that is actually brought into force and effect should at the very least be no less than the legislation enacted by this Parliament in 2018. Previous speakers have already charted where the bill seeks to weaken that framework. It will repeal the provisions requiring commercial organisations to prepare modern slavery statements about steps taken to ensure that goods and services are not products of supply chains in which modern slavery is taking place, and it will repeal provisions enabling courts to make certain post-conviction orders relating to modern slavery offences.

The other provisions are all fine—clarifying the date it will come into effect, addressing the functions of the anti-slavery commissioner, dealing with cooperation between the Anti-slavery Commission and other agencies as well as clarifications and technical matters. The provision of recognition payments under the Victims Rights and Support Act to certain victims of acts of modern slavery is a good thing, which particularly picks up recommendations made by the inquiry. They are very important measures, but recommendation 6 of the social issues committee inquiry was that the Act be amended to nominate which agency should be responsible for prosecuting breaches of section 24, which is the supply chain provisions. Section 24 of part 3, Supply Chains, requires that commercial organisations must prepare a modern slavery statement complying with the provisions. It states:

- (4) The statement is to contain such information as may be required ... with respect to steps taken by the commercial organisation ... to ensure that its goods and services are not a product of supply chains in which modern slavery is taking place.

Breach of that provision has a maximum penalty of 10,000 penalty units, but there seems to be no authority in charge of prosecuting that offence. The social issues committee recommended that be clarified. Schedule 1 item [25] to the bill sadly deletes that section from the legislation. It removes that obligation on businesses of \$50 million turnover. I made the point on 3 May 2018 that the provision was already weak because, while it requires a statement to be made and certain information to be provided about steps taken, there was no overriding obligation on those commercial organisations to actually eliminate modern slavery from their supply chains. That clear weakness was identified in the legislation back in 2018. Instead of strengthening or addressing it—or even nominating a prosecuting authority, as the social issues committee recommended—the Government now proposes to delete it altogether, which is very disappointing.

The legislation also does not properly cover State-owned corporations or local government, despite the fact that they are significant purchasers of goods and services. State government agencies are covered to a degree, but there is less clarity than there should be. I note the contribution of Mr David Shoebridge expressing the view that State-owned corporations should be on a level playing field with other commercial organisations. I do not speak for the Labor Party on this, but my view is that that may be appropriate where those bodies are in competition with private sector agencies. Where they are not, there is a strong argument that they should essentially be covered by the umbrella of the State of New South Wales. The Hon. John Graham outlined Labor's approach to modern slavery. Labor took a comprehensive anti-slavery policy to the last election, and this was addressed in our contribution to the second reading debate in 2018:

The key features of our approach are slavery-proofing New South Wales government supply lines, which would be achieved through a tough and comprehensive State procurement policy and strengthening guidelines by specifically including anti-slavery provisions as compliance measures—

and for the State Government to put those into its supply contracts. We went on to say:

The aim is to ensure that no goods or services obtained by public money in this State are tainted by modern slavery. That must include making inquiries of tenderers as to ethical employment practices.

The State Labor Party also had comprehensive measures to deal with wage theft and the regulation of labour hire and contracting firms, which would also go to addressing that. But the position of the anti-slavery commissioner is fundamental and was touched on by Mr David Shoebridge. It was disappointing that it was not a powerful, independent statutory office. Section 6 of the Act provides that the commissioner is a public servant, not in effect but in fact. The commissioner is to be engaged under the Public Sector Employment and Management Act. Given the important and pivotal role of the commissioner in tackling the issue of potential modern slavery practices in the supply chains of the State, we think that making that person a public sector employee puts them in a difficult and invidious position.

Labor's vision was that there should be a more powerful New South Wales anti-slavery commissioner. They should be able to collect and request data, enquire into the implementation of procurement guidelines and be able to advocate, monitor and assess trends and developments; interrogate the effectiveness of government policies and to drive compliance. To the extent that there would be oversight of the private sector, the commissioner should be able to do that as well.

One of the weaknesses in the framework as it exists today is that the role does not include investigating individual cases. I think that should be remedied. The last missing piece of the puzzle, which I touched on earlier, is that the obligation that requires companies to report should include an overriding obligation on them to eliminate or take such steps as they can to eliminate, exploitation and slavery from their supply chains. Having a reporting mechanism only about activities they have undertaken is good, but not sufficient. That obligation should rest on government departments as well as State-owned corporations.

I note that civil society organisations and faith-based groups have done a lot of work. I also acknowledge the work done by the International Justice Mission Australia and Anti-Slavery Australia, various bodies associated with the Catholic Church, other churches and other faith-based organisations. There has been a great groundswell of support, not only to have this legislation put on the statute books but the ongoing campaign to try to make the legislation a reality, to bring it into force and effect. In relation to being inspired to do that, we should also very much recognise the work done by Kevin Hyland, OBE, the first anti-modern slavery commissioner in the United Kingdom. His submission to the social issues committee inquiry put forward a six-point strategy that would be necessary to end modern slavery. I will only deal with three of those points.

The first is that there should be government and supply chain transparency and accountability, as suggested in the New South Wales Act. That is good. The New South Wales Act does not go far enough, but this bill will weaken it. Secondly, introduce the notion of tainted money to remove the potential to profit from modern slavery and human trafficking. Again, that provision is not in this bill and, in fact, will make things worse. Then by legislation a whole range of international activity would be required to set leadership, tone and a moral compass to tackle modern slavery-like practices. I think that is important but I will not delve into that because we are dealing with domestic legislation in New South Wales.

In conclusion, it is profoundly disappointing that the Opposition held back from strengthening the weak framework that came to the floor of Parliament because we thought something was better than nothing. The framework was weakened further in the other place. Again, we held back for the greater good, and for the last three years we have consistently campaigned for the Government to bring into force and effect the limited compromised weak model that is on the statute books. The Government at every stage has either dithered, or worse, deliberately delayed to try to avoid doing something about modern slavery. Now it brings to this House legislation that would weaken what is on the statute books already. I cannot express how disappointed I am that

we are at this juncture. Even now people are saying, "Well, at least the legislation makes sure that budget sector agencies have to comply. Maybe we just need to suck that up and have something rather than nothing. Maybe that is where things will end. I hope not.

I hope at the Committee stage of debate on this legislation we can do something to strengthen the legislation. At the very least, the legislation that passes Parliament should have as its baseline what was passed in 2018 when it is brought into effect. That should be the minimum position. I hope that we can do better than that. In the first significant legislation of this Perrottet Government, which is led by a person for whom faith is an important part of their world view, we seem to be embarking on a great step backwards—a great step away from tackling modern slavery and slavery-like practices. Let us see if we cannot stiffen the resolve, raise the tone and show a bit of moral leadership. This legislation was passed with such goodwill. Why can't we carry that through and implement it? The legislation will not bring the ceiling down. It does not place onerous obligations on private sector bodies. It takes a small step in tackling this scourge, which we all rightly agree should be tackled.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (11:27): In reply: I thank honourable members for their contribution to the debate on the Modern Slavery Amendment Bill. The Hon. John Graham and the Hon. Adam Searle from the Opposition spoke well and outlined their longstanding interest in the issue. In his contribution Mr David Shoebridge presented points that were well argued and he raised some issues that I had been considering following discussions I had with him yesterday. I also thank my colleague and friend the Hon. Shayne Mallard, who chaired the social issues committee inquiry on a reference I sent that committee to consider how we could render a bill that was not workable.

Despite all the things that have been said in debate on this occasion and many others, the bill had significant flaws and was not workable. The social issues committee did a good job in going through what was needed to fix the bill. It thoroughly examined the government submission and its work was a great help. I thank the social issues committee for considering three references sent by me. All the committee's efforts have been worthwhile and I firmly believe they have led to better outcomes.

The Hon. John Graham and Mr David Shoebridge commented on the delay in the commencement of the Act. The Government had intended and took steps to commence the Act on 1 July 2019. An interim anti-slavery commissioner was recruited and appointed to drive implementation. An extensive consultation process with impacted agencies commenced to determine the effect of the Act and the necessary steps to ensure it was implemented. Typically with a Government bill, this consultation process would occur before introduction but because the Act resulted from a private member's bill, it occurred after the original bill passed Parliament. During this consultation process, it was determined that the Act could not commence without amendment. The proposed 1 July 2019 commencement date was not considered achievable. In addition, the Commonwealth Modern Slavery Act 2018 commenced on 1 January 2019 and consideration of the interaction between New South Wales and Commonwealth schemes was necessary.

A draft exposure bill with amendments to improve the operation of the Act was prepared. In August 2019 the Standing Committee on Social Issues commenced its inquiry into the Modern Slavery Act 2018 and associated matters to consider the Government's draft bill. The Government considered that an inquiry conducted by a committee of this House was the most transparent way for members to consider the amendments that the Government was contemplating. I hope we get some brownie points for that at least. That committee reported and made recommendations to the Government on 25 March 2020, when a large part of the Government's resources were devoted to managing the COVID-19 pandemic. I will decline to mention my own situation at that particular time. It was not top of mind for about three months for me, but I digress.

Notice of the bill was given on 8 June 2021, however other Government business prevented it being introduced in June 2021. Scheduled meetings of the House following the winter break were postponed due to the outbreak of the COVID-19 Delta variant in New South Wales. The bill is now being introduced to allow the Modern Slavery Act 2018 to commence on 1 January 2022. The Hon. John Graham raised a concern with the Government's proposed amendment to repeal the regulation of commercial supply chains. As I explained in the second reading speech, the Commonwealth Modern Slavery Act 2018—which I will refer to as the Commonwealth Act—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 bill omits the provision of the New South Wales Act that regulates the supply chains of non-government organisations. It is no longer necessary that the New South Wales Act regulate the supply chain of non-government organisations because, following the passage of the New South Wales Act, the Commonwealth Government legislated to perform that function. Having two schemes that are largely duplicative but also slightly

different offers little meaningful enhancement against preventing modern slavery in supply chains. It only means more red tape for businesses, making it harder to do business in New South Wales than in any other Australian jurisdiction. The New South Wales Government continues to advocate for the Commonwealth Government to adopt a consolidated revenue reporting threshold of \$50 million per annum. I outlined in some detail and tabled my correspondence from the Federal Minister confirming that.

The Hon. John Graham and Mr David Shoebridge suggested that the Commonwealth scheme lacks enforcement provisions regarding commercial supply chain reporting. Under the Commonwealth scheme, the Commonwealth Minister may name and shame entities on the register that fail to comply with reporting obligations under the Commonwealth Act. Creating a duplicative scheme at the New South Wales level is not an appropriate response to the Hon. John Graham's concerns. Clearly, those concerns should be raised with the Commonwealth Government, as they have been with me. I have strongly suggested that to all advocacy groups. It is relevant to remember that a statutory review of the Commonwealth Act is scheduled for next year. I encourage everyone to act as the Government has and seek the improvements they desire in the Commonwealth scheme. The solution is not to impose a duplicating scheme on New South Wales businesses or to make business harder to do in New South Wales.

Mr David Shoebridge suggested that the New South Wales Government currently has modern slavery in its supply chains. I wish to clarify Mr David Shoebridge's statement for the record. Government agencies already have a statutory obligation under section 176 of the Public Works and Procurement Act to conduct their procurement functions in accordance with the principles of probity and fairness. The NSW Procurement Board's Supplier Code of Conduct establishes the ethical standards and behaviours that suppliers to the New South Wales Government are expected to meet. This includes making all reasonable efforts to ensure that their supply chains do not engage in human rights abuses such as forced or child labour. The board has directed agencies to require compliance with the Supplier Code of Conduct through their tendering processes and to report adverse findings against a supplier when they become known. Whilst this framework will only be made stronger following the passage of the bill and commencement of the Act, it is not fair or accurate to suggest that the Government and public service have not taken any steps to modernise practices and remove the scourge of slavery from public sector supply chains.

Mr David Shoebridge also raised concerns regarding the application of the bill to State-owned corporations. New South Wales State-owned corporations are currently reporting under the Commonwealth's regime. That is important to note. A review of the Commonwealth's statutory register shows that, in the last reporting period, five of the eight New South Wales State-owned corporations produced and submitted modern slavery statements that are on the register. In addition, while WaterNSW does not appear to have a statement on the register, it is currently available on its website, and the Transport Asset Holding Entity was constituted in the most recent reporting period. This shows that New South Wales State-owned corporations have taken seriously the fight against modern slavery. The Act as amended by the bill will deliver on the spirit of the Government's commitment to cover the New South Wales public sector while leaving the regulation of corporations to the Commonwealth scheme.

I note Mr David Shoebridge's comments regarding the treatment of local councils under the New South Wales scheme. The Act contemplates allowing the NSW Procurement Board to issue directions or policies to local councils regarding the taking of reasonable steps to ensure that goods and services procured by and for local councils are not the product of modern slavery; requiring councils to take reasonable steps to ensure that goods and services procured by and for the local council are not the product of modern slavery; and allowing the Auditor-General to conduct a risk-based audit of a local council to ensure that goods and services procured by and for the local council are not the product of modern slavery. It is likely that the amendments proposed by the Act were going to be ineffective at achieving the intended outcome. That is because Procurement Board directions under part 11 of that Act do not apply to local councils.

Items [50] and [51], if passed, will clearly exclude local councils from Procurement Board directions about taking reasonable steps to ensure that goods and services procured by and for local councils are not the product of modern slavery and from the Auditor-General's risk-based audit functions. As a result of local councils not having to comply with a relevant Procurement Board direction, the Government has not considered that it is appropriate to make local councils subject to the audit functions of the Auditor-General. The anti-slavery commissioner will continue to have the function of monitoring the effectiveness of due diligence procedures in place to ensure that the procurement of goods and services by government agencies are not the product of modern slavery, including in respect of local councils.

The commissioner will also have the important functions of advocating for combating modern slavery, making recommendations and providing information, advice, education and training about actions to prevent,

detect, investigate and prosecute offences involving modern slavery. Those independent functions are not subject to control by the Government and would extend to procurement activities done by local councils.

As the Government submission to the Standing Committee on Social Issues noted, there are concerns that smaller and regional councils will not have the resources to meet an additional burden to report on how their procurement activities are being managed to ensure that the goods and services they procure are not the product of modern slavery. As indicated in the submission to the committee, the Government intends to explore, in consultation with the anti-slavery commissioner, non-legislative options for addressing the procurement risks of local government. To that end, Procurement NSW is preparing the guidance material for the New South Wales public sector based on international best practice, including the United Nations Guiding Principles on Business and Human Rights.

Whilst local councils will not formally be subject to the New South Wales public sector procurement framework, those resources will be readily available to the local government sector to make use of as part of best practice procurement and corporate governance. However, given the concerns raised by Mr David Shoebridge in the debate, I have decided to write to the president of the Local Government Association, Councillor Linda Scott, bring to her attention the honourable members concerns, outline what the Government proposes and ask for her urgent views on whether she considers there should be any changes to the provisions that the Government has put in this amendment bill in relation to local councils.

I have also recently met with Mr Steve Baird of the International Justice Mission and I thank him for his time and expertise. I have indicated to him that the Government will carefully consider the concerns that they have raised and I have also invited him to engage with the Government in a dialogue about possible amendments. I make that same offer now to all members of this House. I would very much like a result through both Houses so that the bill can commence on 1 January 2022. By resolving the technical legal deficiencies, as this amendment bill does, we will be able to do that and start pursuing the objectives of the original bill as enacted.

If enacted, the bill will provide New South Wales with an effective regime to combat the scourge of modern slavery comprised of an independent anti-slavery commissioner; it will enable modern slavery risk audits and make procurement directions to ensure that goods and services procured by and for New South Wales government agencies are not the product of modern slavery; it will introduce new criminal offences to crack down on the sexual abuse of children, child forced marriage, slavery, servitude and child forced labour; and introduce financial support and counselling for survivors of modern slavery. I commend the bill to the House.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): The question is that this bill be now read a second time.

Motion agreed to.

The Hon. DON HARWIN: I move:

That consideration of the bill in Committee of the Whole stand as an order of the day for the next sitting day.

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, as amended, be further amended as follows:

- (a) in paragraph (1) Day Three: Thursday 28 October 2021 omit "PC 1 Treasury – full day" and insert instead "PC 3 Skills and Tertiary Education – half day morning";
- (b) in paragraph (1) Day Six: Tuesday 2 November 2021 omit "PC 3 Skills and Tertiary Education – half day morning" and insert instead "PC 3 Education and Early Childhood Learning – full day"; and
- (c) in paragraph (1) Day Seven: Wednesday 3 November 2021 omit "PC 3 Education and Early Childhood Learning – full day" and insert instead "PC 1 Treasury – full day".

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. SHAYNE MALLARD: I move:

That Government business orders of the day Nos 2 and 3 be postponed until a later hour.

Motion agreed to.

Bills

COASTAL MANAGEMENT AMENDMENT BILL 2021

Second Reading Speech

The Hon. TAYLOR MARTIN (11:49): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Coastal Management Amendment Bill 2021.

This bill will provide local councils additional time to implement actions in their existing Coastal Zone Management Programs that help deliver the Government's commitment to better manage the coastal environment for the wellbeing of the people of New South Wales.

The Coastal Management Act 2016

When the Coastal Management Act was originally introduced in 2016, it was an important part of this Government's coastal management reforms.

It established a simpler, more contemporary legislative framework for the management of the coast.

The Act is helping us to resolve some of the more complex, long-standing legacy issues and to manage the unique environmental, social and economic values of the coast in a planned and strategic way; and importantly to provide better support for local councils.

Local Governments across the State have been dealt a tough blow these past two years; with bushfires, floods and let's not forget the impact of COVID-19.

With these challenges, councils across the state have been supporting their communities and as a result, for coastal councils unfortunately, programs such as implementing and transitioning to a Coastal Management Program have taken a back seat as more urgent decisions for their communities' wellbeing had to be made.

When the Coastal Management Act was introduced to Parliament in 2016, it contained important transitional provisions that aimed to provide councils the opportunity to continue to implement their existing Coastal Zone Management Plans [CZMPs] under the former Coastal

Protection Act 1979 while they prepared their coastal management programs [CMPs] under the new arrangements and Act.

Under the provisions currently in the Act, existing CZMPs will cease to have effect on the 31 December 2021.

Most councils are progressing with the preparation of their CMPs. However, the majority are unlikely to be ready to replace their existing

CZMPs with a certified CMP by 31 December 2021.

Not having a certified CZMP or CMP in place is particularly problematic for councils in times of emergency. In this case, emergency works will not be considered exempt activities and will require more complex development approvals.

This situation is causing concern for many councils on the coast who have made representations to me seeking an extension to CZMPs so they can continue to implement agreed actions.

When CZMPs cease to have effect, there will be varying implications in relation to eligibility for councils to seek grant funding to implement actions and works in CZMPs and to planning assessment pathways for certain coastal protection and emergency works under the Environmental Planning and Assessment Act 1979, the Coastal Management Act 2016 and Coastal Management SEPP 2018.

It is fair to say that our coastal communities are reliant on their local councils, now more than ever, to work with them to effectively manage the coast for current and future generations.

As local managers of the coast, councils are continuing to play a critical role as they help manage our response to the COVID-19 pandemic, recover from multiple natural disasters such as devastating bushfires, coastal erosion and floods and drive new economic activity.

As a result of all these recent challenges facing council, making the 31 December 2021 deadline to implement actions in CZMPs while preparing their new CMPs is proving difficult for some, so this bill is essential for providing the well needed breathing room to councils.

If CZMPs stop on the 31 December 2021, approximately 35 councils, including 16 in regional New South Wales, may become ineligible to apply for grant funding under the Government's Coastal and Grant Program.

This bill will provide a two-year extension for CZMPs until the 31 December 2023.

This will enable councils to continue to implement actions in their CZMP with grant funding support from the Government, bolstering local economic activity.

Importantly, it also means that councils will be able to continue to implement their planned responses to coastal erosion emergencies.

The aim of this extension is not for councils to defer on preparing their coastal management programs, instead it is to encourage them to maintain the good progress made to date, and to have further opportunities to access grants that can help them better manage the coast for the benefit of their local community.

The bill before the House features amendments to enable local councils to continue implementing actions in their Coastal Zone Management Plans for a further two years until 31 December 2023.

The bill provides for many councils to continue to be eligible to apply for funding assistance under the Coastal and Estuary Grant Program which is managed by the NSW Department of Planning, Industry and Environment — Environment, Energy and Science [EES] It will also enable councils to continue to respond to coastal erosion events in a planned and coordinated way.

Most importantly, this bill recognises the enormous pressure that local councils have been under responding to the COVID-19 pandemic and recovering from multiple natural disasters while still maintaining the local economy and environment.

I commend the bill to the House.

Second Reading Debate

The Hon. TARA MORIARTY (11:50): I lead for the Opposition on the Coastal Management Amendment Bill 2021. I acknowledge the work of the shadow Minister in the other place, Mr Greg Warren, MP, for his work on this. The Opposition does not oppose the bill. We know the object of the bill is to defer the date on which certain savings provisions cease to have effect from 1 December 2021 to 1 December 2023. The savings provisions provide that a coastal zone management plan in force under the Coastal Protection Act 1979 will continue to have effect until replaced by a coastal management program prepared and adopted under the Coastal Management Act 2016 and that certain coastal zone management plans, prepared before the repeal of the former Act and certified after the repeal, are taken to be coastal management programs prepared and adopted under the Coastal Management Act 2016.

Under the provisions of the current Act existing coastal zone management plans will cease to have effect on 31 December 2021. Due to the current circumstances in this State, the majority of councils have not been able to update their coastal zone management plans to coastal management programs. Given that fact, it is appropriate that the Government's response is to give councils some more time. That is very good but I say for the record there has been a lack of support from this Government for councils to implement their coastal management programs. It was 2016 when the then planning Minister said that the Coastal Management Act 2016, which we are amending today, was "one of the most innovative pieces of coastal planning legislation in the world". But five years down the track most of the impacted councils have not been able to upgrade their existing coastal zone management plans to coastal management programs, which shows a lack of support from this Government for councils up and down the coast of New South Wales to protect coastal zones.

There are well-known and significant issues regarding erosion along the coast of New South Wales, particularly around the Central Coast and the North Coast. We certainly think more work needs to be done on that and councils in those areas need to be given more support to manage those issues for their communities. Whilst Labor is not opposing the extension of time to allow councils to get their act together on managing those issues, we are calling on the Government to provide more support to assist them to do that. The Government needs to provide more support to councils and it must manage the coastal erosion issues that affect those communities, particularly the people whose homes are directly impacted. The Opposition does not oppose the bill.

The Hon. Don Harwin: Point of order: There is far too much interplay across the table, which is disrupting the Chamber. I am finding it very difficult to hear and I assume Hansard is also finding it difficult to follow debate. A lot of members are arriving in the Chamber because we are getting extremely close to question time, so it can be noisy. But I would appreciate the Chair reminding honourable members of the need to retain order in the Chamber.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): I echo the comments of the Minister: If members behave in an orderly way, we will get through the day much easier.

The Hon. TAYLOR MARTIN (11:54): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Tara Moriarty for her contribution to this debate. I also thank all members in the other place for their heated debate on the Coastal Management Amendment Bill 2021 and the issues surrounding it. The introduction of the Coastal Management Act was an important milestone in improving the way we manage many of the complex issues that face the New South Wales coastline. In recent times some of the most devastating coastal erosion episodes in living memory have occurred along parts of the coastline, especially in parts of my duty electorate of the Hunter and Central Coast. In some ways they rival the erosion that occurred to our iconic beaches and destroyed homes in the 1970s.

Those erosion events threaten cultural places, habitats, beaches and our built infrastructure on the coastline. In recent years we have seen the impacts of severe erosion threaten homes at Collaroy and Narrabeen on the northern beaches and especially on the Central Coast at Wamberal, which were heavily covered in the media. It

is a constant issue. Coastal councils have been at the forefront of responding to those natural disasters. Councils have also had to contend with and respond to the devastating impacts of the bushfires that ravaged many of our coastal catchments and the floods that occurred earlier in the year on our major coastal rivers, lakes and lagoons. Since 2016 the New South Wales Government has provided 207 grants totalling \$43.14 million to local government under the Coastal and Estuary Grants Program, including 102 grants totalling around \$10.80 million, awarded under the planning stream; 98 grants totalling around \$27.34 million, awarded under the implementation streams; and seven grants totalling \$5 million, awarded under the bushfire affected coastal waterways program. I seek leave to incorporate the remainder of my speech in *Hansard*.

Leave granted.

Much progress has been made with more than 50 CMPs currently underway across the State.

Which is why the Minister introduced the Coastal Management Amendment Bill into Parliament to extend the timeline by two years for local councils to transition into the new arrangements for protecting the State's precious coastline.

Without this extension, around 35 councils yet to develop CMPs would be unable to apply for funding under the Coastal and Estuary Grant Program to implement vital protection and rehabilitation works to their coastlines.

The extra time will also allow councils to carry out planned emergency works during major coastal erosion events that are addressed in their CZMPs while they continue to develop a CMP.

The New South Wales Government is continuing to provide support to local councils as they manage our precious coast in partnership with the communities they represent.

The issues being faced by coastal councils and their communities are real and we recognise the competing struggles many councils have faced in recent times, so this extension is a sensible measure to support those doing it tough.

It is incumbent on all of us to support local councils to protect the interests of current and future generations.

I commend the bill to the House.

The PRESIDENT: The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. TAYLOR MARTIN: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.

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

Questions Without Notice

GOVERNMENT GRANTS

The Hon. PENNY SHARPE (11:59): My question is directed to the Minister for Finance and Small Business in his own capacity and representing the Treasurer. Given former Premier Mike Baird's strategy director, Nigel Blunden, described the \$5.5 million grant to the Australian Clay Target Association in Wagga Wagga as being "against all of the principles of sound economic management", and he also said, "but then again ERC has made many worse decisions", will the Minister detail for the House the decisions that were worse?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:00): I thank the Leader of the Opposition for her question. I am not going to give commentary on the ICAC—that is the standard answer, isn't it? I am not going to give commentary on Mr Blunden's evidence before the ICAC. However, I will say this. This Government makes no apologies for the delivery of infrastructure and facilities throughout the State, including the delivery of parks, open spaces and playgrounds. Grants that have been made to communities that improve and benefit those communities ought to be acknowledged by members opposite because they have made a significant improvement to the standard of living—

The PRESIDENT: Order! I am very interested in the Minister's answer. Opposition members will come to order.

The Hon. DAMIEN TUDEHOPE: Whether someone lives in Albury or Coffs Harbour or Bathurst or Ballina, the Government delivers opportunities for all communities. We on this side of the House are committed to leaving no communities behind in the delivery of grants programs throughout the State for the benefit of communities. The Opposition is very slow to acknowledge the great work that this Government has done for communities in Labor electorates, which get significant benefit from those contributions. The Government will

not engage in a discussion about grants programs because we know that they have been delivered to benefit people in this State.

The Hon. PENNY SHARPE (12:02): I ask a supplementary question. Will the Minister elucidate that part of his answer where he talked about all grants being in the best interests of everyone in the State? Will he elucidate on the process of how those grants are chosen in relation to which electorates they go to?

The Hon. Damien Tudehope: That is probably a new question.

The PRESIDENT: Minister, I would just answer the question. That would be my strong advice.

The Hon. Penny Sharpe: Do not debate the question.

The Hon. Damien Tudehope: Mr President, have you ruled that it is not a new question?

The Hon. Penny Sharpe: You have not taken a point of order.

The Hon. Damien Tudehope: Point of order: A question about how the grants program operates is different from a question in relation to the effectiveness or otherwise of grants and identifying the grants that are of lesser merit than the Clay Target Association grant. I suggest that that is a new question.

The Hon. Penny Sharpe: To the point of order: I know the Minister wishes it were a new question, but it is not. It seeks an elucidation. The first question asked about the decisions made in the Expenditure Review Committee and whether they were good or bad. In his answer, the Minister went on at length about all the ways in which grants are allocated as being fair and good. Obviously, we know that there is evidence they are not. I am seeking elucidation on the process that he referred to in his answer, specifically whether grants decisions are made for the benefit of communities or through an electorate lens. I seek an elucidation of the Minister's original answer.

The PRESIDENT: I will allow the question. The Minister has the call.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:04): The delivery of grants is predicated first of all on delivering a benefit for the people of New South Wales. I have said that. That is the way that we articulate and deliver grants because we make an assessment of whether it is delivering a benefit for everyone in this State. If those opposite want to say that the grants are not delivering outcomes for the people of New South Wales, they should go and look at the parks, the playgrounds, the schools, the hospitals and those organisations that have benefited—

The Hon. Don Harwin: The theatres, the art galleries.

The Hon. DAMIEN TUDEHOPE: —art galleries and community groups that have benefited from grants from this Government. That is the way that we deliver grants. We make the assessment on where the benefit is for the people of this State. Let's not get involved in this spurious allegation that there is some sort of secret process involved. There is no secret process.

The PRESIDENT: Order! It is Thursday. It is time that we went back to conducting the business of the House in an orderly manner. Repeated interjections are disorderly. I will start to call members to order on that basis. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: It is a pretty simple answer to a conspiracy question that those opposite always want to try to play out in this place. The simple answer is that we have a grants program that is designed to deliver outcomes for the benefit of the people of New South Wales.

The Hon. WALT SECORD (12:06): I ask a second supplementary question. Will the Minister elucidate that part of his second answer where he referred to outcomes in assessments in the grants process under the Expenditure Review Committee process?

The Hon. Damien Tudehope: No, I did not say any such thing.

The Hon. WALT SECORD: You did! *Hansard* will show it. Will the Minister elaborate on the meaning of the decision "WTF"?

The Hon. Bronnie Taylor: Point of order: I suspect Mr President might make a ruling anyway. In the nicest possible way, I draw to the attention of the House that the member asked an entirely new question.

The PRESIDENT: The question is out of order.

CULTURE UP LATE INITIATIVE

The Hon. LOU AMATO (12:07): My question is addressed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the

House on how the New South Wales Government plans to stimulate economic activity through night-time cultural activation?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:07): Sydneysiders love our treasured cultural institutions and they love a night out at the movies, even more so now as Sydney roars back to life. That is why on Sunday, as part of our \$86 million arts restart, I was thrilled to announce \$5 million to support the Culture Up Late initiative at our State cultural institutions and \$1 million to support the delivery of local and international film festivals across western Sydney and south-western Sydney. That announcement is part of our funding package to support reopening and to welcome back audiences. Culture Up Late will see our wonderful cultural institutions—the Art Gallery of New South Wales, the Australian Museum, the Museum of Contemporary Art, the Powerhouse Museum, the State Library of New South Wales, Sydney Living Museums and Sydney Opera House—deliver special evening programs and events over the summer.

The PRESIDENT: I call the Hon. John Graham to order for the first time.

The Hon. DON HARWIN: By extending their opening hours, each cultural institution will provide unique opportunities for audiences to experience the very finest in artistic and cultural life in Sydney as we return to regular activities after lockdown. That successful program ran from January through to June this year, and 71,000 people attended an event or exhibition at participating institutions. I am excited to be bringing it back to Sydney for visitors to enjoy once more. After two years of challenging times for the local film and cinema industry, the Government is proud to support the screen sector as it gets back to doing what it does best: telling stories that inspire us.

The \$1 million in funding will support the return of audiences, with screenings in independent and major cinemas as well as outdoor screenings across Sydney, including in south-western and western Sydney. Summer in Sydney has never looked so enticing, with an array of wonderful arts and screen opportunities for people to enjoy across Sydney. The initiatives announced on Sunday will revitalise our CBD and our city at night once again and will help local business bounce back as quickly as possible. I look forward to going into more detail about some of the specific locations and programs, if time permits, when the House sits again in November.

RIVERINA CONSERVATORIUM OF MUSIC

The Hon. JOHN GRAHAM (12:11): My question is directed to the Leader of the Government, Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Given that funding to the Australian Clay Target Association was announced without an independently reviewed business case, feasibility study or market testing of the capital costs, will the Minister assure the House that each of those steps were followed in funding the Riverina Conservatorium of Music?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:12): When I answered fully three questions last week about the Riverina Conservatorium of Music, I made entirely clear the scope of my involvement in both stage one and stage two.

The Hon. John Graham: As Leader of the Government.

The Hon. DON HARWIN: You asked me in my capacity as arts Minister. Last week I explained exactly what my involvement was and exactly who has ministerial responsibility for those projects. In terms of stages one and two, there is nothing else I can add to what I indicated last week in terms of who is ministerially responsible. If the member is asking me simply to ask questions of the other Ministers—

The Hon. John Graham: I am asking you as Leader of the Government.

The Hon. DON HARWIN: —I note that conservatoria are in fact—

The Hon. Sarah Mitchell: Not capital.

The Hon. DON HARWIN: Indeed, conservatoria are in fact dealt with under the Education portfolio, although there is limited capital funding available from that portfolio, to be fair. Most of these matters have been dealt with by the Department of Regional NSW and not by me. However, as Leader of the Government, I am happy to provide information about those steps in terms of the responsibilities of other Ministers.

The Hon. JOHN GRAHAM (12:14): I ask a supplementary question. Will the Minister elucidate on that part of his answer related to capital funding and will the Minister complete this sentence, which was first composed by Nigel Blunden, "Maybe if we make Wagga the world centre for clay shooting, we can take back that money we wasted on—"?

The Hon. Shayne Mallard: Point of order: Clearly the question is argumentative. Asking the Minister to complete a sentence composed by someone else is hypothetical. I ask that the question be ruled out of order.

The PRESIDENT: The question is out of order.

PUBLIC SECTOR EMPLOYEES

The Hon. MARK LATHAM (12:15): My question is directed to the public service Minister. I refer the Minister to the exit email of Mr Jim Betts after he was sacked by Premier Perrottet, in particular, the way in which Mr Betts spoke like a political activist or a Greens senator rather than a dedicated, outcomes-driven public servant. With Mr Betts now gone, what is the Minister doing to remove the Betts legacy from the New South Wales public service: the harmony councils, the sexuality units, the rainbow flag worship, the Pascoe book clubs, the unconscious bias training and many other political indoctrination seminars that public servants are forced to endure, which is distracting them from their real job of serving the people of New South Wales with high-level customer service and cost efficiency?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:16): Where does one even begin? I note the honourable member is continuing his jihad against a number of things that he is not happy with. Good luck to him. As public service Minister, I am completely focused on the people of New South Wales and delivering for them. I wish Mr Betts well in his future career. I thank him for all of the good work that he has done for the people of New South Wales. I note that in his time as a public servant he also did good work for people in other States. I read his exit email with interest. It did cause a few chuckles, I am sure, within the Government. I have to say, I think he handled what may well have been a personal disappointment to him with a lot of grace and dignity and a good amount of humour as well. There it is.

To the extent that the personal initiatives that Mr Betts was taking were in accordance with the policies of the New South Wales Government, elected by the people of New South Wales, then I certainly thank him for his work. In terms of the personal observations he made in that email, he is now just a citizen and perfectly entitled to whatever views he wants to express. I will leave it there.

The Hon. MARK LATHAM (12:18): I ask a supplementary question. Will the Minister elaborate on that part of his answer referring to jihad? Wasn't the real jihad against Mr Betts himself, in the sacking of someone who was designated to be the head of the public service? If he was dismissed in that jihad, why have all of Mr Betts' programs not been abolished?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:19): I will take the question on notice.

RETURN TO SCHOOL ROAD MAP

The Hon. CATHERINE CUSACK (12:20): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on how teachers and educators are going above and beyond to support students in New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:20): I thank the honourable member for her question. I am sure the House will join me in saying how happy we are to have students returning to the classroom this week and more to come from Monday. As I have often stated, we know that the best learning environment is in the classroom. However, I want to acknowledge our school staff and how they have gone above and beyond to ensure that we could deliver world-class learning from home for the past few months. I take this opportunity, on behalf of all members of the House, to acknowledge the hard work of not just our teachers but also our principals, our school-learning support officers, our school administration and support staff and countless other staff that have made learning from home possible during the lockdown period.

Sally Clough, an assistant principal from Wollongong West Public School, led an outreach program for support unit students, delivering everything from learning packs to food hampers to vulnerable families every week. Trust me when I say that she is just one example. I could list literally hundreds of examples of other teachers who have supported their students just like this. I also say a big thankyou to all of the early childhood educators across New South Wales, who have been so resilient and innovative over the past couple of months, particularly considering that those services remained open for most of the lockdown period so they could look after the children of parents who needed to be at work. It was very hard work during a challenging time, and I think it is a testament to the quality of our education and early childhood services in New South Wales. I express our gratitude to each and every one of them.

I also acknowledge the tremendous efforts of education staff in coming out in huge numbers to get vaccinated. Teachers and school staff are leaders in their communities and care deeply about their students, many

of whom are unable to be vaccinated at this point in time. Our staff have overwhelmingly embraced the call for vaccination, with our current data showing rates of 95 per cent of staff being double dosed, which I think every member here will agree is incredible. I also acknowledge the work of our Directors, Educational Leadership [DELs], who are supporting and guiding our public schools. Just last week, our DELs contacted every principal at every school in New South Wales to discuss their return-to-school plans and to check if they needed any additional support from the department regarding staffing. I am pleased to note that there were only 160 schools, out of more than 2,200, where principals indicated that they needed some additional support with regard to teaching staff in the next few weeks. The department is working closely with these schools to ensure that everything they need is in place in time for the full return to school next week, and beyond, as needed.

Our early childhood workforce has also come forth in droves to get vaccinated. I thank all of our major peak bodies for helping us to communicate with and support services to do so. While I have missed being able to visit schools in person, we have been meeting virtually during roundtables. The insight, feedback and perspective that has come from our staff has been invaluable throughout this time and again highlighted their commitment, resilience and agility, all in support of our students. I am sure the House joins me in commending all of our extraordinary teachers, school staff and early childhood staff right across the State.

JERRABOMBERRA HIGH SCHOOL

The Hon. TARA MORIARTY (12:23): My question without notice is directed to the Minister for Education and Early Childhood Learning. What is the Minister's response to the Jerrabomberra Parents and Citizens Association's concerns that the proposed Jerrabomberra high school will not be delivered in time for the 2023 school year and that it will be too small for the number of students wanting to attend?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:23): I thank the honourable member for her question. It is a good opportunity to talk about all of the schools that the Government is delivering in the Monaro. It is funny that that is a topic that comes up.

The Hon. Penny Sharpe: Point of order: The Minister has indicated clearly that she is not intending to answer this question in a directly relevant way and instead wishes to speak about something that the question is not about. The question is about the proposed Jerrabomberra high school and where it is up to. The Minister should be directly relevant to the question.

The Hon. Damien Tudehope: To the point of order: The Minister was five seconds into her answer. Is she not allowed to give context?

The PRESIDENT: I am sure the Minister was about to respond directly to the question and no doubt those comments were merely introductory. There is no point of order. The Minister has the call.

The Hon. SARAH MITCHELL: Jerrabomberra is in the Monaro, so I was being relevant. But I respect that the member has asked specifically about the concerns of the Jerrabomberra P&C. Jerrabomberra High School is a new project that we are delivering in a growing area of the Monaro, near Queanbeyan, which is in line with the hundreds of schools that the Government is working on and investing billions of dollars into. In terms of the delivery date for that particular school, the advice I have is that we are on track for an early 2023 delivery, which is exciting. The early contractor involvement has been awarded. The project is in the design phase. It is a really exciting opportunity for that community to have a brand-new high school there. Once again, it is this side of the House that is delivering when it comes to school infrastructure, in the communities where it is needed. That includes in the Monaro, and we are very proud of the work that we are doing.

GREYHOUND WELFARE

The Hon. MARK PEARSON (12:24): My question is directed to the Minister for Finance and Small Business, representing the Minister for Better Regulation and Innovation. According to a report by the Coalition for the Protection of Greyhounds, 2,000 New South Wales racing greyhounds are missing from the New South Wales register and have most likely been transferred interstate, including to the Northern Territory, where their welfare and whereabouts is not traceable. Will the Minister advise whether he is aware of this regulatory loophole? Is he concerned that there is nothing to prevent those greyhounds from being killed as industry wastage?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:25): I thank the member for his question. Notwithstanding that I would like to have a crack at it, I will take the question on notice.

SUICIDE PREVENTION

The Hon. WES FANG (12:25): My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on the New South Wales Government's plan to upskill the community in suicide prevention?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:26):

I thank the honourable member for his question. As I said in the House earlier this week, we have had a landmark \$130 million mental health recovery package and it is all about supporting our young people and our families. It is about building up system capacity to meet demand and upskilling our communities to lead the recovery. We know that help outside the hospital system enhances and complements the specialist care that we provide, which is why community support is absolutely front and centre in our plan to support people navigating the road to recovery. Our key community initiative is a record \$14 million investment in statewide suicide prevention training for the people of New South Wales. This investment will see leading suicide awareness and skills training provider LivingWorks deliver training to 275,000 people across New South Wales. That is a scale that we have never seen before.

The training teaches people how to identify the signs that someone might be struggling with thoughts of suicide or self-harm and then respond with compassion, support and, importantly, early referral to appropriate resources. Training of this scale will build an absolute network of people around New South Wales who are equipped to support the community, with a particular focus on our young people. Training will be offered to teachers, school support staff and peer leaders at every high school, not just government schools, as we know there are issues with young people struggling at independent and Catholic schools as well. It will be offered to parents so that they can learn to notice the signs within their children. What has been really successful during COVID are the courses that we have run for our parents through headspace. We have had huge demand across both sides of the Chamber for that. That has been a great pick-up. Training will be offered to sporting organisations, including sports coaches and club managers, because we know that often people will present at their local footy or netball team or their clay shooting club. They know people. They know if something is not quite right.

The Hon. Penny Sharpe: Clay shooting!

The Hon. BRONNIE TAYLOR: I love clay shooting. Training will also be offered to community organisations such as the Country Women's Association, Rotary and Lions clubs, local adult and youth community leaders, and small business owners and managers. Each of those people will be able to go home and start a conversation. Just imagine, Mr President, that you did the training because you decided that people within this organisation needed the support. You then go home and have dinner with your family. You discuss all the strategies that you have learnt and what you have done. Then people around that table go out and discuss them with everyone else. Suddenly we have all these terrific conversations about mental health going forward. It is really important. It is going to equip people with the skills that they need. By upskilling everyday members of our community we build a strong and resilient State of community mental health champions.

DEPUTY COMMISSIONER MAL LANYON

The Hon. ROD ROBERTS (12:28): My question is directed to the Minister for Sport, Multiculturalism, Seniors and Veterans, representing the Minister for Police and Emergency Services. Information revealed in official police and ambulance service documents tabled as a result of an order for papers under Standing Order 52 detailed the unacceptable behaviour of NSW Police Deputy Commissioner Mal Lanyon, including being found heavily intoxicated and unconscious on a footpath, and swearing at, physically shaping up to and being aggressive towards treating paramedics. Further, he misled the Commissioner of Police, who in turn misled Parliament. Will the Government now rule out appointing Deputy Commissioner Lanyon to the role of NSW Commissioner of Police? Is the Government satisfied that Mal Lanyon is a fit and proper person to continue performing in his role?

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (12:29):

I thank the honourable member for his question. It contains some conclusions that I cannot agree with and take exception to. Those matters are under investigation and should be left to that body to investigate. As to the specifics, I will take the balance on notice.

COOLER CLASSROOMS PROGRAM

The Hon. COURTNEY HOUSSOS (12:30): My question without notice is directed to the Minister for Education and Early Childhood Learning. Given that 447 New South Wales public schools applied for round two of the Cooler Classrooms Program, why have only 15 schools been approved for delivery? What is the Minister's response to the 96.6 per cent of schools that missed out?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:30):

I thank the member for her question in relation to our Cooler Classrooms Program. As I have said many times, it is a \$500 million program over five years to install cooling, heating and fresh-air ventilation systems at more than 900 public schools. The member would be aware, because it was given to her this morning in reply to a question that she asked yesterday—

The Hon. Walt Secord: Signed by you.

The Hon. SARAH MITCHELL: Yes, I did sign it. A number of schools were successful in round two of that particular program, building on the 911 schools that were approved during round one. The work that has been done on those 911 schools is at various stages of completion and delivery. The delivery of those approved projects has informed the assessment of the schools that nominated for round two of the program. A due diligence process was completed and successful schools were notified. The department will now consider how to address additional air-conditioning requirements following the rollout of the current delivery priorities under this program.

The Hon. COURTNEY HOUSSOS (12:32): I ask a supplementary question. Will the Minister for Education and Early Childhood Learning elucidate that part of her answer where she spoke about the assessment of future air-conditioning needs and explain whether there will be any further successful applicants announced under round two?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:32): I actually did not say the assessment of future needs. I said that the department will consider how to address additional air-conditioning requirements following the rollout of the current delivery priorities. As I said, we have already had 911 projects as part of round one. There has now been a number added in round two and they will be the priority for us to deliver in line with that commitment.

The Hon. WALT SECORD (12:33): I ask a second supplementary question. Given that 432 schools were unsuccessful in round two, will there be a round three of the Cooler Classrooms Program applications?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:33): As I said, all up, 922 schools are part of the first rounds of that project with the funding that has been allocated. I am not going to pre-empt future decisions of the Government in terms of other rounds. As I said, we will consider how to address additional air-conditioning requirements following the rollout of the current delivery priorities.

The Hon. Courtney Houssos: It is 15 schools.

The Hon. SARAH MITCHELL: It is not 15 schools. It is 922 schools that are getting air conditioning through this program. It is not 15. It is 922 in total.

The PRESIDENT: Order! I call the Hon. Courtney Houssos to order for the first time.

The Hon. SARAH MITCHELL: Like I said, we will continue to consider how to address the needs of our schools when it comes to air conditioning.

EVENTS AND TOURISM INDUSTRY INVESTMENT

The Hon. PETER POULOS (12:35): My question is directed to the Minister for Finance and Small Business. How is the New South Wales Government assisting small business in the tourism sector as New South Wales reopens for travel?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:36): It is Thursday. We have had two late nights, but we are heading into summer and it is a great time. I loved the answer by the Leader of the Government where he outlined the manner in which we are supporting the arts and events industry to get people to film festivals and movies. But we are doing a lot more to ensure that the people of New South Wales benefit. I would love the House to participate and acknowledge the great work that we are doing. We all know that the events and tourism industry has been hard hit by the pandemic.

That is why the New South Wales Government has announced an investment of \$530 million in these critical job-creating businesses, including \$250 million for the \$50 Stay and Rediscover voucher for every New South Wales adult to redeem at accommodation premises across New South Wales—a great program; \$150 million for an events package, including \$50 million for major events festivals, agricultural shows and community events across the regions; and \$50 million for the CBD's Revitalisation Program, to support events and activations in the Sydney CBD and also in Penrith, Parramatta and Liverpool. But do not take it from me. Margy Osmond, CEO of the Tourism & Transport Forum, who knows a thing or two about this topic, said:

This will go a long way to get our State back in business, to get people travelling both by road and by plane through our airports large and small and will help to save jobs and livelihoods across the State.

That is not all. Last week we announced the rollout of 5,000 grants, of \$5,000 each, to assist hospitality businesses to get their outdoor dining venues in a park or public space off the ground. Support will be provided to other Alfresco Restart initiatives, including the Long Summer Nights Program at The Rocks, Darling Harbour and The Domain; and the Summer Night Fund Program, with grants of up to \$15,000 for free events in public spaces in local centres. In Westeros the Starks like to say, "Winter is coming", but in New South Wales the Perrottet-Toole Government says, "Summer is coming." So, with apologies to John Travolta and Olivia Newton-John:

Summer sun, something's begun
But uh, oh those summer nights
Oh, Well, oh well, oh well oh, uh
Tell me more, tell me more

I will have more to tell and more songs to sing as we get business here in New South Wales.

BANKSIA MENTAL HEALTH UNIT

The Hon. MARK BANASIAK (12:37): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women. Is the Minister aware that documents subject to a claim of privilege but later released showed that the State Government ignored National Mental Health Service Planning Framework data that highlighted the need for a more comprehensive mental unit in Tamworth? Is the Minister also aware that after these documents were obtained the local member also publicly changed his position, telling *The Northern Daily Leader*:

We should have the facility to deliver these services here and stop sending our kids away.

Will the Minister advise the House whether the health department or Health Infrastructure has received a request from Kevin Anderson, the local member, for costing to build a more comprehensive Banksia unit, which reflects the National Mental Health Service Planning Framework? If so, what has the Minister done to action such a request?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:38): I thank the honourable member for his question. What I do know is that the member for Tamworth is a strong advocate for his local area and for mental health services in that local area. The member for Tamworth and I have had multiple discussions about what we have done in terms of looking at the Banksia unit in Tamworth. I have visited it. It needs to be upgraded and improved. That is why we announced that it will be happening, after extensive consultation with the local community to make sure they are included. They are a fantastic group of people. They are very active and very involved. I am aware that the local member continues to advocate for that and there is discussion around what is happening. Health Infrastructure is looking at it at the moment. The new rebuild for Banksia is not only absolutely in place but it is also absolutely happening to its time line. I look forward to informing the House as each milestone is reached on that new unit.

The Hon. MARK BANASIAK (12:40): I ask a supplementary question. In her answer, the Minister spoke about how the department of health is still looking at this project. Will the Minister elucidate whether the department, while still looking at this project, is considering the fact that it ignores the current National Mental Health Service Planning Framework?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:40): I thank the honourable member for his supplementary question. As I said in my previous answer, we are looking closely at delivering a high-calibre service for Tamworth in Banksia. I have been very open and transparent, as has the local member, that this centre needs to be refurbished and brought up to the standards of a modern-day mental health unit. This new unit, this new build will meet standards. It will be a first-class service, and it will continue to be so. May I say this: We have made the commitment to improve the infrastructure, but the real stand-out at Tamworth is the incredible staff who work in that unit every single day and deliver high-quality care to people who are sometimes having their worst day.

They are really good people who are doing a really good job. They have been involved in discussing the plan for the new mental health unit. That is how we get really good acute-care services—we talk to community, we talk to specialists, we talk to the staff on the ground and we work with them to make sure that we have best practice care and best health outcomes. I look forward to informing the member and the Chamber as we progress. I also reiterate that the local member is doing a fantastic job in advocating for his community and for services.

The Hon. WALT SECORD (12:42): I ask a second supplementary question. Will the Minister elucidate her answer in regard to the representations made by the local member, detailing the dates and content of those representations? If the Minister is unable to provide it today, she can take it on notice.

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:42): I thank the honourable member for his question. I am very happy to provide dates of correspondence from the local member. This has gone on for quite some time and he has made constant representations. It is something that we discuss on a regular basis. The reality is that the Minister for Innovation and Better Regulation and member for Tamworth cares about his community. He knows what his community needs and continuously advocates for it. I look forward to opening the new unit one day with the Minister and his community.

COOLER CLASSROOMS PROGRAM

The Hon. WALT SECORD (12:43): My question without notice is directed to the Deputy Leader of the Government and Minister for Education and Early Childhood Learning. Given that this morning the Minister said in her answer to a written supplementary question asked yesterday that 15 schools were successful under round two of the Cooler Classrooms Program, will the Minister confirm that she is just re-announcing seven schools and where the work has already been completed and funded? Will the Minister explain why so few schools are receiving air conditioners under this program?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:43): I will probably largely refer to the answer I already gave in question time in relation to our Cooler Classrooms Program. As I said, it is a \$500 million program. We are literally seeing hundreds of schools receive this air conditioning right across the State. We are proud of the delivery as it is rolling out. I refer to my previous answer.

The Hon. WALT SECORD (12:44): I ask a supplementary question. Will the Minister elucidate her answer and outline when the successful schools were advised of the date?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:44): I am happy to take that question on notice. I do not have that information with me. I will come back to the member.

The Hon. COURTNEY HOUSSOS (12:44): I ask a second supplementary question. Will the Minister elucidate that part of her answer where she spoke about funding for the program and explain if it has run out of money and whether that is why only seven schools, which had already been completed, were re-announced this morning?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:44): The advice I have is that some schools had two separate applications that have been delivered as one project. I am happy to provide on notice more detail on that to the Hon. Courtney Houssos, because she is obviously interested in this project. As I said, it is a \$500 million commitment. There are 922 schools across the State benefiting from the Cooler Classrooms Program and the Government is proud of that delivery.

COVID-19 AND SENIOR CITIZENS

The Hon. TREVOR KHAN (12:45): My question is addressed to the Minister for Sport, Multiculturalism, Seniors and Veterans. Will the Minister update the House on how the New South Wales Government's work is supporting our seniors during the COVID-19 pandemic?

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (12:46): I thank the Hon. Trevor Khan for his question. As seniors Minister, my priority is to ensure that seniors in New South Wales are safe, have access to appropriate services and are able to live fulfilling and healthy lives. The last two years have been very difficult for many seniors. Over the past few months, I have met with key seniors stakeholders, who have all stressed the importance of ensuring that our seniors can stay connected during these times. Facing a virus that targets our seniors more than any other age group has meant many seniors faced greater social isolation as the Government put in place measures to keep them safe. Meetings with friends and family have become virtual and many of the groups they actively participate in have become restricted. Seniors are particularly vulnerable to social isolation, which is why fostering social inclusion and reducing loneliness are important components of *Ageing Well in NSW: Seniors Strategy 2021-2031*.

New South Wales is now reopening and a very high number of seniors are fully vaccinated. The double-dose rate for seniors in New South Wales is over 92 per cent. That is why I was pleased to announce, last week, \$600,000 in funding for round two of the Reducing Social Isolation grants. The first round of the program closed earlier this year, with \$600,000 shared between 26 organisations across New South Wales. Through the first round of the program, Clarence Valley movie buffs can join a monthly vintage film night and Wagga Wagga Women's Shed will build a sensory garden. In North Sydney, groovers will hit the dance floor in new fitness programs and, in Bathurst, a range of social activities will be made available, from chair yoga to continuing education.

The second round of the program was meant to commence in June 2022. However, in recognition of the importance of reducing social isolation as New South Wales leaves lockdowns behind, the second round has been brought forward at my request. Grants from \$10,000 to \$60,000 are again available to community organisations, councils and charities across New South Wales for innovative programs that combat social isolation. I encourage all community groups across New South Wales to apply for a grant to help support their seniors. Applications close on 15 November 2021. The Government is proud of its achievements in providing opportunities for seniors to participate in and stay connected to their communities in these difficult times. I look forward to seeing applications for the second funding round. There has never be a more important time to reconnect with our seniors. I commend the applications and the grants to the House.

CROWN CEMETERIES

Mr DAVID SHOEBRIDGE (12:49): My question without notice is directed to the Minister for Finance and Small Business. Will the Minister confirm that his office put forward what is called option two for the future management of New South Wales cemeteries, which proposes a two-entity structure for the management of Crown cemeteries, divided between OneCrown and the Catholic Metropolitan Cemeteries land manager, and that it did so with only a few days' notice to Cabinet?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:49): I thank the member for his question. The management of cemeteries is a very vexed question. There are lots of people who have views on the management of cemeteries. I have previously disclosed that I have had some experience in relation to cemeteries, and it would not be unsurprising that people ask my views about cemeteries proposals. The issue is one that is yet to be resolved and hopefully it will be resolved at some time in the near future.

Mr David Shoebridge: Point of order—

The Hon. DAMIEN TUDEHOPE: I have finished my answer.

Mr David Shoebridge: The Minister is refusing to address the question. Was it his office that created option two? The Minister has not even approached answering that question. He is not being relevant to the question.

The PRESIDENT: Indeed, the Minister is required to be directly relevant. But the question has been answered. The Minister has concluded his answer.

Mr DAVID SHOEBRIDGE (12:51): I ask a supplementary question. Noting the Minister's experience in this regard, is the Minister aware that option two is contrary to the advice of Investment NSW and the Department of Planning, Industry and Environment on how the New South Wales Government should deal with unsolicited dealings and is in fact in breach of ICAC's direct dealing guidelines?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:51): I thank the member for his supplementary question. The question involves lots of conclusions and imputations in relation to a proposal that has not yet been resolved. These proposals are potentially being considered and, in the circumstances, that is the answer—

Mr David Shoebridge: Why will you not answer?

The Hon. DAMIEN TUDEHOPE: That is the answer that I am giving, and I will not be articulating any more detail around that until Cabinet has made a decision in relation to it.

QUEANBEYAN HIGH SCHOOL

The Hon. PETER PRIMROSE (12:52): My question without notice is directed to the Minister for Education and Early Childhood Learning. Given that there are seven vacant teaching positions at Queanbeyan High School, what steps is the Minister taking to address the ongoing teacher shortages at the school?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:52): I thank the honourable member for his question about Queanbeyan High School and data that he has presented in terms of vacant positions. I will have to check that data because, obviously, with 2,200 public schools across the State, I do not have the current rates with me in the House. But, more broadly, the member has asked what the Government is doing to address the issue of vacant teacher positions in schools across New South Wales, including Queanbeyan High School. The answer is that the Government is doing a lot to address issues around teacher supply. We are the largest public education system in the Southern Hemisphere. For an organisation of our size, our teacher vacancy rate is consistently very low, at less than 2 per cent. So it is important to have that in context in teacher vacancies.

As members are aware, award negotiations are going on between the department and the Teachers Federation. Not surprisingly, a lot of these issues are being raised in the public arena at this time. That is understandable and, perhaps, expected. In terms of our teacher supply going forward and particularly what the Government is doing in rural and regional communities, we announced in this year's budget more than \$120 million for our teacher supply strategy, details of which were announced a few weeks ago. We are looking at a range of initiatives under that strategy. For instance, we have an idea about growing your own. That means finding high-performing, final year school students and talking to them about supporting them in a career in education, and giving them an opportunity in their first year out of school to work as a student support officer, to go to university and then to teach in the communities where they live, which is so important in regional areas.

A lot of evidence in other professions shows that those kinds of programs work well, particularly for regional communities such as Queanbeyan. We are also looking for opportunities to upskill our student learning support officers. We are running a pilot next year for people who are already working day in and day out in our school communities, in classrooms with children and doing fantastic jobs. We want to help them to upskill. We want to make sure that teachers have pride in teaching and that people aspire to study and work in the profession. We are also looking at scholarships in inclusive education, making sure there are opportunities for students with additional needs to be taught by teachers who have that expertise—something that we have discussed and that I know you feel strongly about, Mr President. We are looking at a range of issues. Those opposite have asked me about international recruitment, but we also want to make sure that we elevate teaching as a profession. Day in and day out, our teachers consistently tell me that they love their job. They are inspired by the work that they do every day. [*Time expired.*]

The Hon. PETER PRIMROSE (12:55): I ask a supplementary question. I thank the Minister for her answer. Given that the Minister was the source of the information she provided relating to Queanbeyan and given that the Minister is unaware of the shortage, will she take on notice the question about the specific steps she will take to address the seven vacant teaching positions at Queanbeyan High School?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:56): I did not dispute the number; I just said I wanted to check that. As members will appreciate, every day there are opportunities to look at vacancies being filled in our schools. It goes on constantly. The broader question the member asked was what we are doing to look at our teacher supply, which is why I answered in the way I did. I could say plenty more about the work that we are doing—great work with our FASTstream program and our targeted mid-career transition programs. The investment of more than \$120 million in teacher supply is the biggest investment we have seen. It is what good governments do: We plan for the future. We make sure that we have the teaching workforce that we need—high-quality teachers in our classrooms.

The Hon. ANTHONY D'ADAM (12:57): I ask a second supplementary question. In the Minister's answer, she referred to the Teacher Supply Strategy. Will the Minister elucidate why that strategy contains no metrics to measure and evaluate the programs it outlines?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:57): I thank the honourable member for his question about how we measure success when it comes to that strategy, which includes a number of initiatives. It is all available online; members should have a look if they have not already done so. It is \$125 million over the next four years. It is an evidence-based plan to grow the teaching workforce by improving the attraction to teaching, by retraining and upskilling more teachers to specialise in high-demand subjects and by boosting the teacher supply in regional and remote communities. There is also the work of the Rural and Remote Incentives review, which I have spoken about in the House before. We will focus on delivering those short-term initiatives, developing implementation plans—

The Hon. Anthony D'Adam: Point of order: The Minister is more than halfway through the answer to the second supplementary question, which was about why the strategy has no metrics. The Minister has yet to address that question.

The PRESIDENT: I have been listening closely, and the Minister has addressed issues of measurement at a couple of points in relation to referring members to the internet site. The Minister has the call.

The Hon. SARAH MITCHELL: As I said, we will develop implementation plans for all of the initiatives under the Teacher Supply Strategy. The document says very clearly it is about looking at those 3,700 teaching positions on top of the normal teaching progressions that we want to see delivered. I inform the honourable member that the Centre for Education Statistics and Evaluation, which obviously does a lot of work evaluating programs, will also be evaluating the Teacher Supply Strategy and its delivery.

ABORIGINAL BUSINESS ROUNDTABLE

The Hon. LOU AMATO (12:59): My question is addressed to the Aboriginal affairs Minister. Will the Minister update the House on the Aboriginal Business Roundtable that was held at the beginning of the month?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:59): I am delighted to tell the House about that, and I thank the Hon. Lou Amato for his question. The inaugural Aboriginal Business Roundtable was held on 8 October. Leading Aboriginal businesses from across New South Wales gathered virtually to identify priorities for supporting the growth and expansion of the Aboriginal business sector. Given that New South Wales is easing restrictions and looking to revitalise the economy, the holding of the inaugural round table is timely and Aboriginal businesses are playing a crucial role. In addition to their economic contribution in providing jobs and skills, Aboriginal businesses are vehicles for self-determination and drive better social and educational outcomes.

Participants at the round table came from a broad range of sectors, encompassing the arts, tourism, retail, hospitality, mining, construction, IT and professional services. Those Aboriginal businesses are at the forefront of social innovation and transformative change, leveraging culture, knowledge and skills as key competitive advantages. My colleague the Minister for Finance and Small Business was also present on the call, and I thank him for taking part. We were inspired to see and hear from many Aboriginal businesspeople. We heard firsthand about their experiences and views on how we can better support the sector as they lead the way in dismantling barriers to employment and driving outcomes across health, education and justice.

The outcomes will also inform new initiatives and will be used to better target the new \$8.7 million Aboriginal Community Organisations Grants Program, a part of the Closing the Gap program that will include priorities identified by businesses. Journalist, broadcaster and proud Wiradjuri man Stan Grant was the master of ceremonies, facilitating the conversation on key barriers to business growth, including reducing unnecessary red tape and better targeting investment to the unique needs and strengths of Aboriginal businesses. We will take what we have heard and make sure it informs policy development, guides investment and is reflected in procurement practices and other policy implementation. I want to ensure at the next round table that we discuss in greater detail the pathway to a strong Aboriginal business sector in New South Wales. I thank the businesses that participated in the inaugural round table and look forward to a productive relationship working together in the future. I believe Aboriginal businesses can play a very substantial role in closing the gap.

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

DEPUTY COMMISSIONER MAL LANYON

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (13:02): In response to a question from the Hon. Rod Roberts in my capacity representing the police Minister in the other place, I indicated to the House that I would take the question on notice. I have some further information to provide to the honourable member and to the House. I am advised that police Deputy Commissioner Mal Lanyon had a minor incident outside his accommodation in Goulburn in February 2021 and that ambulance officers were called to his accommodation. After speaking with them, he returned to his room. I understand that Mr Lanyon has acknowledged on a number of occasions that he was not an easy patient and has since apologised to the ambulance officers who came to his aid. The NSW Police Force, including Mr Lanyon, has a strong working relationship with NSW Ambulance and I am assured it will be unaffected by the incident. I understand that the incident was referred to the Law Enforcement Conduct Commission twice, as well as the NSW Police Force Professional Standards Command. Mr Lanyon was counselled by the commissioner in response to the incident.

Supplementary Questions for Written Answers

PUBLIC SECTOR EMPLOYEES

The Hon. MARK LATHAM (13:04): My supplementary question for written answer is directed to the public service Minister. In the whole range of many public service staff surveys, can the Minister detail the number of staff that have requested participation in the various programs run and propagated by the outgoing Jim Betts?

COOLER CLASSROOMS PROGRAM

The Hon. COURTNEY HOUSSOS (13:04): My supplementary question for written answer is directed to the Minister for Education and Early Childhood Learning. Will the Minister provide a list of all of the schools that applied for round two of the Cooler Classrooms Program?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. JOHN GRAHAM: I move:

That the House take note of answers to questions.

RIVERINA CONSERVATORIUM OF MUSIC

GOVERNMENT GRANTS

The Hon. JOHN GRAHAM (13:05): One of the fears people sometimes have is that the era of frank and fearless advice might be dead. As Nigel Blunden entered stage right, I think we can be assured, at least in this instance, there should be no concerns here. During question time we referred to his memo of this week. I certainly did not agree with all of it, but he went on to say, as Joel Goodson famously said—and I will not complete the sentence—"or perhaps it is to be known as the Maguire International Shooting Centre of Excellence". I do not necessarily endorse those comments. But the fundamental advice that they should go away, test the assumptions, verify the business case and then come back with it solid is good advice that was well given, and there should be

more of it. The Ministers in answering did not want to have any of this. They ran a mile from answering some of those questions. I am perhaps not surprised that the Ministers did not want to complete this sentence, "Maybe if we make Wagga the world centre for clay shooting, we can take back that money we wasted on"—blank. I can understand why they skipped the answer to that question.

But given the chance to talk about the other issue, which was the Expenditure Review Committee decisions, not only did the Leader of the House decline to answer the top five worst ERC decisions, he also did not even take up the opportunity to answer the top five best ones. He was left blank when it came to nominating the top five best ones. We did have suggestions about what those top five worst ERC decisions could have been: perhaps the more than \$10 billion in transport blowouts, some of the icare decisions, the Stronger Community Grants report, the \$90 million that went to Hornsby Quarry and the Tibby Cotter bridge. We had suggestions, but there was not a top five best or a top five worst.

Our real concern, though, is the grants culture under this Government. We had concerns about Premier Berejiklian and Deputy Premier Barilaro, but our concerns did not stop there. The Opposition is going to continue chasing the grants culture of this Government. All governments give grants, but the grants culture under this Government is out of control. We can do better in New South Wales. I do not want to vouch for all of Nigel Blunden's work, but his work in this memo—giving advice about what should be the basis of decisions, whether it stacks up economically and for the community—is good advice.

PUBLIC SECTOR EMPLOYEES

The Hon. MARK LATHAM (13:08): I take note of the answer given by the Leader of the Government and public service Minister, who said that I was running a jihad against programs I do not like. The big news is that I have never been on Jim Betts' mailing list. I have never received a single communiqué from Jim Betts directly out of the Department of Planning, Industry and Environment. The only reason I raise these issues is staff dissatisfaction with the outgoing Jim Betts. Not surprisingly, a whole host of people who work in the New South Wales public service go to work solely to do their job, not to be hooked into political indoctrination seminars run by a former member of the British communist party, not to have hand-wringing exercises about their sexuality, not to have to salute certain flags.

People who work in the public service go to work to provide customer service and value for money for the New South Wales taxpayer. Is that not something we should be encouraging as a Parliament, because the Minister has declared his support for so-called diversity? But there is no diversity at all if you want programs that are a mirror image of yourself and you fail to recognise that there are people who do not share those particular values. The only way you can run an apolitical public service where people dedicate themselves to looking after the taxpayers in New South Wales is to forget about the politics, forget about political indoctrination programs—such as unconscious bias, cultural competency and all the remoulding of people—and just let people come to work and do their job.

The sad reality of saying it is a jihad is it shows that the Minister is out of touch with what the public servants are actually saying and the flood of material they have sent my office, dissatisfied with people such as Jim Betts. They should be dissatisfied because I get feedback that says this is not a professional public service looking after the taxpayer dollar; it is a public service under people such as Betts that is totally self-indulgent—all about themselves. It is the selfishness of thinking that diversity ends at the extreme of their own bathroom mirror, where they look in the mirror and think that is the sort of person we want; I will make everyone else in the public service be like me. That is not respect for diversity. That is not tolerance of a pluralistic society. That is an absurdity. It is a political indoctrination approach that sells short the interests of the taxpayer.

The sad reality is that we can look at Treasury, for instance. No self-respecting rational economist would want to work there and indulge themselves in these woke, pathetic programs. We have got a productivity deputy secretary in Treasury who does not work at all on productivity. They had to create a productivity commissioner. Joe Wilkie is full-on politics. What is the point of that? There is a simple remedy. If you want to be a politician, run for this place or the other place. That is what Betts should have done. At the end of the day, it is like a condolence speech. I say goodbye to Jim Betts but I also recognise that I did him one little favour: I made him famous. Perhaps he will bob up as a Greens candidate for Summer Hill or a Greens candidate for this place and I can rejoin the debate that he should never have been in a senior position in the public service. [*Time expired.*]

EVENTS AND TOURISM INDUSTRY INVESTMENT

The Hon. SCOTT FARLOW (13:11): I take note of the answer given today in question time by the Minister for Finance and Small Business. I will not reflect too much on the singing efforts, though.

The Hon. John Graham: We will.

The Hon. SCOTT FARLOW: I am sure you will. As mentioned in question time as well, with the launch of the economic recovery strategy from the Premier and the Treasurer, we are seeing the real investment from this side of the House when it comes to our accommodation industries and tourism sectors all throughout New South Wales. The Minister for Finance and Small Business was reflecting on those \$50 Stay and Rediscover vouchers throughout New South Wales. As we were in this House, the Premier and the Treasurer were announcing a \$250 voucher for families all across New South Wales to say thankyou for those arduous periods of homeschooling that families have been enduring throughout New South Wales and we very grateful that children have returned to school this week—

The Hon. Ben Franklin: Speaking personally.

The Hon. SCOTT FARLOW: Speaking personally—and returning fully next week to school as well. As the Minister was saying, this shows we have a very bright summer to look forward to, with a \$530 million package to support the events and tourism industry in New South Wales, which has been bolstered today by that \$250 voucher to be used for what are the discover activities, but also accommodation, throughout New South Wales, and entertainment. This is an even bigger boost for that sector across New South Wales.

As the Minister said, he told us more about the many components of these recovery initiatives, such as the \$25 million for festival re-launch. I know that when it comes to the festival association Minister Don Harwin, the Leader of the Government in this place, has been a very strong supporter. On the other side of the table, we know that John Graham is a big supporter of not just breakdancing in the Olympics but festivals as well. I know that festival organisers are looking forward to getting back as part of the recovery road map. I know that the Hon. Ben Franklin is very keen to see the Bluesfest actually take place up at Byron.

The Hon. Catherine Cusack: Hey, who has been going to Bluesfest?

The Hon. SCOTT FARLOW: And the Hon. Catherine Cusack—I am sorry—as well. A Bluesfest from way back. There is so much for everybody to look forward to in New South Wales.

The Hon. John Graham: This is dangerous territory.

The Hon. SCOTT FARLOW: I know. I am digging further and further. The \$10 million recovery marketing campaign is building on the successful road trips campaign. No doubt there will be many road trips across New South Wales come 1 November as people can get out there again and enjoy our regions. I refer to the \$20 million for the Streets as Shared Spaces program. The Hon. Shayne Mallard, who is not in the Chamber, and the Hon. John Graham are avid cyclists, so I know that they would be keen to see this as well. There is only good news and a bright summer ahead for the people of New South Wales, as outlined by the Minister for Finance and Small Business today.

COOLER CLASSROOMS PROGRAM

The Hon. COURTNEY HOUSSOS (13:14): During question time we asked the twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first and thirty-second questions about the Cooler Classrooms Program. We have been chasing up this program so diligently because it was quickly rolled out and announced in November 2018. Those schools that had the inside running were assessed within months and it was rolled out to them just in time for the election campaign in 2019. What happened to the 447 schools that did not have the inside running on the air-conditioning program? Their applications have languished inside the Department of Education for years. The applications for round two of the Cooler Classrooms Program first opened in term one of 2019 and closed in April 2019. For years those schools have been waiting to be told whether they have been successful.

We have consistently asked the Minister when those schools will be advised and, as late as March, in budget estimates we were told that the successful schools will be advised. It slipped out in question time yesterday, so we asked a follow-up supplementary question for written answer, which we received this morning. We found out that only 15 schools from the 447 applications were successful—that is, 96 per cent of the schools that applied in round two missed out. At schools where they have been waiting for years for air conditioning and where children are returning to school now they are being told to keep the windows open in order to stay safe. They do not have air conditioning because this Government has failed to deliver this program and it has failed to inform them.

Why are we pursuing this issue? It is because we know that optimum learning happens between 22 degrees Celsius and 24 degrees Celsius. A Harvard study showed that with every degree increase learning decreases by 2 per cent. Those schools that did not have the inside running will suffer over the coming summer and they have suffered over the past two summers because of the Government's inaction. It is just another grants program from this Government. We thought that it extended only to sporting clubs, but now it extends to our schools. Our children are missing out, and those children who did not have the inside running on this government program have

been waiting for years and sweltering in classrooms. They are now being told that there is no more funding for their schools. It is an absolute disgrace that those schoolchildren are being penalised and neglected by this Government.

DEPUTY COMMISSIONER MAL LANYON

The Hon. ROD ROBERTS (13:17): I take note of the Hon. Natalie Ward's answer to my question. I note that the Minister's answer this afternoon looks like a prepared statement from the police Minister's office. I caution the Minister that before giving any statements in this Chamber she should be careful about what she says. Both Ministers should take the opportunity of carefully reading the documents that have been de-privileged and are available to all members, which I have. I suggest they look at them because they go to the core of the integrity of the justice system in New South Wales, particularly the NSW Police Force. This is not a minor incident. I have official police and ambulance documents detailing what took place that night, which are available to all members.

On 24 February 2021 a male person was found in an unconscious state on the footpath by a member of the community, causing them such distress that they rang 000, believing the person was dead. Upon arrival, uniformed police who attended did not know the identity of the male at that stage and used painful stimuli to raise him, which is in the police documents. After that, the ambulance attended. The police said to the ambulance officers—it is described in contemporaneous notes written by the police—"This person is smashed." The ambulance officers described him as being extremely intoxicated and tried to render treatment to him, at which stage he became aggressive and violent and swore at them. More importantly, he physically shakes up to them. The ambulance officer described it as clenching his fist and raising his arms in an attempt to strike the ambulance officer.

He was only prevented from striking the ambulance officer by the fact that a junior, subordinate police officer stepped in and grabbed him. That is the only thing that prevented him making physical contact with the ambulance officer. That is all documented in contemporaneous notes by NSW Ambulance officers at the scene. That is certainly not minor. Let us continue. Contemporaneous notes taken by ambulance officers describe using diagnostic equipment to test Mr Lanyon and finding no evidence whatsoever of any medical incident. His blood pressure, his blood sugar level, his pulse and his blood oxygen rate—all stuff above my pay grade—are all detailed as being perfect. His blood pressure was absolutely perfect. He did not have a medical incident at all. This is not—*[Time expired.]*

SUICIDE PREVENTION

The Hon. WES FANG (13:20): I take note of answers from the Minister for Mental Health, Regional Youth and Women about the COVID mental health recovery package. I congratulate the Minister on the Government's \$130 million investment, which is the largest since the pandemic began. It is an exceptional package that cuts through to address key issues focused on three areas: supporting young people and families, boosting system capacity to meet demand, and supporting our communities to lead the recovery. The Minister outlined the training component of the package. A statewide suicide prevention training program will be launched to reach 275,000 people on the ground, including parents, teachers, sporting coaches and clubs, community leaders and youth workers—all those people who are a touchpoint for our communities and who have the ability to see and acknowledge the signs that somebody might be considering suicide or self-harm.

This is the single biggest suicide prevention training program ever undertaken by any government. It will support conversations and interventions at school, at home, at the footy club and at the surf club so that our kids, friends, partners and particularly our colleagues are not alone and so that we can look out for each other when times are tough. I know that every member in this House takes this issue seriously and I hope they have the ability to avail themselves of that program. Unfortunately, I know that members opposite sometimes have no mental health policy platform and they have begun to ask for a royal commission. Now they are asking for a summit, but the reality is we do not need any of that and the mental health initiatives in this State are leading the nation.

If there is any doubt about that, we just have to ask the New South Wales President of the Royal Australian and New Zealand College of Psychiatrists, who said, "Why would you need a royal commission into mental health in New South Wales when you have Bronnie Taylor?" That is an endorsement of the Minister's great work. It contrasts with some of the questions we have had from the Opposition. The scare campaign around schools has transitioned to a competition between schools for funding when members opposite did not allocate anything for air conditioning. This side of the House will.

JERRABOMBERRA HIGH SCHOOL

The Hon. TARA MORIARTY (13:23): I touch on the question that was asked of the education Minister about the significant concerns of the community and the Parents and Citizens Association relating to the Jerrabomberra High School proposal. A high school was promised long ago, in 2011, but only in the last couple of months has the site been chosen and explained to the community. The proposed site is well and truly too small.

The primary school, which was originally built for only 380 students, already has 950 students. Today the best we heard was that the proposal for the high school is on track. It was not a commitment that it will be ready for the 2023 school year, as promised, and the school will have a capacity of 500 students.

The Jerrabomberra primary school has 950 students. The proposed new high school, which will not be ready for at least two years and is supposed to be a feeder school for the township of Googong, will have a capacity of only 500. It is nowhere near being able to meet the capacity of those growing communities. The new school has been talked about for 10 years. People expect it to be built and have bought houses in the area on a promise from this Government that adequate schools would be provided for their children. The school will be 10 years too late and at least 500, but probably 1,000, places too small. The Government must get on with fulfilling its commitment of delivering this high school for those growing communities.

BANKSIA MENTAL HEALTH UNIT

The Hon. MARK BANASIAK (13:25): I take note of the answers given by the Hon. Bronnie Taylor to my questions. She spent a significant amount of time defending the actions of the local member on the Banksia Mental Health Unit. The fact remains that the local member was not doing anything other than spouting party lines until the privileged documents were released, which showed the Government was ignoring the national data on this matter. That data shows that the proposed unit will provide only one bed towards satisfying the total number of beds needed. How is one bed going to meet the future needs of the community until 2030?

If the local member truly has had a road-to-Damascus moment, as outlined in his news article, the Minister should then say, yes, he has requested a new costing and that the unit will meet the needs of the community. If the local member is not simply engaging in a face-saving exercise, that is what we should see. I hope it happens. The Minister also spoke about the great work of the staff. I echo those comments. The staff do great work under trying conditions, but they deserve to work in a unit that is fit for purpose and meets the future needs of the community. Importantly, they deserve to work in a unit that has been built based on the national framework data, not on the Government skimping.

RETURN TO SCHOOL ROAD MAP

The Hon. CATHERINE CUSACK (13:27): I take note of the great news delivered today by the education Minister when she paid tribute and gave thanks to our teachers who have achieved a 95 per cent double vaccination rate, facilitating the early return to schools. I add my personal thanks to the Minister because I know that making arrangements during the pandemic for the transition back to school was a complicated and emotional matter. The Minister manages an enormous teaching service across rural and urban areas. The service has a number of stakeholders, including the NSW Teachers Federation, parents and families, who have a diversity of views.

The smooth management of those arrangements have enabled all of us to have complete confidence in the administration of students returning to school. In particular, the Minister thanked teachers; principals; Directors, Educational Leadership; school learning support officers; and school administrative managers for making this possible. She also thanked early childhood educators for keeping services open during the lockdown. Kindergarten and years 1 and 12 will return to school this week. The Minister is looking forward to having the rest of the students back next week. It is a reminder that our public school system is the best in the world.

The Minister mentioned some individual teachers. I add some others. Ms Kim Gaskell is the assistant principal of the support unit at Bradbury Public School. She organised parent fun days on Zoom, when parents and staff would dress up. They would have parent-and-student art days where students were taught to share with parents. In the afternoon on a few days, Ms Gaskell would contact the parents to see how they were coping. She also supported other teachers and classes and would invite students from other classes into Zoom meetings with her class. Rachael Dunstan, a year 8 art teacher at Wollongong High School of the Performing Arts, continued to teach practical art-making online. Her students were working on making masks. Ms Dunstan would organise paint and art materials to be collected from school or delivered to students' houses.

Those teachers worked hard to dismantle hurdles to learning and to make the best use of time. Ms Dunstan also used Facebook to display students' artwork. Jessica Perry from Bringelly Public School in the Macarthur network developed an engaging creative and performing arts program integrated with literacy for students in K-6. She held drama and music Zoom lessons for every class, which became a highlight of her students' weeks. Those classes had the highest attendance rates. The system is riddled with such stories. They are a great tribute to our teachers and to our education system.

GOVERNMENT GRANTS

The Hon. PENNY SHARPE (13:30): I take note of the answers given today, particularly the answers given by the Minister for Finance and Small Business about the operation of the New South Wales Government Expenditure Review Committee. As we have seen publicly recently—and there is more to come—the way in which this Government has dealt with some of its grants processes is being laid bare. For quite a long time the work of the upper House, through various grants reviews, has also been uncovering those issues. It is concerning that the Minister continues to dismiss the significant issue of how taxpayers' money is allocated across this State and simply says that any grant is good for New South Wales. That is not the case. The grants system across a range of areas and departments in New South Wales is riddled with a lack of transparency. We have millions of dollars going out the door with no proper public process—

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

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. BEN FRANKLIN (13:32): I am terribly sorry to interrupt the Leader of the Opposition. I was looking forward to listening to her contribution.

Mr David Shoebridge: You could give up some of your time.

The Hon. BEN FRANKLIN: Unfortunately, I have so much information to impart about the magnificence of the Government's support throughout our COVID-19 recovery program that I cannot do that, but I appreciate the offer from Mr David Shoebridge. As we have heard a number of times throughout this week, today we heard about a range of different support structures that have been put in place for our COVID recovery. We know that COVID has had an enormous economic impact on the finances of this State and of every individual. There has also been a deep emotional impact on people. This Government has tried to work out a way that it can turbocharge the economy by ensuring that people get out there spending money once again, and turbocharge people's mental health and their capacity to engage within their communities and with other people by getting back to normal life as we knew it.

Therefore, in taking note of answers, particularly those of the Leader of the Government and the Leader of the House, it is clear that those are exactly the sort of initiatives that we are undertaking. For example, we provided another two \$25 vouchers under an extension of Dine & Discover NSW. That was very successful. I argued passionately that people should take those up and get out and support local businesses, tourist facilities and restaurants. Those are really important ways to show support for local economies. We have extended that and gone to something new, which is the Stay & Rediscover scheme, which provides a \$50 voucher to all New South Wales adults to redeem at accommodation premises across New South Wales.

I know that Mr President is as passionate about regional New South Wales as I am, and he knows the hit that regional New South Wales has taken because of the lack of tourists able to come and stay during the pandemic. For those communities and for those organisations and businesses that rely particularly on tourists, this program is about genuinely saying to people that the Government wants them to get back out. We want to support those businesses that are the lifeblood of so many regional communities. It is critical where I live on the North Coast.

Added to that is the range of programs that, for example, the arts Minister outlined—the investment in Culture Up Late and film festivals all across Sydney. People can take advantage of incredible artistic spaces and amazing cultural institutions, not only during the day but also at night. Those programs are about thinking innovatively and outside the box. They are about making our citizens understand that we are there for them, we support them and we understand what they have been through. In a very real way, we want to give them the tools to get back to normal in a new exciting State because we know that this is the premier State.

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

Motion agreed to.

Written Answers to Supplementary Questions

COOLER CLASSROOMS PROGRAM

In reply to **the Hon. COURTNEY HOUSSOS** (20 October 2021).

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

The following schools submitted an application in Round 2 of the Cooler Classrooms Program and have been approved for delivery:
Albion Park High School

Biraban Public School
Dapto High School
Francis Greenway High School
Kandos Public School
Karabar High School
Koonawarra Public School
Lucas Heights Community School
Mount Terry Public School
Northern Beaches Secondary College Cromer Campus
Pacific Palms Public School
Queanbeyan South Public School
Queanbeyan West Public School
Randwick Girls High School
Roselea Public School

GREGORY HILLS SCHOOLS PROJECT

In reply to **the Hon. MARK LATHAM** (20 October 2021).

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

Funding to deliver a new selective high school in South West Sydney was included in the 2021/2022 Budget.

This project is in the planning phase.

The Department of Education is working with Landcom to secure a site in the Leppington area with site options under review.

It is anticipated that an update on the site will be available by the end of 2021.

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

Bills

WATER INDUSTRY COMPETITION AMENDMENT BILL 2021

Second Reading Speech

The Hon. SAM FARRAWAY (15:01): On behalf of the Hon. Bronnie Taylor: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Water Industry Competition Amendment Bill 2021.

The Water Industry Competition Act—or WIC Act—was enacted in 2006 to introduce innovation and competition into the water market and encourage water recycling. The Act established a licensing regime to allow private companies to provide water, recycled water, and sewerage services while also ensuring that public health, consumers, and the environment continue to be protected.

There are now over a dozen private operators in New South Wales, recycling up to 5,000 million litres a year across 22 schemes. These schemes include innovative water recycling schemes servicing developments like Barangaroo and Central Park which are reducing the demand on our precious drinking water while still increasing our green space.

Although still a fledgling industry, these schemes are important for the innovation and competition they bring to the market. Developers and others now often have a choice in water and sewerage servicing between a private or public water utility.

Their role is recognised in the NSW Water Strategy and the draft Greater Sydney Water Strategy, especially in facilitating the uptake of more water recycling.

The reforms contained in the bill are designed to strengthen the regulatory framework for private utilities in light of the experience of the past 15 years. The reforms will ensure the framework is fit for purpose as the sector continues to grow, while also reducing costs and delays in the licensing process so that private utilities are in a better position to boost water recycling and urban greening and help accelerate new housing supply.

Implementing these reforms will provide certainty and reduce red tape for industry and increase protection for customers.

I acknowledge that these reforms have been a long time coming. But the Government believes it is better to take the time to get things right particularly with matters as important and complex as the regulation of utilities providing essential services like water and sewerage.

In 2014, following a comprehensive review, the Government enacted major reforms to the WIC Act. However, the Water Industry Competition Amendment (Review) Act 2014 has not commenced operation due to concerns about the complexity and practicality of some of its provisions.

Since that time, my department has been working with the Independent Pricing and Regulatory Tribunal [IPART]—the regulator under the WIC Act—to simplify that regulatory framework while retaining its benefits. That work has resulted in the Amendment bill before us, which repeals and replaces the 2014 Amendment Act.

Bill reintroduces 2014 reforms

Most of the bill's provisions were debated and passed by Parliament in 2014. Although there are important changes to the design of the regulatory framework to make it work better, the policy objectives have not changed substantially from 2014.

The major change from 2014 is that the licensing system will require every scheme to have a registered operator, and in some cases a registered retailer, who are responsible for ensuring that the scheme complies with the Act, the Regulations and the scheme's approvals.

The other changes from the 2014 Amendment Act are an increase in investigative powers and penalties under the Act, additional considerations for IPART when assessing applications for scheme approvals, and modifications to the cost recovery options following a last resort event. The opportunity has also been taken to redraft the bill in plain English and fix drafting anomalies.

Targeted consultation was undertaken with key stakeholders on the draft bill last year to ensure that the revised framework is practical and workable. A number of changes have been made to the bill in response to comments and submissions received from stakeholders. I would like to thank the private water industry and other stakeholders for their engagement in this process.

I will now turn to the content of the bill.

A new Objects clause

The bill addresses the lack of an Objects clause in the current Act by introducing an Objects clause at section 2A. Based on the licensing principles in the current Act, the new clause includes as key objects the protection of public health and safety, the environment and the interests of consumers—including in the longer term.

The explicit reference to longer term considerations is important as experience in other markets has shown that short term approaches can result in inefficient costs in the longer term, which have adverse impacts for consumers, the broader community, and the environment.

The objects also include the facilitation of competition with a view to encouraging innovation and improved efficiency, and the provision of efficient, reliable and sustainable water and sewerage services, having regard to financial, environmental and social considerations.

This "triple bottom line" approach is vital given the nature of the water industry and its potential for significant public health, environmental and social impacts.

The bill seeks to complement rather than duplicate other frameworks such as the Protection of the Environment Operations Act.

A key change made by the bill is to narrow the scope of the Act's licensing regime. Under the current regime, a licence is required to construct, operate or maintain "any water industry infrastructure"—unless an exemption applies. The result is a licensing regime which is too far-reaching. It entails costly requirements, including for small scale, low risk schemes. Such schemes are often governed by other frameworks, such as the Work Health and Safety Act 2011, and do not warrant additional oversight under the WIC Act.

The bill narrows the current licensing regime by clearly articulating the kinds of schemes which are to be regulated under the Act—rather than casting a wide net and relying on exemptions to narrow its reach.

The current Act's one-size-fits-all approach imposes high costs and stakeholders tell us these are acting as an unwarranted barrier to developing lower risk schemes. The Government wants to remove unwarranted barriers and has adopted a risk-based approach to refocus the scope of the Act.

Consistent with this, the bill focuses on those schemes involving the greatest risks for public health and safety and leaves other more appropriate frameworks to regulate lower-risk schemes.

Three types of scheme will require an approval

Section 5 of the bill sets out three kinds of schemes that will require approvals and licences under the Act.

The first category is schemes providing water or sewerage services to 30 or more small retail customer premises—by which we mean residential premises and small business premises.

The focus of this category is on the customers and the essential nature of the services provided to them. Our objective is to protect the interests of small customers and to ensure services that are vital to public health meet appropriate standards.

This is particularly important given that water and sewerage infrastructure has strong "natural monopoly" characteristics: for example, only one set of sewerage pipes connects each home to the sewerage network and you cannot "switch provider" if you are not satisfied with the physical service provided.

Schemes in this category will require approval and must be operated by a licensed operator. This category of scheme will also be required to have a licensed retailer.

The threshold of 30 or more small retail customer premises has been chosen with a view to balancing the costs and benefits of being regulated under the WIC Act. We can reasonably expect the costs of regulation to be passed on to customers, so we need to ensure that those costs are warranted having regard to the resulting benefits.

Requiring licences for all such schemes—regardless of size—would impose unjustifiable costs on customers and make the regulatory task unmanageable. A balance has to be struck—and stakeholders have been supportive of the approach adopted in the bill.

Smaller schemes that do not trigger the 30 customer threshold will not be left unregulated: sewerage systems will be subject to approval by councils under section 68 of the Local Government Act, and the requirements of the Public Health Act will apply to reticulated drinking water systems and drinking water suppliers.

The second category that will be regulated under the Act is large drinking water facilities—such as a water filtration or desalination plant—with a capacity to produce more than 500 kilolitres per day.

This category is designed as a fall back—to catch any drinking water facilities that do not form part of a scheme servicing 30 or more small retail customers. Such schemes will require approval and must be operated by a licensed operator.

These requirements are designed to ensure that the infrastructure complies with the Australian Drinking Water Guidelines, and that the operator is competent to operate it. However, no retail licence will be required as there will be no direct relationship with small customers.

The Sydney Desalination Plant, which is currently licensed under the WIC Act is an example of the sort of facility that will be regulated under this category.

The third category of scheme to be regulated under the Act is large sewage, stormwater, or recycled water treatment facilities—those with a design capacity of more than 750 kilolitres per day. Again, the intention is to catch any facilities that do not form part of a scheme servicing 30 or more small retail customer premises.

As with drinking water facilities, such facilities will require approval and must be operated by a licensed operator, but no retail licence will be required as there will be no direct relationship with small retail customers.

The 750 kilolitres per day threshold has been selected to align with the environment protection licence threshold in the Protection of the Environment Operations Act—or POEO Act.

As I mentioned earlier, the amendments made by this bill seek to complement rather than duplicate other regulatory frameworks. While environment protection licences focus on pollution prevention and monitoring, WIC approvals and licences will focus on ensuring that infrastructure designs comply with industry and public health standards, that assets are maintained over time, that private operators are competent, and that small customers are protected.

Bringing metropolitan council schemes under the WIC Act

The bill also addresses a regulatory gap by bringing new sewage, water recycling and stormwater harvesting schemes run by metropolitan councils under the WIC Act framework. Currently such schemes are not regulated. The regulations will specify which new schemes proposed by metropolitan councils will be captured.

The regulation will focus on stormwater harvesting and other sewage or water recycling schemes that warrant regulatory oversight to protect public health and safety. Duplication with other regulatory frameworks will be avoided. For example, the regulation will not deal with schemes involving only occupational risks because such schemes are already covered by work health and safety requirements.

The Government is mindful of the need to keep regulatory costs down, particularly in relation to stormwater irrigation schemes that reduce pressure on rain-fed supplies and improve urban amenity.

The department will be consulting metropolitan councils on the content of the supporting regulation early next year.

Regulation of Hawkesbury City Council's sewerage system

The bill will also address an historical anomaly whereby the sewerage system operated by Hawkesbury City Council is not regulated under the *Local Government Act 1993* along with other local water utilities.

This is due to the fact that the system is located within Sydney Water's area of operations and Division 2 of Part 3 of the Local Government Act that regulates local water utilities, does not apply within Sydney Water's area of operations.

Hawkesbury City Council has been voluntarily complying with the relevant requirements of the Local Government Act but the bill will formalise this arrangement and bring Council's sewerage system under Division 2 of Part 3 of that Act. Hawkesbury City Council is supportive of this change.

Separating licences and approvals

One of the bill's most important reforms is separating the licensing of operators and retailers from the approval of individual schemes.

Similar to the way driver's licences and car registrations operate, licensing will focus on the suitability and capacity of operators and retailers to construct and operate schemes, while approvals will focus on the design of an individual scheme's infrastructure and its financial viability.

Licences will continue to be granted by the Minister but will authorise a license to operate anywhere in New South Wales. This means that licensees will no longer need to apply for a new licence each time they wish to build or operate or retail a new scheme, which will save time and money for both business and regulators.

Currently, a WIC operator has to apply for a new licence for every scheme they build and operate. This means they have to go through the same tests of competence and capacity every time they want to operate a new scheme.

Using the driver's licence analogy, this is like forcing a driver to obtain a new licence every time they drive a different car.

This change will also enhance competition by allowing a scheme owner to change their operator or retailer if they are not satisfied with the operator or retailer's performance.

Only suitable corporations will obtain licences

The bill also includes a new test as to the suitability of corporations seeking a licence. This will ensure that licences are only granted to appropriate entities and brings the WIC Act into line with similar legislation such as the Protection of the Environment Operations Act.

The bill requires consideration of whether a company or any of its directors has committed an offence relating to the water industry, public health, environment protection, development control or consumer protection. This is in addition to the existing requirement that applicants have the technical, financial and organisational capacity to undertake the proposed activities.

It's in the interests of all parties that companies entering the water market are reliable and robust and willing to make the ongoing investments needed to maintain their assets and comply with all applicable standards.

And most importantly for consumers, the need to protect public health and maintain essential services underscores the importance of only granting licences to suitable corporations.

Scheme Approvals

The approval of individual schemes by IPART will ensure that scheme infrastructure is appropriately designed and constructed at the outset and maintained over the life of the scheme.

Every new scheme will need a scheme approval before it can be built. Once it is built, it will need an operational approval before it can commence operation to check that the scheme has been built in accordance with the original scheme approval, is fit for purpose and safe.

The scheme approval is designed to ensure that schemes are well conceived from the outset, and that the proposed design will meet national standards for drinking water and recycled water. It will reduce the risk of finding out after a scheme is built that it is unable to meet standards—such as those for water quality or water pressure—and then having to undertake costly reworking to fix.

Most importantly, IPART must assess the financial viability of a scheme to make sure it "stacks up". This will minimise the likelihood that a scheme will have an adverse financial impact on its customers or fail financially and cause a last resort event.

In section 70, the bill sets out the range of matters of which IPART must be satisfied before it can grant a scheme approval.

New requirement for registered operators

The key change to the reforms passed by Parliament in 2014, is the requirement for every scheme, before it can be approved, to have a registered operator, and in some cases, a registered retailer. This registered operator and registered retailer must hold an appropriate licence and will be responsible for ensuring a scheme complies with all the conditions of its approval. IPART will maintain a public register of licences and schemes, identifying the registered operator/retailer and other details of each scheme.

This change greatly simplifies the regulatory framework because it means that IPART can focus on scheme operators and retailers and not also have to regulate infrastructure owners, which would be problematic given the complexity of today's property ownership arrangements.

The change will also eliminate any "blurring" of accountability and responsibility between owners and operators. Under the registration system, IPART can more clearly identify who is responsible when licence or approval conditions are breached or who to seek information from if, for example, NSW Health is not notified of a contamination incident in a timely fashion.

Protecting customers

The bill will significantly strengthen protections for customers of private water and sewerage schemes.

First of all, there will be a standard customer contract that will apply to residential and small business customers—called "small retail customers". The terms and conditions of the customer contract will be set out in the regulations and a draft will be released for public consultation with the new supporting regulation next year.

Second, the bill introduces a new test in section 70 (1) whereby IPART cannot approve a scheme unless satisfied that it is not reasonably foreseeable that the scheme will have significant adverse financial implications for small retail customers.

Third, retailers will be required to publish their prices and notify customers at least three months in advance of any increase above inflation. And the Minister will retain the ability to issue a monopoly supply declaration under section 51 of the current Act, and ask IPART to determine a pricing methodology if a retailer were considered to be overcharging.

Fourth, the bill amends the Environmental Planning and Assessment Regulation 2000 to ensure that parties are informed, before buying a property, that the property is or will be serviced by a private water utility under the WIC Act. In this way, buyers can find out who services a property and the applicable water and sewerage charges.

This will be achieved by including additional information in the planning certificate that is required to be included in a contract of sale for land.

Fifth, consumers, and public health and safety more generally, will be further safeguarded by the increased investigative powers the bill gives to inspectors, together with the new offences and increased penalties for serious offences that pose risks to public health and safety.

Finally, and perhaps most importantly, the bill will ensure continuity of essential services for customers of private schemes through comprehensive last resort provisions.

Strengthening last resort arrangements

Last resort arrangements are designed to ensure continuity of essential services in the event of the financial failure of a licensee under the WIC Act. They provide for another utility to step in to operate a service if the operator or retailer fails.

The current WIC Act provides for a "retailer of last resort" to take over in the event of a licensee failure. However, there are no provisions to enable an "operator of last resort" to step in and operate infrastructure if a licensed operator were to fail. The bill corrects this omission by introducing provisions for the appointment of operators of last resort, within a much more comprehensive last resort framework.

A new Part 5A of the Act sets out detailed requirements for the appointment of last resort providers, the preparation of contingency plans and the recovery of the costs of a last resort event.

However, the first critical step in reducing the risk of a last resort event is IPART's assessment of a proposed scheme's financial viability right at the beginning of the approval process.

The next step is the requirement for IPART to determine, when it is assessing an application for a scheme approval, whether a proposed scheme is essential infrastructure. Section 54 sets out what constitutes essential infrastructure—most stand-alone schemes servicing residential developments in outer-suburban and regional areas would qualify.

If IPART determines that a scheme is essential infrastructure, then an operator of last resort, and in some cases a retailer of last resort, must be appointed before the scheme can commence operation.

The Minister appoints last resort providers on IPART's recommendation or, if urgent, on their own initiative. Last resort providers will usually be the local public water utility in whose area of operations the scheme is located, but there is the option for another WIC licensee to apply to IPART to be the last resort provider for a particular scheme.

The regulations will set out requirements for the preparation and testing of contingency plans for a last resort provider to step in to operate an essential service and these will be the subject of consultation next year. The bill sets out the triggers for the Minister to declare that a licensee has failed, the arrangements that will apply during the last resort event, and how a last resort event can be resolved—for example, by acquisition of an affected scheme by a public water utility.

Recovering the cost of last resort events

Section 56F of the bill allows for the recovery of a last resort provider's costs of stepping in and operating the scheme of a failed licensee. The Minister would first seek to recover costs from the failed licensee or a related corporation or their insolvency official.

If all the costs cannot be recovered from the failed licensee, the Minister can establish an industry contribution fund to which public and private water utilities must contribute, or, with the Treasurer's approval, can recover the costs from the Consolidated Fund.

In a change to the 2014 Amendment Act, recovering costs from the customers of a failed licensee has been removed as an option in the current bill. This option was perceived as unfair to these customers who played no part in the licensee's failure. Moreover, the risk that a customer might be called upon to meet last resort costs in this way would have to be disclosed to prospective buyers of properties serviced by private utilities—which would make these properties less attractive to buyers and their banks, compared to properties serviced by public water utilities where taxpayers underwrite such risks.

Prohibition of onselling without infrastructure investment

I now turn to an issue that was the subject of much debate in 2014—the onselling by private water utilities of drinking water sourced from public water utilities.

Section 66A in the bill makes it abundantly clear that private utilities cannot use their infrastructure to onsell drinking water obtained from a public water utility unless they are also providing a sewerage service and both services are the subject of a single contract with the customer.

That is, private utilities will not be allowed to operate or retail a scheme unless there has been investment in new physical infrastructure, such as sewage treatment facilities.

This explicit prohibition replaces section 10 (4) (d) of the current Act which is less clear in requiring licensees to source sufficient quantities of water other than from a public water utility.

The objective of both the old and the new provisions is to ensure that new entrants bring additional infrastructure to the market and that competition does not compromise existing water resources. Retailers will not be allowed simply to cherry-pick customers from existing utilities and provide retail services to them without there being any investment in physical infrastructure.

Such activity would undermine drought resilience, be costly for customers, and run counter to the proposed objectives of the Act. It could erode the benefits of the enormous water efficiency improvements made in recent years and will not be permitted.

Stronger investigative powers and increased penalties

The bill also gives inspectors appointed under the WIC Act greater investigative powers, similar to those in the POEO Act and the Water Management Act. These include the power to question and identify persons, require information or records, examine equipment, enter land, undertake tests and take samples. The powers are subject to the limitations already in the WIC Act that entry to residential premises only occurs with the occupier's consent or with a warrant, that care be taken, and that compensation be paid in the event of loss or damage.

The bill abrogates the privilege against self-incrimination in certain circumstances to strengthen the capacity of the Minister, IPART, and inspectors to properly investigate breaches of the Act.

The Minister, IPART, and inspectors appointed by the Minister or IPART, will have the power to compel persons to provide documents and information, and to answer questions. A person will not be excused from complying with such a requirement because the record, information or answer might incriminate the person or make the person liable to a penalty.

These provisions would mainly be used when investigators are seeking information from directors, managers or employees of licensees in relation to breaches or offences committed by the licensees. So, for example, if inspectors were investigating a water contamination incident, they would be able to compel employees of a private water utility to answer questions about the incident.

The abrogation of the privilege is considered appropriate and proportionate in this instance given the serious public health and safety risks that can attach to breaches of Act and the provision of water and sewerage services.

Limitations have been placed on the use of the abrogation power—so for most offences, information provided by a natural person can only be used as evidence to prosecute the person if the person did not object to providing the information or was not warned they could object to providing it.

The Government is satisfied that the abrogation is appropriate and proportionate with adequate safeguards against misuse.

Section 82B in the bill allows higher penalties to be imposed for an offence if the prosecution proves that an intentional or negligent act or omission caused actual or potential harm to the health or safety of human beings. This is consistent with the Protection of the Environment Operations Act which refers to wilful and negligent acts that harm or are likely to harm the environment.

Higher penalties are appropriate given the potential risks associated with water and sewerage infrastructure and the consequences for public health and safety if licensees do not comply with requirements.

For example, if a licensee's intentional actions result in poor quality water being delivered to customers and illness results or could result, a maximum penalty of over \$5 million can be imposed.

Reviews and appeals

The bill introduces review and appeal provisions against decisions of the Minister and IPART. Under section 11, an applicant for an approval or licence, a registered operator of a scheme, an owner of a scheme, or an owner of land on which a scheme is located, may apply for an administrative review of a decision of IPART or the Minister by the NSW Civil and Administrative Tribunal.

Under section 11A, appeals may be made to the Land and Environment Court against decisions to issue compliance notices, disciplinary action, cancellation of an approval, or orders for forfeiture of security.

Next steps

Before the amendments commence operation, the Government will finalise a new supporting regulation and release it for public consultation next year. The amendments can then be commenced together with the new regulation in late 2022.

There will then be a minimum 12-month transition period to allow existing licences to be transitioned over to approvals and licences under the new framework, in consultation with licensees.

This bill makes important and long overdue changes to streamline and strengthen the Water Industry Competition Act and ensure that it effectively protects public health, the environment, and consumers, while also removing unnecessary red tape. This will allow private utilities to prosper and continue to bring the benefits of innovation and competition to the provision of water, sewerage and recycled water services in New South Wales.

I commend the bill to the House.

Second Reading Debate

The Hon. ROSE JACKSON (15:01): Labor does not oppose the Water Industry Competition Amendment Bill 2021. We on this side think it is very important to have a strong regulatory regime for the private water industry because we do not want to compromise water quality or supply. Also, the cost of any regulation is passed on to water consumers, so we certainly think it should be as straightforward and efficient as it can be. The bill gets that balance right, in our view, although the Government needs to continue to monitor the scheme to ensure that that balance is properly maintained. The Independent Pricing and Regulatory Tribunal's [IPART's] strengthened regulatory role is very important, in our view, including the investigative powers and higher penalties. We note that there are some elements of the bill that abrogate individuals' rights against self-incrimination—for example, in the form of requirements to produce documents and answer questions—although in the context of investigating serious water contamination incidents those are arguably reasonable and proportionate.

One of the things that we were pleased to see was some change around the provider of last resort provisions in the bill. In the 2014 version it was possible that the costs of the imposition of a last resort scheme could be passed on to consumers who were customers of a private water utility and, of course, it is not their fault if a private water utility falls over. So it is pleasing that this version of the Act has removed that and that, if a private water utility fails, those costs will not be passed on to consumers. I have to say that the last resort provisions in the bill seem pretty rigorous, which is good, because obviously if you are a customer of a private water utility, it is essential that if that private business fails there are very rigorous regimes around how your drinking water and sewerage will be very quickly provided to you.

In general, Labor is not particularly comfortable with private water utilities because water provision is such an obvious natural monopoly, and quality drinking water and sewerage services should not be subject to the profit drivers and potential failures in the private market. However, the localised schemes that exist in places like Barangaroo and Central Park are actually quite good. They provide water recycling and re-use schemes that deal with things like the increasing infrequency and scarcity of rainfall and are quite innovative in the way that they maximise the environmental benefits of water re-use on site. So that is positive, although we would like to see the public utility engage a little more rigorously with water efficiency and re-use schemes.

The other amendments to the regulatory regime—the movement from scheme-based to licensee-based licensing; the strengthening of the suitability test for corporations; the requirement that, when a property is serviced by a private water utility, that be included in the contract of sale so that purchasers are aware of that before settlement—are all positive changes to the regulatory regime, which we support. As I mentioned earlier, giving IPART more investigative powers to ensure financial viability before a scheme is approved is extremely important because the one big thing you do not want to see is an expansion of private water utilities where the robustness of the private operator has not been properly tested, it starts falling over and we have people subject to a lot of disruption in the provision of their drinking water and sewerage services. That would not be a good outcome and so strengthening IPART's role to ensure that that does not happen is certainly positive.

It is also good that there is clarification and strengthening of prohibitions on private water utilities onselling drinking water obtained from public utilities because, of course, that has happened in the past under this scheme.

Historically, that has been an issue of concern and that is definitely not in the interests of the public or public water utilities, so it is positive to see some direct strengthening of those provisions. Overall, whilst a long time in the making—as the Minister said, sometimes it takes time to get things right, but 2014 to 2021 is a long time coming—we do not oppose these sensible amendments.

Ms CATE FAEHRMANN (15:06): I address the Water Industry Competition Amendment Bill 2021 on behalf of The Greens. The Water Industry Competition Act was enacted in 2006 to allow private water utilities into the market. The Water Industry Competition Amendment (Review) Bill 2014 was brought before this Parliament following a review of the 2006 Act by the Metropolitan Water Directorate implementing many of the recommendations from that review. It was passed but, as we have heard, the Act did not commence due to concerns that the framework was too complex and would be impractical to implement. This bill repeals and replaces that Act. The contents and objects of the bill have not changed substantially since 2014.

The Greens will be opposing this bill for largely the same reasons that we opposed its predecessor seven years ago. The bill sets out a licensing regime to allow private companies to provide water, recycled water and sewerage services. As The Greens MLC the Hon. John Kaye argued in 2014, this bill takes a bad law and makes it even worse, moving us towards a privatised model of supplying water that will see our public water utilities becoming increasingly irrelevant. It is not privatisation through selling our public water assets but by forcing them to compete with and potentially be made redundant by the private sector.

This bill furthers the goals of the 2006 Act to outsource the responsibilities of public water utilities to the private sector, emphasising the role of private water utilities in new developments that should be serviced by public utilities. The bill removes the requirement that new entrants source sufficient water other than from a public utility, creating a crop of new private agencies that simply act as billing agents that buy water from our public utilities. If you live in a new development, you could find yourself living under the monopoly of a single private water provider.

The 2006 Act was introduced by then Minister for Water Utilities, the Hon. David Campbell, at the height of the Millennium drought, because it was thought it would introduce more innovative water services, an admission that the Government's handling of our public utilities had failed to provide adequate water security and plan ahead for life on this increasingly dry continent. Now, 15 years after that Act commenced, do we have a competitive and innovative water industry? No. Have water recycling and stormwater harvesting taken off and increased our water efficiency? No.

Instead we stand here in the aftermath of the greatest drought and water crisis Sydney and this State have ever faced, and rather than this Government acknowledge its failures to manage our public water utilities in innovative and effective ways, it is instead pushing forward with the failed mantra that the market will provide. The only reason that handing out water to private industry looks at all enticing is that the Government has allowed our public water utilities to waste away, despite the enormous threat of drought and decreased inflows due to climate change. The most recent drought saw Sydney come close to running out of water entirely, dam levels depleted by 20 per cent per year—the fastest rate on record—and level 2 water restrictions introduced.

Experts urged the Government to invest in large-scale water recycling and stormwater harvesting after the Millennium drought, which successive governments have failed to do. A Cabinet document titled *Drought Supply Options Study* released in November 2019 revealed the stark reality at the time that Sydney and the Illawarra were projected to run out of water by mid-2020. The water Minister had been aware of that since May 2019 but still failed to introduce level 2 restrictions until six months later. The document revealed that the 2017 Metropolitan Water Plan was based on data from the 1939 drought and failed to incorporate increasingly dry conditions under climate change. Ironically, whoever prepared the document could not bring themselves to use the words "climate change" and referred instead to a scenario where climate doesn't follow history and we get a follow-up drought before recovery. The New South Wales Government has refused to prepare for the realities of climate change, so Sydney is being left completely vulnerable. Luckily for New South Wales, we had drought-breaking rains arrive in February 2020. In June 2020 the Audit Office of New South Wales released a scathing report into water conservation in Greater Sydney. It found:

The Department and Sydney Water have not effectively investigated, implemented or supported water conservation initiatives in Greater Sydney.

The agencies have not met key requirements of the Metropolitan Water Plan and Sydney Water has not met all its operating licence requirements for water conservation. There has been little policy or regulatory reform, little focus on identifying new options and investments, and limited planning and implementation of water conservation initiatives.

As a result, Greater Sydney's water supply may be less resilient to population growth and climate variability, including drought.

The report is absolutely frightening because it shows that Sydney Water seems to be deliberately avoiding its responsibility to secure a sustainable water supply for Sydney by ensuring that users conserve water. Rather than

respond to the report with a clear plan to bolster our public water utilities and adopt twenty-first century technologies to provide water security, the Government is instead foisting its responsibilities onto the private market.

It is unclear how introducing more private, profit-based entities into the urban water market will address the legitimate and serious concerns raised by the Audit Office. The Rouse Hill recycled water scheme is probably the greatest example in New South Wales of how water recycling can be implemented into new developments. It is Australia's largest residential recycling scheme and recycles water back to customers' homes for non-drinking purposes such as flushing toilets, watering gardens and washing cars. The scheme was introduced in 2001, not by a private operator but by Sydney Water. It should have been a vision of the future, but instead it is a testament to successive governments' failures to build on the concept.

Since 2001 countless new residential developments have been built. But despite the technology being readily available, innovation and competition under the Water Industry Competition Act has failed to see water recycling implemented in the vast majority of those developments. Previous governments should have required non-potable recycled water schemes as part of any greenfield development and invested heavily to ensure that the technology was widely adopted. Instead, most of our wastewater is treated and then disposed of in local streams, rivers, estuaries and the ocean. In Sydney, for example, the city's big three outlets dump nearly one billion litres per day into the ocean.

The Government has also failed to integrate any form of demand management into our public water utilities. In Victoria the Target 155 campaign, launched in 2008 and revived in 2016, aims to bring individual use down to 155 litres per day. It has been largely successful, with average use per person down to 161 litres per day. Sydney residents, on the other hand, use 30 per cent more water per day—around 200 litres. Sydney Water provides a \$500 million annual dividend to the Government and is under no obligation to increase water efficiency or meet demands for water recycling. In its submission to IPART's 2019 review into Sydney's water prices, Sydney Water stated:

Our cash flows need protection against the risk of significantly reduced water demand ... IPART should determine prices to ensure it strikes the right balance between affordability for our customers and our financial resilience.

Both Labor and Liberal-Nationals governments have failed to invest in our public water utilities or set up our State for what is absolutely certain to be a hotter, drier future—typical of water management in this State. I note the water Minister said in his second reading speech that one of the reasons the 2014 bill has never been operationalised, seven years on, was concern around some of its complexities and the practicality of some of its provisions. The Minister states that, over that time, she and her department have put a great deal of effort into working with IPART and key stakeholders—largely private water industry stakeholders—to formulate this bill. What a pity that the Minister and her department did not direct the same effort and energy into creating robust public water utilities that are innovative and equipped to implement water recycling, stormwater harvesting and water efficiencies over that time.

All the bill will achieve is to further corporatise water provision and shift responsibility to provide water security from the State onto the private market, a market that is incentivised to sell as much water as possible for profit and not to reduce water consumption to sustainable levels. The bill sends us down the path of no return when it comes to the State Government and the public having control over our most precious resource: water. That is why The Greens do not support the bill.

The Hon. SAM FARRAWAY (15:16): On behalf of the Hon. Bronnie Taylor: In reply: I thank honourable members for their contributions to the debate on the Water Industry Competition Amendment Bill 2021. I address some issues regarding the Water Industry Competition [WIC] Act raised by Ms Cate Faehrmann in her contribution to the second reading debate. The WIC Act was introduced in 2006 to encourage competition in the supply of water and sewerage services and to facilitate private sector delivery of recycled water infrastructure. Since then the growth in private water recycling schemes licensed under the WIC Act has been reducing dependency for drinking water, creating new local water supplies and increasing green space. There are now 19 private water-recycling schemes across New South Wales, out of a total of 22 WIC Act schemes, supplying almost five million litres of recycled water to 10,000 customers in 2019-20 alone. Because the WIC Act only allows private utilities to enter the market if they are bringing investment in new infrastructure, new entrants have typically constructed new water-recycling schemes to service residential, commercial and industrial developments.

The reforms in the bill have been welcomed by stakeholders, who support a streamlined approach to licensing while recognising the fundamentally important objectives of protecting consumers and public health. The bill strengthens customer protection frameworks. Most importantly, it introduces more robust last-resort arrangements to ensure essential services continue to be provided should a private utility fail financially. As

outlined by the Opposition, the bill makes important and long-overdue changes to streamline and strengthen the Water Industry Competition Act and to ensure that it effectively protects public health, consumers and the environment while removing unnecessary red tape. I thank honourable members for their contributions to the debate, and 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.

Third Reading

The Hon. SAM FARRAWAY: On behalf of the Hon. Bronnie Taylor: I move:

That this bill be now read a third time.

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. NATALIE WARD: I move:

That Government business orders of the day Nos 5 and 6 be postponed until a later hour.

Motion agreed to.

Bills

CIVIL LIABILITY AMENDMENT (CHILD ABUSE) BILL 2021

Second Reading Speech

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (15:20): I move:

That this bill be now read a second time.

I declare to the House that I used to practice in this area of law. My husband and I ran the Ellis proceedings in the High Court. I think members are aware of that, but I want to put it on record. There are no ongoing settlements or matters that would be affected or otherwise in this practice area. I make that absolutely apparent. We have no ongoing work in this area.

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

Leave granted.

The Government is pleased to introduce the Civil Liability Amendment (Child Abuse) Bill 2021. This bill enacts two significant reforms that remove legal barriers to provide a clear pathway for access to justice for survivors of child abuse by:

Inserting Part 1C into the Civil Liability Act 2002 to give the courts the power to set aside certain agreements that settled child abuse claims, where it is just and reasonable to do so, and

Amending Part 2A of the Civil Liability Act to ensure that a person who suffered personal injury as a result of child abuse sustained while in custody is not limited in terms of the damages they can recover for that abuse under the Act.

This bill builds on the New South Wales Government's reforms in 2016 and 2018 to allow greater access to justice for survivors of child abuse, in line with the recommendations of the Royal Commission into Institutional Child Sexual Abuse's *Redress and Civil Litigation Report*.

The Royal Commission into Institutional Child Sexual Abuse

The Royal Commission into Institutional Responses to Child Sexual Abuse had a profound impact across the country. Over the five years of its inquiry, we learnt about the thousands of children in institutions who have been sexually abused in institutions where they deserved to be safe.

The Government has continued to learn from the findings of the royal commission and from the brave survivors that came forward and told their stories, and are continuing to tell their stories.

The royal commission considered the extent to which survivors of child sexual abuse have achieved justice under the existing civil litigation systems in Australia, and whether reforms are required.

The evidence gathered by the royal commission, and reported in its 2015 *Redress and Civil Litigation Report*, demonstrates that survivors have not had the same ability to access compensation as other injured persons, and often find the process of civil litigation to be difficult and traumatic.

The New South Wales Government's civil litigation reforms

In 2016 and 2018, the New South Wales Government implemented an extensive package of reforms in response to the royal commission's findings. These included:

- retrospectively and prospectively removing limitation periods for child abuse,
- introducing an updated Model Litigant Policy and Guiding Principles for Civil Claims for Child Abuse in 2016.

In 2018, the New South Wales Government implemented a suite of reforms that introduced:

- a requirement that a proper defendant be appointed for cases brought against unincorporated organisations (removing what was known as the Ellis defence), and
- two new prospective statutory liabilities for child abuse

The New South Wales Government was one of the first jurisdictions to announce it would join the National Redress Scheme for Institutional Child Sexual Abuse and was the first state to refer powers to the Commonwealth in 2018 to enable the Redress Scheme to be established.

The 2016 and 2018 reforms completed the New South Wales Government implementation of the recommendations of the *Redress and Civil Litigation Report*. Together, these reforms removed significant barriers to seeking civil justice for survivors.

The royal commission's *Redress and Civil Litigation Report* did not make any recommendations relating to giving the courts the power to set aside settlement agreements for previously settled claims.

This bill goes above and beyond the royal commission's recommendations. It builds on the New South Wales Government's 2016 and 2018 reforms to allow survivors who entered into certain settlements before these reforms to have the same access to justice as those who brought a claim after the reforms.

The policy rationale of the bill—setting aside settlement agreements

Prior to the 2016 and 2018 reforms, many survivors entered into settlements that they identified to the royal commission as inadequate or far too low and that they felt forced to accept the settlement offers due to "legal technicalities". In particular, many of these settlements were made in relation to claims that were impacted by the expiry of the limitation period for the claim or where there was no proper defendant to sue.

The royal commission found there was often a power imbalance between the survivor and the defendant when negotiating claims, with the nature of the trauma suffered by the survivor creating a significant power imbalance during negotiations.

Many of the settlement agreements entered into by survivors might now be considered unjust or unfair, particularly where those legal barriers have been removed following the New South Wales Government's reforms to civil liability in 2016 and 2018. If those legal barriers had not existed at the time of the settlement, those survivors would have been in a better negotiating position and may have negotiated a higher settlement amount.

However, people who entered into these settlement agreements would generally be prevented from seeking any further compensation for the abuse by terms in their settlement agreements that released the responsible institutions or persons from liability. This type of release is common across personal injury matters, including child abuse claims.

The ultimate effect of this is that survivors who entered into settlement agreements prior to the reforms may be unable to benefit from the removal of the legal barriers to civil litigation in 2016 and 2018.

The policy rationale of the bill—amending Part 2A

The 2018 amendments in relation to Part 2A of the Civil Liability Act also served to ensure that survivors of abuse who sought compensation would not be limited by the operation of Part 2A. However, as that amendment operates prospectively only, victims of child abuse who were abused while in custody prior to 26 October 2018 (the date of the 2018 Act's commencement) remain restricted by the Part 2A limitations.

Survivors of child abuse in custody have in some cases been significantly limited in the damages they can recover due to the operation of Part 2A, despite having otherwise strong claims.

The damages awardable under Part 2A are capped by what a claimant would have been entitled to receive under the Workers Compensation Act 1987 at the time the injury arose — in some cases, this equates to no damages provided for purely psychological injury.

The application of Part 2A has led to inconsistent outcomes between claimants who experienced comparable abuse at different times or in different institutions. The reforms will ensure that claimants are treated consistently with other historic abuse claims.

The aim of the bill being introduced today is to:

- allow survivors who entered into settlements before the 2016 and 2018 reforms to have the same access to justice as those who brought a claim after the reforms, and
- ensure survivors whose claims have historically been restricted by Part 2A of the Civil Liability Act are no longer subject to such restrictions.

Similar reforms in other jurisdictions

Similar reforms have been introduced in Western Australia, Queensland, the Northern Territory, Victoria and Tasmania. Those jurisdictions' reforms provide a framework to allow people to sue responsible institutions in cases where they were previously impeded from doing so. The majority of these jurisdictions' reforms relate to settlement agreements for claims that were impeded in particular by limitation periods.

The effect of the legislation in these jurisdictions is similar, in that they all provide the courts with the power to set aside historical settlement agreements particularly for claims that were previously statute barred (i.e. prior to the removal of the limitation period).

However, there are some differences in the legislative regimes relating to the scope of settlement agreements covered and the test for the courts to apply.

The exact wording of proposed part 1C differs from the other jurisdictions in various ways, and each of the other jurisdictions' legislation differs from the others.

A key aspect of part 1C that differs significantly to the other jurisdictions is that it clearly articulates that the courts may set aside settlement agreements for claims that were either impacted by the expiry of the limitation period or where an organisation was not incorporated and there was therefore no proper defendant to the cause of action, or both, if just and reasonable to do so.

New South Wales is the only jurisdiction that has clearly articulated in the legislation that the courts may set aside settlement agreements that were impacted by both of these legal barriers. By doing so, this bill ensures it is clear to survivors, their representatives, potential defendants and the courts the types of settlements that are covered by the reforms.

This avoids the parties to an application to set aside an affected agreement needing to engage in lengthy arguments about whether or not the settlement agreement is one that can be set aside.

Public consultation

The consultation process for these reforms in New South Wales was the most extensive out of all jurisdictions who have introduced reforms to give the courts the power to set aside past settlement agreements.

A discussion paper was released for public consultation in March 2020 on possible reforms.

To ensure it reached a wide number of stakeholders, the discussion paper was released on the Department of Communities and Justice website, as well as the New South Wales Government consultation platform "Have Your Say".

The discussion paper was also directly sent to a large number of stakeholders including survivor groups, religious institutions and multi-faith NGOs, children's service providers, legal stakeholders and the insurance industry.

Thirty-three written submissions were received from stakeholders in response to the discussion paper.

Stakeholders submissions, in particular from survivors and their supporters, have informed the development of part 1C.

Survivors' submissions on these reforms reiterated what survivors had told the royal commission in relation to their experiences in negotiating their claims prior to the 2016 and 2018 reforms and helped inform the criteria adopted in part 1C to help guide the courts' decision-making.

Survivors' submissions also made clear that these reforms needed to cover all of the various ways that institutions and other defendants settled claims, not just those that were commenced in court. This includes negotiations undertaken by survivors directly with the responsible institutions along with institutions' privately -run redress schemes.

Targeted consultation was undertaken on the draft bill from November 2020 to January 2021. This included proving the draft bill to a large number of stakeholders including survivor groups, religious institutions and multi-faith NGOs, children's service providers, legal stakeholders, the insurance industry and all other stakeholders who made a submission on the March 2020 discussion paper for comment.

The response to the draft bill was overwhelmingly supportive. Thirty confidential submissions were received on the draft bill and the vast majority of those submissions supported the bill.

Detail of the bill

I now turn to the detail of the bill.

This bill seeks to enact part 1C of the Civil Liability Act to allow the courts, if just and reasonable, to set aside certain settlement agreements for past child abuse claims.

This bill also seeks to amend section 26B of the Civil Liability Act to ensure that the provisions of part 2A of the Civil Liability Act do not apply to claims relating to child abuse.

Part 1C Child Abuse — setting aside settlements

Definitions

Proposed section 7A inserts two defined terms into part 1C of the Civil Liability Act. Each of these terms relates to substantive changes to the Act which I will cover in context.

Object of Part

Proposed section 7B describes the object of part 1C. This is to provide a way for a person to seek to have an agreement set aside if it settled a claim for child abuse against the person and there were certain legal barriers to that person being fully compensated through a legal cause of action at the time of the agreement.

Meaning of 'child abuse'

Under part 1C, "child abuse" includes claims for sexual abuse, serious physical abuse and other connected abuse perpetrated in connection with the sexual abuse or serious physical abuse of a person while they were a child (child abuse).

This is consistent with the definition of child abuse adopted in section 6A (2) of the Limitation Act 1969 (NSW), which provides that there is no limitation date for these claims.

Adopting the definition of "child abuse" used in section 6A (2) of the Limitation Act in part 1C is the best option for ensuring this Part applies to as many settlement agreements as possible for claims that were previously impacted by the expiry of the limitation period or where there was no proper defendant. This definition is the broadest available as it includes "connected abuse".

As these reforms work to extend the same access to justice to survivors as that granted by the 2016 and 2018 reforms, adopting the Limitation Act definition will ensure consistency in applications when assessing claims that were impacted by the expiry of the limitation period for the claim or where there was no proper defendant to sue.

Why this definition

The bill defines "child abuse" as abuse perpetrated against a person when the person is under 18 years of age; that is, sexual abuse, serious physical abuse, and/or other abuse perpetrated in connection with sexual or serious physical abuse.

The threshold for removal of the limitation period is the sexual or serious physical abuse of a child or young person under the age of 18 years. If this threshold has been met, then other forms of abuse connected to the threshold abuse, such as psychological abuse or minor physical abuse, can be considered in determining the claim. This ensures that the court can consider the whole context of abuse when determining the substance of a claim.

"Connected abuse" can be perpetrated by the same person who perpetrated the threshold abuse, or by another person. To avoid doubt, section 6A (2) of the Limitation Act makes it clear that both the "threshold abuse" and "connected abuse" must have occurred when the victim was under the age of 18 years.

The royal commission's recommendations are limited by their terms of reference to child sexual abuse. However, its final report suggests governments could enact reforms covering other types of abuse.

This broader approach recognises that many children who have been maltreated experience multiple forms of abuse. For example, a perpetrator of sexual abuse may also use physical violence, grooming and psychological manipulation to prepare a child for sexual activity or to ensure that a child does not report the abuse. The evidence demonstrates that non-sexual forms of abuse, such as serious physical abuse, can be equally as traumatic as child sexual abuse.

The key determinants of worse outcomes for survivors of child abuse are not the kind of abuse but include factors such as the frequency and duration of abuse, the co-occurrence of multiple forms of abuse, the developmental stage of the victim, and whether there was a close emotional relationship with the abuser. The definition in section 6A (2) of the Limitation Act and for proposed part 1C in this bill is thus broad enough to cover the kinds of abuse associated with trauma, serious injury, and delayed disclosure, but not so broad as to cover trivial, accidental or other conduct that, on its own, is unlikely to cause trauma.

To avoid being overly prescriptive, section 6A (2) of the Limitation Act does not exhaustively define what conduct constitutes "sexual abuse" or "serious physical abuse". Rather, the courts have the discretion to determine whether or not abuse has occurred having regard to the circumstances of each individual case and the ordinary meaning of the terms. The term "child abuse" should be interpreted in a beneficial manner.

The following examples are indicative of the type of conduct that may constitute child abuse. "Sexual abuse" of a child has been defined by the royal commission as "any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards". This includes sexual activities that do not involve physical contact with the victim, such as acts of exhibitionism and exposure to pornography. "Serious physical abuse" should capture non-accidental physical contact with a child that could cause injury. It may consist of a series of relatively minor episodes over a period that cause the conduct to become serious, as well as serious, one-off conduct.

The definition of "child abuse" in section 6A (2) of the Limitation Act and proposed part 1C is not intended to capture conduct that on its own would not amount to "serious physical abuse", such as a one-off physical altercation between two minors, the reasonable restraint of a violent child, reasonable corporal punishment where a defence of lawful chastisement was available at law at the time of the incident, lawful medical treatments conducted under previous policies, and medical negligence claims.

"Connected abuse" could include psychological abuse where a child is manipulated to feel complicit in the abuse, where a child is threatened to prevent them from reporting the abuse, or where a child is coerced into covering up the abuse. It would also include "grooming", which is defined by the royal commission as "actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child". "Connected abuse" could also include minor physical abuse that does not meet the threshold of serious physical abuse, such as minor physical assaults.

Section 7C Meaning of "affected agreement"

Proposed section 7C of the bill allows settlements to be set aside if they are an "affected agreement". This includes those that occurred before:

- a. section 6A of the Limitation Act 1969 (NSW) commenced, and at the time of the agreement, a limitation period applying to the cause of action had expired, or
- b. Part 1B of the Civil Liability Act 2002 (NSW) commenced, and at the time of the agreement, an organisation, that would have been liable under part 1B for child abuse had the part been in force, was not incorporated.

Part 1B was inserted in 2018 to remove the "proper defendant" defence. Proposed section 7C (1) (b) has been included to ensure survivors whose claims were impacted by there being no proper defendant before part 1B commenced have a pathway to have a related settlement agreement set aside so that they can seek further compensation.

Proposed section 7C has been drafted differently to similar provisions in other jurisdictions' legislation that brought about similar reforms. It has been drafted in this particular way to ensure it expressly and clearly captures agreements for all claims that were impacted by the expiry of the limitation period or where there was no proper defendant to the claim.

Section 70 Courts may set aside affected agreement

Under proposed section 7D (1), a person who is unable to bring a claim because of an affected agreement will be able to:

- a. bring proceedings relating to the claim, and
- b. apply to the court to set aside the affected agreement.

Proposed section 7D (1) has been drafted in this way to ensure the most straightforward process is adopted for applications to set aside a settlement agreement.

Proposed section 7D (2) gives the courts the discretion to set aside an affected agreement if they consider it "just and reasonable" to do so. The overwhelming majority of stakeholders who responded to the March 2020 discussion paper supported adopting a test in New South Wales that was consistent with the majority of other jurisdictions. This test was adopted by Queensland, Victoria, Western Australia and the Northern Territory in their reforms.

Adopting a "just and reasonable" test allows the courts in New South Wales to apply broad principles to their decision making and take into account relevant factors. This test is supported by the criteria that the court may take into account in proposed section 7D (3).

The criteria in proposed section 7D (3) is a non-exhaustive list that the courts may consider when determining whether to set aside an affected agreement. The courts are not required to take all or any of the criteria into account. The criteria include:

- a. the amount paid to the applicant under the agreement,
- b. the bargaining position of the parties to the agreement,
- c. the conduct of parties, other than the applicant, or the parties' legal representative in relation to the agreement, and
- d. any other matter that the court considers relevant.

Proposed section 7D (3) will allow the courts to weigh a number of factors relevant to either party when determining whether it is just and reasonable to set aside an affected agreement.

It is important that this criteria be non-exhaustive as the courts will be best placed to consider the factors in each application and the circumstances relevant to the affected agreement that might make it just and reasonable to set it aside.

The criteria have been informed by the royal commission's findings and stakeholder feedback on the March 2020 discussion paper. Stakeholders identified a number of factors relating to their bargaining position and other parties' conduct that they felt contributed to the unjustness of the settlement. This included, in some cases, a lack of legal representation, the plaintiff's physical and mental health at the time of settlement, and the defendant's conduct during negotiations.

It is important that the criteria are non-exhaustive as the courts will be best placed to consider the factors in each application and the circumstances relevant to the affected agreement that might make it just and reasonable to set it aside.

Moreover, the criteria's role is to provide guidance for the courts when exercising the discretion to set aside a settlement agreement, while not limiting a court's power to exercise this discretion and consider the factors it deems relevant to the case presented.

Proposed section 7D also includes an exception to section 131 (1) of the Evidence Act 1995 (NSW). Section 131 (1) of the Evidence Act provides that evidence is not to be adduced of a communication or a document "in connection with an attempt to negotiate a settlement of the dispute".

This has been included in response to stakeholder submissions—to ensure that section 131 (1) does not prevent relevant evidence from being used in an application to set aside an agreement.

Section 7E Court may set aside other things

Under proposed section 7E, to give effect to a court's decision to set aside a settlement agreement, the courts will also be able to set aside related court orders, judgments and other contracts or agreements giving effect to the settlement.

However, proposed section 7E (2) (a) expressly provides that a court must not set aside a deed of release signed in acceptance of an offer under the National Redress Scheme for Institutional Child Sexual Abuse or an agreement taken into account as a relevant prior payment in the accepted offer.

This is because under the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth) the responsible institution is released from civil liability when a redress offer is accepted.

As the National Redress Scheme for Institutional Child Sexual Abuse Act 2018 is Commonwealth legislation, it would override part 1C of the Civil Liability Act. On this basis, proposed section 7E (2) (a) has been included to ensure clarity to those considering whether a settlement agreement can be set aside.

Proposed section 7E (2) (b) also expressly precludes defendants to proceedings that have been settled from applying to set aside a settlement agreement, including a settlement under which one defendant indemnified another, or an insurance contract. This is to ensure an application to set aside a settlement agreement can only be brought by survivors and their representatives. This is who the reforms are intended to benefit.

Section 7F Effect of setting aside affected agreement

Proposed section 7F sets out the effect that setting aside a settlement agreement has on a number of things.

Proposed section 7F (1) provides that a court may set aside an affected agreement or anything else under part 1C only to the extent that it relates to the applicant. This is because in some proceedings, known as class actions or representative proceedings, there is more than one plaintiff.

Class action or representative proceedings can be settled by all of the plaintiffs and defendants signing one settlement agreement.

It is therefore very important in the interests of certainty that if an applicant who settled their proceedings as part of a class action or representative proceedings applies to have a settlement agreement set aside, it is only set aside with respect to that applicant and does not undo the agreements between any other parties that are covered by the one document.

Proposed section 7F (2) provides that an affected agreement and anything else set aside under part 1C, such as a related agreement, judgment or orders, is void to the extent it relates to the applicant. This provision effectively means that once an affected agreement is set aside, it is no longer enforceable against the applicant or any other party, including the defendant.

Proposed section 7F (3) provides that an amount paid, including legal costs or disbursements, or other consideration given under the affected agreement cannot be recovered from the applicant, but may be taken into account by a court when determining damages in proceedings for a cause of action to which the affected agreement related.

It would not be in the interests of justice for an applicant to be able to apply to have an affected agreement set aside and then to have to repay the amount paid under the agreement while they pursue further compensation.

However, the courts have the discretion to take the amount into account when awarding final damages. This is ultimately to avoid what is known as "double compensation" which is where a person receives more than what the court has determined to be the appropriate amount for damages.

It is important that the courts have the discretion to take the amount paid under the set aside affected agreement into account, but not to be required to do so. In determining an application to set aside an affected agreement, the courts will consider the circumstances of each case and will be best placed to determine whether the amount paid under the affected agreement should be deducted from the final amount awarded for damages. This is consistent with each of the other jurisdictions' similar reforms.

Section 26B — amendments to Part 2A of the Civil Liability Act

Application

Proposed section 26B provides that part 2A of the Civil Liability Act does not apply, and is taken never to have applied to, an injury arising from child abuse. This retrospective application will ensure that the restrictive provisions in part 2A do not apply to any claims relating to child abuse that occurred in custody, regardless of when the abuse occurred, ensuring equal access to civil remedies for survivors.

How does Part 2A impose limits on survivors

Part 2A was introduced in 2004 by the Civil Liability Amendment (Offender Damages) Act 2004.

Part 2A of the Civil Liability Act 2002 limits the damages that a person can recover for personal injury sustained while the person was an "offender in custody". This includes limits on the damages recoverable for personal injury as a result of child abuse sustained while the child was in custody prior to 2018.

Where a claimant's permanent impairment has been assessed as being below 15 per cent, the claimant cannot be awarded damages, either for economic or non-economic loss.

If a claimant's permanent impairment has been assessed as above 15 per cent, their claim for non-economic loss is capped by what they would have been entitled to receive under the Workers Compensation Act 1987 at the time the injury arose, which in some cases is nil for purely psychiatric injury.

These limitations mean that the application of part 2A may lead to inconsistent incomes between claimants who experienced comparable abuse at different times or in different institutions, and lead to harsh results for some claimants who, despite having an otherwise strong claim on liability, are unable to recover any damages, or are only entitled to lower damages, due to the operation of part 2A.

New South Wales must apply the relevant provisions of part 2A in accordance with the law. If it is clear that a claimant is an offender in custody as defined in the Civil Liability Act, the provisions of part 2A must be followed in calculating damages available.

Definitions

Section 26B inserts two definitions into part 2A of the Civil Liability Act. "Child" is defined as a person under the age of 18 years, which is largely consistent throughout New South Wales legislation.

Meaning of child abuse

Under section 26B, "child abuse" of a child means sexual abuse or physical abuse of the child but does not include an act that is lawful at the time it takes place.

This is consistent with the definition adopted in part 1B of the Civil Liability Act, which was introduced in 2018 and prospectively amended the Civil Liability Act to ensure that nothing in part 2A places any restriction or limitation on an award of damages made relating to child abuse claims.

As section 26B will extend this amendment to apply retrospectively, adopting the definition in part 1B of the Civil Liability Act will ensure consistency in applications when assessing claims relating to child abuse that occurred in custody.

Savings and Transitional Provisions

The bill will introduce part 16 of schedule 1 to the Civil Liability Act, which will allow the setting aside of settlements, judgments and consent orders impacted by Part 2A.

As the reform is retrospective, individuals with claims which were previously limited by the part 2A provisions will be able to have their claims re-assessed without the restrictions in place.

A survivor of child abuse that occurred while in custody may commence proceedings as if an earlier judgement or settlement affected by part 2A had not occurred.

The court may set aside the earlier judgement or settlement if it decides that it is just and reasonable to do so.

The savings and transitional provisions adopt the definitions currently applied by part 2A of the Civil Liability Act, including the definition of child abuse and the definition of offender in custody.

Conclusion

This bill is the culmination of extensive consultation and consideration.

The New South Wales Government's reforms in 2016 and 2018 were important to providing a clear pathway for access to justice for survivors of child abuse.

This bill builds on the 2016 and 2018 reforms. It clearly and unambiguously provides that the courts may set aside settlement agreements for claims that were either impacted by the expiry of the limitation period or where an organisation was not incorporated and there was therefore no proper defendant to the cause of action, or both, if just and reasonable to do so.

The bill goes beyond the royal commission's recommendations by ensuring that those survivors who came forward and gave evidence about the unfair and unjust settlements that they entered into prior to the royal commission have a pathway to justice.

I wish to finish by thanking the survivors and survivor groups who have advocated for these historic reforms. On many occasions in this place, I have spoken about the incredible bravery, the enormous courage shown by survivors of institutional abuse. The bravery they showed in telling their stories to the royal commission. The bravery they continue to show in advocating for survivors and for a better, safer community for our children in which they can fully thrive.

This bill is designed to provide greater access to civil justice for survivors, and it would not have been possible without their advocacy and without their bravery.

While I unfortunately cannot name everyone, I would like to take a moment to thank:

Beyond Abuse, and their CEO Steve Fisher; The Care Leavers Australasia Network (CLAN) and Leonie Sheedy; Survivors and Mates Support Network (SAMSN), and Craig Hughes-Cashmore; Ellis Legal, and John Ellis; End Rape on Campus, and Nina Funnell and Anna Hush; Bravehearts, and Hefty Johnston; Fighters against child abuse Australia; Rape and Domestic Violence Services Australia; Domestic Violence NSW; Knowmore, and Women's Legal Service NSW.

I would also like to thank the following team from the Department of Communities and justice for undertaking this policy development work: Stephen Bray, Katy Wood, Celia Barnett –Chu, Alexandra Cassar, Deirdre Bole, Alison Bell and Paige Davis.

I also thank the drafter of the bill, Deputy Parliamentary Counsel Mark Cowan, who was involved in drafting the 2018 reforms to the Civil Liability Act too.

Finally, I thank Sean Robertson from the Attorney General's office who has been involved throughout this process.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (15:21): I speak on behalf of the Opposition in debate on the Civil Liability Amendment (Child Abuse) Bill 2021. Labor supports this important bill. In talking to the bill, I will go back to where we started, with the Royal Commission into Institutional Child Sexual Abuse, and I will read a couple of quotes onto the record. One is from Julia Gillard, who was Prime Minister at the time she established the commission. She said:

The allegations that have come to light recently about child sexual abuse have been heartbreaking. These are insidious, evil acts to which no child should be subject. The individuals concerned deserve the most thorough of investigations into the wrongs that have been committed against them. They deserve to have their voices heard and their claims investigated. I believe a Royal Commission is the best way to do this.

The royal commission did an extraordinary amount of work. Again, we need to think about the number of individuals who told their stories. Over 16,000 survivors contacted the commission during the period that it was working. Eight thousand people told their personal stories in private hearings. One thousand survivors provided written accounts of their experiences. I will not go into the horrific experiences that so many who bravely told their stories experienced as children. I thank them up-front, before dealing with the bill. Their voices have made change. We continue to seek justice for them through this bill. It is incredibly important to do that. I also put on record a quote from the royal commission report's preface:

We now know that countless thousands of children have been sexually abused in many institutions in Australia. In many institutions, multiple abusers have sexually abused children. We must accept that institutional child sexual abuse has been occurring for generations.

For many survivors talking about past events required them to revisit traumatic experiences which have seriously compromised their lives. Many spoke of having their innocence stolen, their childhood lost, their education and prospective career taken from them and their personal relationships damaged. For many, sexual abuse is a trauma they can never escape. It can affect every aspect of their lives.

We also witnessed extraordinary personal determination and resilience among victims and survivors. We saw many survivors who, with professional help and the support of others, have taken significant steps towards recovery.

The Civil Liability Amendment (Child Abuse) Bill has two objectives. The first is to enable courts to set aside settled claims for child abuse where it is just and reasonable to do so in cases where specified legal barriers prevented them being fully compensated. The second is to ensure that the provisions restricting compensation for injury to offenders in custody do not apply to damages for child abuse.

We have to reckon with the fact that, without a proper response to institutional child abuse, many victim-survivors were further traumatised by their experiences of trying to seek justice through the institutions that abused them. There are many of them, to the great shame of all those institutions. This important bill puts in

place the ability to properly look at those issues and for justice to be served. I again make the point, though, that the damage has been done. No amount of money compensates people for what they have been through. Governments of the past failed them. The institutions of the past failed them. I hope that that is not continuing, but I am worried that that is still the case. Obviously Labor is very supportive of legislation dealing with that.

The second object of the bill is about the provisions restricting compensation for offenders in custody. It is an interesting issue. It avoids the unintended consequence of part 2A of the Civil Liability Act introduced in 2004 by the Carr Government. So many people who have been survivors of abuse end up in jail. I particularly want to talk about women in prison. We know that about 70 per cent to 80 per cent of those women have suffered some sort of sexual abuse or violence in their lives. An unintended consequence of the Act meant that they found themselves having less access to compensation. That was wrong. It has taken too long for us to get to this, but I am pleased that we have, and Labor welcomes this change. I am glad the unintended consequence is being rectified.

Obviously Labor supports the bill. I pay tribute to the survivors, but I have a couple of final points in relation to child sexual abuse. The commission covered the institutional abuse. There is a lot of work to be done. We know that institutions have done the wrong thing. The bill will probably help with that. But I draw members' attention to the other epidemic in our community, which is the child sexual abuse that happens in the home to children by people who are known to them. Yet again New South Wales has record levels of reporting in relation to children at risk of serious harm. Our system cannot cope with them. We are barely seeing 30 per cent of the kids who are reported at serious risk of harm.

I urge the Government to put more resources into and focus on this other area. There has been a massive loss of funding in early intervention and prevention over time. That is the only way we can get to the bottom of this scourge in our society and protect children. We have to do the necessary work in prevention and working with families, not wait until it is too late. I again reflect on the comments made by Pru Goward yesterday, which disturbed many of us. The attitude that was displayed in that article is fundamentally wrong. It does a great disservice to children in very dangerous situations. It should never have been said. It concerns me greatly that those attitudes exist, and we have to reject them strongly.

I understand that The Greens will move an amendment to the bill in the Committee stage. I indicate that Labor is broadly supportive of it. I will speak to it at the Committee stage. The issue is that people have not been able to get justice through the very poor existing systems. They should be able to, and the bill helps rectify that. The Opposition believes that The Greens' proposed amendment will strengthen that. This is where the rubber hits the road: Kids who have suffered horrific abuse need justice, and we must make that as easy as possible because our institutions and laws have been making it as difficult as possible. The bill is a good step forward.

Mr DAVID SHOEBRIDGE (15:29): On behalf of The Greens, I contribute to debate on the Civil Liability Amendment (Child Abuse) Bill 2021. The Greens will be supporting the bill, but we will also seek to amend it to improve its operation. It is well over five years since the Royal Commission into Institutional Responses to Child Sexual Abuse commenced and more than four years since it made recommendations seeking a substantial number of reforms to the way in which the law works to properly compensate victims and survivors of abuse and also to protect the next generations from abuse. It is with some frustration that we find ourselves dealing with this amending bill in 2021, noting that in 2019 Victoria moved and essentially did what this bill proposes. Western Australia, South Australia, Tasmania and Queensland have all moved on it. In fact, New South Wales is the last jurisdiction in the country to introduce the reforms proposed in this bill.

The bill does two things. Firstly, it enables courts to set aside a limited class of agreements to settle sexual child abuse claims if the court finds not only that it is just and reasonable to do so but also that the agreement in question is an affected agreement. Affected agreements are limited to those where either the limitation period has expired at the time the agreement was settled or the claim was against an unincorporated association. The bill covers a very limited class of agreements.

If it is just and reasonable in the circumstances and the agreement is an affected agreement, the deed or settlement and, in some circumstances even a consent order, can be set aside. A fresh application can then be brought, taking into account any payments that were made under the earlier agreement. The second purpose of the bill is to provide that part 2A of the Civil Liability Act 2002, which deals with personal injury claims for offenders in custody, does not prevent the awarding of damages for child abuse. I deal with the second of those two elements first.

In 2004 in response to an ongoing media attack largely brought by *The Daily Telegraph*, the then Carr Government passed laws to create new part 2A of the Civil Liability Act to prohibit prisoners from running claims for compensation against the State Government unless they met a very high threshold. I think the threshold was and remains 15 per cent whole-person impairment. The main purpose of those laws was to prevent prisoners who

had been severely assaulted because of the negligence of the State Government, and who had suffered permanent harm and damage as a result, from suing the State Government for that negligence.

I was very familiar with those laws because at that time I was at the bar and distinctly remember a case in which I represented an inmate who had been repeatedly stabbed by a fellow inmate who had got access to the barber's scissors from a casual prison guard. That inmate had a history of psychosis. He walked into my client's cell and repeatedly stabbed my client in the abdomen and stomach 20 or 30 times. My client fell down, bleeding copiously. The alert button did not work. Many hours later my client was found in a pool of his own blood.

We commenced litigation in respect of the State Government's negligence prior to the introduction of the 2004 reforms. Once those reforms came in, they applied retrospectively. My client had to satisfy the 15 per cent whole-person impairment threshold. Because the injuries were largely internal—he had a large part of his bowel removed and the like—he only received a 2 per cent whole-person impairment finding, based on his scars. Effectively, the case was made unwinnable. The State Government then brought a motion seeking to have my client's case dismissed and for him to pay the costs of the dismissal because of the retrospective law reform introduced by the Carr Government. My client received no compensation but, thankfully, avoided a costs order.

As a result of those reforms, the definition of "offender" included a child in juvenile detention. Tragically, there have been far too many cases of children in juvenile detention facilities being sexually abused, either by other detainees or in some cases by facility staff. In other cases, there has been physical abuse. I do not think even the Carr Government intended that in 2004. It seems to have been an unintended consequence. Indeed, prior to the past two years, the State Government had not been taking the point in defences filed in cases involving claims of abuse of juvenile inmates.

In the past few years, the New South Wales Government has been pleading part 2A as a defence to claims and defeating claims made on behalf of young people who were physically or sexually abused in juvenile detention. That matter has been raised repeatedly with my office by lawyers who have been very concerned about what it does to their young clients' rights. I am glad to see the State Government move on this. The Greens have made representations about it. There has not been a large public campaign, because in some ways it has just been an unfairness ticking along in the background. I make clear that I commend the Government for bringing this reform to the Parliament. It is well past time. However, I firmly believe that a better reform would be to remove part 2A of the Civil Liability Act entirely. As a case in point, I offer what happened to my client and the deep unfairness that remains in the law in relation to inmates.

I move to the second part of the bill, which is the empowerment of courts to set aside settlements of child abuse claims that are affected agreements where it is just and reasonable to do so. The intention of the bill is good, but the current drafting creates a seriously limited scheme that will result in many unfair settlements going unchallenged and that therefore poses a significant obstacle to justice for victims. My office has been working with a number of law reform groups, like the Australian Lawyers Alliance, and individual lawyers. I acknowledge the advocacy of Andrew Morrison, SC, in this space. He might be embarrassed that I do that. Andrew Morrison had the misfortune of running cases before law reform came in, including the Ellis case, which I know the Minister is probably more familiar with than she wishes she was—

The Hon. Natalie Ward: As the instructing solicitor.

Mr DAVID SHOEBRIDGE: —as the instructing solicitor. Mr Morrison is familiar with the legal challenges in this space and has made it clear that the opinion of the Australian Lawyers Alliance is that the reform in this bill does not go far enough. The Greens have worked with those lawyers and law reform groups. We arranged a briefing for parliamentary colleagues in the last parliamentary session to explain the limitations and defects of the bill. I know that a representative from the Attorney's office attended as well as representatives from Labor and the crossbench.

The request from those lawyers and advocates is that we reform the bill to ensure that settlements can be put aside where it is just and reasonable to do so. It should not be limited to only settlements that meet the definition of an affected agreement. Indeed, that was the overwhelming recommendation from submissions on the initial draft bill that was circulated by the Attorney General at the end of 2020. It is not a new issue; it was raised squarely and repeatedly in consultation on the draft bill at the end of 2020. Our proposed amendment would insert new section 7C (1) (b) to specify that affected agreements include those that were settled before the commencement of part 1B of the Act. That is relevant because part 1B of the Act reformed the law substantially and made it much fairer by getting rid of things such as the Ellis defence. It improved the law significantly by rebalancing it so that it is much fairer for survivors and victims and does not just benefit institutions.

Any agreement that was settled before the commencement of part 1B was done in the shadow of deeply unfair laws that favoured institutions and were against survivors and victims. Proposed new section 7C (1) (b)

expands the operation of the bill to any agreement that was made before the commencement of part 1B of the Act and where the court finds the agreement is not just and reasonable in the circumstances. That is consistent with the Attorney General's second reading speech, when he informed the Parliament that the intention of the bill was to:

... give the courts the power to set aside certain agreements that settle child abuse claims where it is just and reasonable to do so.

Our amendment lives up to that promise. In short, The Greens proposed amendment would allow all historical settlements, including those entered into before we engaged in law reform after the royal commission, to be set aside where the court found in the circumstances that they were unfair and should be set aside. It is appropriate that we do that because historically, and still to this day, there is a vast power disparity between victims and survivors, and the institutions they have to take on to get justice. It is consistent with the Attorney General's expressed intention of the bill and would remove remaining obstacles to justice for victims. It is also consistent with the way in which the law operates in Western Australia and Victoria, which are the two jurisdictions that have the greatest number of cases already.

As I said, the amendment has the support of the Australian Lawyers Alliance, the Law Society of New South Wales and lawyers and legal centres that work directly with victims and survivors of abuse. I say again that we support the bill. We are glad that the bill is before the House. It is two years too late; on one view it is 50 years too late. It is finally making good on one of the last elements from the Royal Commission into Institutional Responses to Child Sexual Abuse. I know some institutions do not want that to happen. Let us be very clear about that. Institutions such as the Catholic Church have signed many historical settlements that are deeply unfair, and they do not want them picked apart because that will be an additional liability for them and will require additional settlements. I used the example of the Catholic Church, but it is the same for the Anglican Church and other big institutions that so comprehensively failed the children in their care over many decades, and those circumstances were brought to light by the royal commission.

We need to do this, but we need to do it properly. It is only by providing the courts with the broad power to set aside any unfair settlement that they can take into account the power of the Church—for instance, when a victim is still a believer and holding onto their faith, and a bishop, cardinal, priest or minister gets involved in the settlement negotiation and a small settlement is agreed to and signed off by the lawyers. That did not happen once or twice; that happened thousands of times. On many occasions the case was not affected by a statute of limitations and was not against an unincorporated association. Unless we improve the bill, none of those settlements can be set aside. We owe it to the thousands of victims and survivors of child sexual abuse who went to the royal commission and bravely told their story. That experience in itself was re-traumatising, as we have heard from the Parliamentary Secretary and the Leader of the Opposition.

It is not a small thing to ask victims to come forward and tell their stories but they did—in their hundreds and thousands. Not every royal commission changes our country, but this royal commission listened to the survivor and victims. It prioritised their needs and their voices and came up with a series of fundamental amendments. As parliamentary representatives of those brave survivors, victims and their families, we have an obligation to make those amendments at the in-Committee stage today. By the end of that process we must ensure that we make good on that promise, and I hope we do.

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (15:45):

In reply: I had hoped to be reasonably brief but there are a number of matters that I should put on record. I thank the Leader of the Opposition for her contribution to the debate. She has been a dedicated advocate in this space for many years, so it comes as no surprise that she is in the Chamber today. Many others and I appreciate her dedication and hard work in this area. Mr David Shoebridge has also been a longstanding advocate. I recall, many years ago as a staffer, bravely approaching him to thank him for his advocacy and for the work he did. I will turn to a couple of the specific issues that were raised, but I address a couple of things by way of preliminary matter.

The Royal Commission into Institutional Responses to Child Sexual Abuse has had a profound impact across the country. It is dreadful that it had to come to that. Over the five years of that inquiry we learnt about thousands of children in institutions who were sexually abused when they deserved to be safe. It the job of all of us to look after them, and we failed them. It is a tragedy, but it is up to us to fix. I commend the Hon. Penny Sharpe's comment that we hope that it is not up to future generations to have to fix anything else in this space. I note that the New South Wales Government was one of the first jurisdictions to announce that it would join the National Redress Scheme for institutional child sexual abuse and was the first State to refer powers to the Commonwealth in 2018 to enable the redress scheme to be established. I am grateful to have been a small part of that journey. Sadly, I have a history with the Ellis defence, having commenced those proceedings initially and helped run them all the way to the High Court. We have all had a long journey to get to this place.

Removing the Ellis defence was a significant day and one of the great things we can do in Parliament. The royal commission heard from 7,981 survivors in private sessions about their experiences with religious organisations and unincorporated associations with no legal personality, which meant that they could not be sued. Those institutions that were supposed to look after children could not be sued, which was a barrier to justice that became known as the Ellis defence. I am grateful that it was removed by the Civil Liability Amendment (Organisational Child Abuse Liability) Act 2018 and that no others have to go through that experience. The removal of that defence ensured that those who survived—those who did not take their own lives and were around to commence proceedings—were able to sue a proper defendant with sufficient assets to satisfy a claim, which is how it should be. I acknowledge and thank those whom I had the privilege to walk beside in those private sessions, and I thank the commissioners for the incredible way they handled the entire royal commission in private sessions and in public hearings.

I turn now to specific matters raised by Mr David Shoebridge. In relation to the delay in introducing these reforms, he acknowledged that the bill is one reform in a series of reforms responding to the issue. I state for the record that in 2016 and 2018 the New South Wales Government implemented an extensive package of reforms in response to the royal commission's findings, including retrospectively and prospectively removing limitation periods for child abuse and introducing an updated Model Litigant Policy for Civil Litigation and Guiding Principles for Civil Claims for Child Abuse 2016. The Government also amended the Civil Liability Act 2002 to introduce a requirement that a proper defendant be appointed for cases brought against unincorporated associations. That amendment removed the Ellis defence and introduced two new statutory liabilities for child abuse, and section 6B of the Civil Liability Act, which provided that nothing in part 2A of the Act places any restriction or limitation on an award of damages made relating to child abuse claims. The 2016 and 2018 reforms completed the official response and enactment of the recommendations of the *Redress and Civil Litigation Report*. Together those reforms removed significant barriers to seeking civil justice for survivors.

Mr David Shoebridge: I accept there has been substantial work done.

The Hon. NATALIE WARD: I know you do, and I appreciate that. I will move through them quickly. In relation to consultation, it is important to note that New South Wales has undertaken extensive consultation on the reforms to ensure that stakeholders, in particular survivor groups, have been able to provide input into the reforms. The Setting Aside Settlement Agreements for Past Child Abuse Claims Discussion Paper was released for public consultation on 4 March 2020, and submissions closed on 15 April 2020. The discussion paper was also provided directly to key stakeholders, including survivor groups, children's service providers, religious institutions, non-faith based NGOs, the insurance industry and the legal profession. Submissions were received from 33 stakeholders, almost all of whom supported the reforms. In November 2020 the exposure draft of the bill was provided to stakeholders for comment. They included government and non-government stakeholders, including survivor groups, children's service providers, religious institutions, non-faith based NGOs, the insurance industry and the legal profession.

The department received 30 written submissions from stakeholders in response to the discussion paper and the majority of stakeholders overwhelmingly supported the bill. They directly informed a drafting of the bill, which I think is extremely important. Mr David Shoebridge raised the so-called general defects of the bill regarding its scope. Expanding the reforms to other circumstances may also require the courts to consider very subjective matters when determining whether the relevant circumstances were unjust or unfair. That would impact the certainty of settlement agreements for claims that were not impacted by the expiry of the limitation period or there being no proper defendant. Introducing broader, undefined circumstances into the legislation means it might not be clear to survivors, and one thing we want to do is provide clarity and certainty to them or those representing them about whether their settlement agreements are ones that the courts could settle or set aside.

Expanding reforms to include the broader types of settlement agreements without being specific about them would capture other survivors and require them to go through test cases and other things, which may provide protracted litigation. I can deal with those specifically in relation to the amendment. Finally, I thank Sean Robertson from the Attorney General's office, who has been involved throughout this process for many hours, and the Attorney General, who has led this throughout. I acknowledge his commitment to this reform. I have been grateful for the opportunity to work alongside him and my colleagues in this place.

The Civil Liability (Amendment) Child Abuse Bill 2021 will allow greater access to justice for survivors who entered into affected agreements before the Government's 2016 and 2018 reforms to remove the limitation period for child abuse claims and require a proper defendant for child abuse claims against unincorporated associations. The bill builds on the Government's 2016 and 2018 reforms and also goes beyond the recommendations in the royal commission's *Redress and Civil Litigation Report*. By doing so, the bill allows survivors who entered into affected agreements to have the same access to justice as those who brought a claim after the 2016 and 2018 reforms. On that basis, I commend the bill to the House.

The PRESIDENT: The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The TEMPORARY CHAIR (The Hon. Catherine Cusack): There being no objection, the Committee will deal with the bill as a whole.

Mr DAVID SHOEBRIDGE (15:55): I move The Greens amendment No. 1 on sheet c2021-009A:

No. 1 Settlements that are not just and reasonable

Page 3, Schedule 1[2], proposed section 7C(1)(b), line 29. Omit "incorporated.". Insert instead—

incorporated, or

- (c) before the commencement of Part 1B of this Act, and the agreement is not just and reasonable in the circumstances.

I dealt with the reason that this amendment is important in my contribution to the second reading debate. Effectively this amendment means that under the New South Wales bill survivors and victims of historic child sexual abuse would have the same access to justice that has been given to victims and survivors in Western Australia and Victoria. I listened carefully to the Minister's contributions in reply. The argument that the Government has raised against the amendment is that it provides a broad basis upon which to set aside a settlement. A court, after hearing evidence and looking at the prior settlement, can find that the agreement was not just and reasonable and that is a broad power being given to the courts that would provide uncertainty.

The Government's preference is that the deeds or settlements that can be set aside are more limited—that is only where the deed or the settlement was entered into because of an expiry of a statutory time limit or was entered into because the case was very difficult, such as a case against an unincorporated association. The most obvious example of that would be against the Catholic Church where the Ellis defence had been used repeatedly. It would mean that none of the other unfair settlements against the Anglican Church, incorporated associations, or organisations such as the Salvation Army or the State Government, could be set aside unless they met one or both of those tests. That means the great bulk of past unfair settlements could not be set aside, and unfair settlements were entered into in the past for many reasons.

An obvious example would be where a victim was still a part of the church, was anxious about having a settlement with the church and where a spiritual representative from the church was part of the settlement. Sometimes the victims agreed to very small settlements—\$5,000 or \$10,000—for horrific abuse. Other examples would be where it had been difficult to prove an actionable breach of duty of care before we made those amendments in 2016 and 2018. Quite often the court said if you were the victim of a physical or sexual assault, that was a crime. Before the common law was reformed, there was a very real argument that no institution was liable at common law for the criminal actions of one of their employees because the law said an institution has told its employees not to criminally assault people. Therefore, if the institution's employee sexually assaults somebody, that is outside the scope of the employment relationship and the institution is not liable for the damage that has been caused.

There were hundreds and thousands of cases where children were criminally assaulted by employees and senior officers of institutions and those cases were settled for tiny settlements of \$5,000, \$10,000, \$15,000, not because of a statute of limitations problem or because the institution was an unincorporated association, but because the law was stacked against the victims before we fixed it in 2016 and 2018. Unless we get this amendment through, none of those unfair settlements will be able to be set aside.

This area of the law is quite complex sometimes, but on one view it is really simple. What our amendment says is this: If the settlement had been entered into before we fixed the law in 2016 and 2018 and a court, having had a look at the settlement, having heard the evidence, formed the view that it is just and reasonable to set it aside, then it can be set aside. That, surely, is the test we should be applying here, because we cannot legislate for every case. We cannot legislate for every example. There were so many ways in which these unfair settlements happened. If we are going to change the law, let us not do what we did in the past and err on the side of protecting institutions. Let us err on the side of giving rights to victims. That is what this amendment does and that is why I commend it to the Committee.

The Hon. NATALIE WARD (Minister for Sport, Multiculturalism, Seniors and Veterans) (16:00): With the indulgence of the Committee, I will respond first in relation to the scope and the other jurisdictions, and then speak to the amendment itself. In relation to the scope, while I appreciate the intent of the amendment, what we have to come back to, in my humble opinion, is certainty and clarity for victim-survivors going forward. Expanding the reforms to other circumstances will make the courts consider very subjective matters, whether the

relevant circumstances were unjust or unfair. It would impact the certainty of these agreements for claims that were impacted and it will introduce broader, undefined circumstances into the legislation, which means it might not be clear to survivors or those representing them whether those settlement agreements are ones that could be set aside. We are aiming to provide clarity and certainty in this legislation and in these reforms, because we have heard from the royal commission that is what is needed, and from our own experience we know that very well.

Expanding the reforms to include broader types of settlement agreements without being specific about the types of settlements they will capture would require survivors in New South Wales to act as test cases for others. That could expose them to protracted and adversarial proceedings and to possible appeals. We know that the re-traumatisation arising out of that is horrific. It would likely increase the overall legal costs associated with the applications to set aside the settlement agreements, including for survivors, without guaranteeing that the courts would find it just and reasonable to set aside a settlement agreement in those circumstances. Survivors may go all the way through that litigation, seek to have the settlement agreement set aside, file the application and fail again. That would be horrific. Those risks expose survivors in particular to the legal costs of an unsuccessful application, including possible orders to pay a defendant's legal costs for an unsuccessful application, which again is retraumatising. Mr David Shoebridge spoke of his client's experience in that regard.

That is contrary to the intention of these reforms. We want to provide clear and unambiguous access to justice for survivors who entered into settlements that were impacted by legal barriers which no longer exist. To avoid that further re-traumatisation of survivors through civil proceedings, these reforms should encourage the parties to an affected agreement to renegotiate that agreement where it is clear that it is one that a court would consider just and reasonable to set aside. We have the two categories, it would be set aside, so go away and renegotiate now that the law has evolved. Changing the bill to describe settlements in a broad and unspecific way will not facilitate those negotiations between the parties. Instead, it may in fact encourage potential defendants to take a more adversarial approach in order to avoid having settlements set aside in circumstances where they were not subject to the expiry of a limitation period or where there has been no proper defendant to the claim. We would go back many years by doing that. I have run those claims; they are awful. They are difficult, they are protracted, they are expensive, they have no certain outcome and they are absolutely retraumatising.

Changing the scope of the reforms is not consistent with the majority of other jurisdictions' legislation. No other jurisdiction has expressly introduced legislation that would allow the courts to set aside settlement agreements in circumstances other than where the agreement related to a claim that was impacted by a legal barrier that has now been removed, such as the expiry of a limitation period. Maintaining broad legislative consistency across different States and Territories is important to ensure that survivors impacted by unfair settlements are treated fairly and equally throughout Australia. That was the point of the royal commission. Introducing broader, undefined circumstances into the legislation means that it will not be clear to survivors or those representing them whether their settlement agreement is in fact one that a court could set aside. As I said, expanding the reforms to include broader types of settlement agreements without being specific about the settlements captured will require survivors in New South Wales to act as test cases, which could expose them to protracted proceedings.

I appreciate the points that have been raised in this House about changing the bill so that it captures settlement agreements entered in circumstances other than those that were subject to a limitation period expiry or where there has been no proper defendant to the claim. It is well intentioned—I understand that and the Government understands that. There are a lot of matters to consider in relation to a proposal to change the scope of the bill where doing so would not be inconsistent with other jurisdictions. But it would not be consistent for the moment. It would not provide certainty and it is not something that the Government would support. However, I can indicate that this Government will keep a watching brief over this issue. We will continue to liaise with other jurisdictions about their approaches, as we have done. We will consider whether there is any proposal to change the scope of reforms in those jurisdictions and we would undertake to act accordingly.

It is important that I correct what is in my view a mischaracterisation by Mr David Shoebridge of the legislation in other jurisdictions. I mean no disrespect to Mr David Shoebridge, but I do feel it is important to be clear about this and the scope of legislation in other States. Western Australia, Queensland, the Northern Territory, Victoria and Tasmania have introduced legislation to give courts the discretion to set aside past settlement agreements—for child sexual abuse causes of action in Western Australia, and for child abuse causes of action in Tasmania, Victoria and Queensland. A bill drafted in similar terms to the New South Wales bill was introduced to the South Australian Parliament in August 2021. I understand that bill has not passed the South Australian Parliament as yet.

The majority of these jurisdictions' reforms relate to settlement agreements for claims that were impeded in particular by limitation periods. This was to address the previous barriers created by the existence of a limitation period that had since been removed. The legislation of these jurisdictions and the New South Wales bill are similar in that the courts are given the power to set aside historical settlement agreements, particularly where claims were

previously statute barred. However, there are some differences in the legislative regimes relating to the scope of settlement agreements covered and the test for the court to apply. The bill essentially operates to the same effect as similar reforms in other jurisdictions in that it allows the courts to set aside previous settlement agreements relating to claims that were previously impacted, particularly by a limitation period. That is the main game. If you were out of time, you are not anymore and we have made that clear.

However, a key difference between the New South Wales bill and other jurisdictions' legislation is that the proposed part 1C clearly articulates that courts may set aside settlement agreements for claims that were impacted by the expiry of the limitation period or where an organisation was not incorporated and there was therefore no proper defendant to the cause of action, or both, if just and reasonable to do so. New South Wales is the only jurisdiction that has clearly articulated in the legislation that the courts may set aside settlement agreements that are impacted by both of these legal barriers. By doing so, this bill ensures it is clear to survivors, their representatives, and potential defendants the types of settlements that are covered by the reforms. This avoids the parties to an application to set aside an affected agreement needing to engage in lengthy arguments—which I have done—about whether or not the settlement agreement is one that can be set aside. It gets out of all of that.

In relation to the drafting of each jurisdiction's legislation, every jurisdiction has removed their limitation period at different times and their reforms relate to differently drafted acts, so the drafting is not the exact same in every jurisdiction. In the case of New South Wales, the reforms are drafted to change the Civil Liability Act 2002 and relate to reforms to the Limitation Act 1969. I am advised that this bill has been drafted to reflect that legislation. I just wanted to be clear about that. I will turn to the amendment itself. In relation to the insertion of the proposed new section, the proposed subsection may not, in our view, be sufficiently clear. For that reason, the Government will be opposing the proposed amendment.

Proposed section 7D (2) of the bill allows the court to set aside an affected agreement if it is just and reasonable to do so. The test is then supported by the criteria set out at 7D (3) of the bill. The intended interaction between the proposed subsection and the proposed section 7D (2) of the bill is unclear. We would have two sections and a lack of clarity between them. In particular, it is not clear how a court would be expected to consider the question of whether it is just and reasonable to set aside a settlement agreement that was "not just and reasonable in the circumstances".

The subsection's language of "not just and reasonable in the circumstances" does not sufficiently tell a court or the Parliament what might be captured in those circumstances. Our bill has been very clear. There are two circumstances. Insertion of this amendment will open that up and make it entirely unclear. This proposed subsection may also require the courts to consider very subjective matters when determining whether the relevant circumstances were not just and reasonable and would impact the certainty of settlement agreements for claims that were not subject to the expiry of a limitation period or there being no proper defendant.

The proposed subsection could also increase survivors' exposure to lengthier proceedings and more expensive litigation. I have touched on that, but introducing such a broad, undefined range of settlements into the legislation means it will not be clear to survivors or those representing them whether their settlement agreement is in fact one that the court would set aside. They are rolling that dice. There is therefore a risk that this subsection inadvertently opens up the way for anyone to recommence a cause of action and apply to have a settlement set aside under proposed section 7D (1) even if their settlement could be considered to be just and reasonable in the circumstances.

The lack of specificity in proposed section 7C (1) (c) may also require some survivors in New South Wales to bring test cases to help determine the extent to which a court will determine that a settlement agreement was not just and reasonable in the circumstances. This could expose them to protracted and adversarial proceedings and possible appeals. I think it is clear from the extent to which I am making this point that we really want to provide clarity as far as possible. That uncertainty would increase the overall legal costs associated with applications to set aside settlement agreements, including for survivors, without guaranteeing that the courts would find (a) that the settlement is not just and reasonable and (b) that it is just and reasonable to set aside a settlement agreement in relation to those circumstances. This is contrary to the intention of these reforms, which is to provide clear and unambiguous access to justice to survivors who entered into settlements that were impacted by legal barriers that no longer exist.

To avoid re-traumatisation of survivors through civil proceedings, these reforms should encourage parties to an effective agreement to renegotiate that agreement where it is clear that it is one that the court would consider just and reasonable to set aside. Changing the bill to describe settlements in a broad and unspecific way will not facilitate these negotiations between the parties. Instead, it may encourage potential defendants to take that more adversarial approach I spoke about. Such outcomes are not what we sought, they are not clear or guaranteed, and that is the issue that we have. People will not be able to understand what is just and reasonable without the court setting that out through lengthy common law proceedings and deciding what is just and reasonable in the

circumstances. It could require a court to assess what it was about a settlement agreement that was not just and reasonable that could be rectified now.

If a settlement agreement was not entered in relation to a claim that was subject to the expiry of the limitations period or there was no proper defendant to a claim, it is hard to see what circumstances have changed such that they could obtain a different settlement now. Defendants and responsible institutions are and always have been subject to legal requirements to tell the truth to the courts, to produce evidence when it is called on by a court and to act fairly in negotiations or otherwise risk a settlement agreement being void at common law due to misrepresentation, mistake, duress, undue influence or unconscientious or unconscionable conduct.

The evidence that survivors gave to the royal commission indicates that many institutions might not have complied with these duties when entering into the settlement agreements. However, there are already ways to address the settlement agreements in circumstances where institutions have done so, and they can commence proceedings in those circumstances. In addition to those existing mechanisms, the purpose of this bill is to allow settlement agreements to be set aside where they are affected by specific technical barriers which have since been removed. These reforms are therefore intended to be complementary to and not a duplicate of the pre-existing mechanisms for holding defendants accountable, including common law and equitable principles relating to contracts.

In conclusion, I appreciate the points raised by honourable members about changing the bill so that it captures settlement agreements entered into in circumstances other than where they were subject to a limitation period that has expired or there was no proper defendant to the claim. There are lots of matters to be considered in relation to a proposal to change the scope of the bill, but it would not be consistent with other jurisdictions' legislation in this area. We will, as I have indicated, keep a watching brief. But, for those reasons, we oppose the amendment.

The Hon. PENNY SHARPE (16:14): My colleague the Hon. Adam Searle will get into all of the lawyer bits about this amendment—I am just a failed food technologist. I thank the Minister. She has obviously been given a very extensive and—if I can give feedback to the departmental staff—perhaps a slightly repetitive outline of why the Government does not support this amendment. For Labor, though, it comes down to the fact that we have all listened very carefully to victims, and we have all said that the system is unfair. We are putting in place a new system, and The Greens amendment addresses a group of victims who will not necessarily be able to access the pathway to it.

It is as simple as this: I do not accept the arguments made by the Minister that this makes it more complicated, that it will retraumatise victims and make it more challenging. These arguments are a poor fig leaf for failing to make sure that everyone who deserves justice can seek it. I think that the thing we all agree on is that so many of these cases are individual and complex, and if we define these things too narrowly it means that people will be defined out of justice. That is why Labor supports the amendment. I will leave all the lawyerly stuff to the Hon. Adam Searle.

The Hon. ADAM SEARLE (16:15): As the Leader of the Opposition outlined, we support The Greens amendment. It amends that part of schedule 1 dealing with part 1C "Child abuse—setting aside settlements" so, of course, the policy is already in the bill. It amends part of the proposed section 7C meaning of "affected agreement" by adding a paragraph (c) to section 7C (1), which specifies that it is before the commencement of part 1B of the Civil Liability Act and the agreement is not just and reasonable in the circumstances. It is a small but important amplification of the policy that is already in the bill. This is both reasonable and necessary in this setting for clear and historical reasons.

As we saw through the work of the royal commission—and has been well established in cases before the courts and discussions in the media and community about many of those matters—many applicants or victims have, by reason of the way in which they have been treated and the damage done to them, found themselves in circumstances where settlements have been reached not through the free and equal interaction of parties reaching some kind of reasonable commercial outcome but where the power imbalance is gross. It is grotesque. In the case of churches you have essentially very wealthy, transnational bodies with significant resources—always well resourced in litigation—against damaged individuals often with far fewer resources and who are unequal at the table. Those outcomes are not always fair or reasonable.

Being a barrister, I understand very well the important public policy in the finality of settlements. It is not only necessary and reasonable for parties, there is also a clear public policy to protect settlements. I accept that. But in the setting of abuse, where the abuse has often occurred at the hands or under the watchful eye of religious institutions, there is a compelling case for a small exception to be made to the policy of not disturbing settlements. Indeed, the Government already accepts that because this part of the change to the Civil Liability Act is already in the bill before us.

Mr David Shoebridge's amendment is not out of kilter or out of keeping with the policy or direction of the bill. It is a small but very important amplification of the road on which the Government legislation is already travelling, and it is necessary because we know that our legal system is not always a justice system. It tries to be. There are rules, procedures, statutes and a body of common law. That is very important because we have to make rules to try to deal with so many different situations that arise in life. Sometimes those rules attain justice, and sometimes they get in the way. It is the job of legislators to recognise that and, where appropriate, to intervene and to change the law. This is obviously such an occasion. It is important not only to embrace the provisions that the Government has put before the House but also to include Mr David Shoebridge's amendment to have the ultimate test of whether an agreement was just and reasonable.

I accept that the words "just and reasonable" are an ordinary English term. They are not a term of art; they do not have some black-letter-law definition. As a result, there must be an element of uncertainty about the way in which courts will apply the term. But the courts do the task of statutory interpretation every day and are not strangers to interpreting terms like just and reasonable. The term "just and reasonable" appears in many statutes. It has been a feature of industrial legislation and many different forms and enactments, both State and Federal.

The courts are well used to understanding what the term means. It has been well understood by lawyers and judges alike, so the bandwidth of uncertainty that may be injected into the situation by the amendment is not as great as the Government has put to the Committee. There is always an element of uncertainty in litigation. An applicant seeking to disturb a settlement on this basis would obviously need to have good evidence. I am just speculating here, but the evidence would presumably go to inequality of bargaining power, inequality of legal advice, effective coercion by the circumstances or whether the person was psychologically—and I am not using that term in a clinical way—in a space to make a reasonable settlement. All of those factors go into judging whether an agreement was just and reasonable in the circumstances.

We have to look at the individuals concerned and all of those factors, but courts do that all the time. It is not too big an ask to give the responsibility to a court to open the door a little bit wider for a just outcome. The journey for the victims has been so long. There have been so many false dawns. Since 2016 this Parliament has done good work, in this Chamber, in the Government and in the community. Let us take one additional step and embrace the amendment. Let us do a little bit more justice and make the law that little bit fairer.

Mr DAVID SHOEBRIDGE (16:23): I will deal with a number of matters that have been raised by the Minister. The primary concern raised by the Government is that the amendment creates uncertainty. The only uncertainty it creates is for institutions because it opens up a fresh pathway for victims and survivors. The two existing pathways in the bill remain in place. There is no change to that; there is as much certainty as one likes in that space. All the amendment does is open up a new pathway to get justice. If a victim or survivor can persuade the court that the circumstances in which they entered into a deed of release or settlement were not just and reasonable then there is a new pathway to set aside the deed so that they can get access to justice using our new and reformed laws, which have evened up the scales of justice between victims and institutions. That has only happened in the past five years, and tens of thousands of settlements were entered into in the decades before that which would never have been signed by any lawyer under the current laws.

There may be some uncertainty about what a court finds is just and reasonable. The laws have been operating in Western Australia for the past two years and about 400 applications have been made to set aside historical agreements entered into by the Christian Brothers, who had a number of notoriously violent institutions where the abuse of children was appalling. About 400 settlements have already been set aside by the courts in Western Australia because the victims were so traumatised and the settlements were so embarrassingly small. The law had previously been stacked against those victims and survivors. Institutions like the Christian Brothers do not want that avenue because they know they will have to pay fair compensation to more victims. I understand why the institutions do not want that uncertainty. They want to be able to draw a line in their books and say, "No more for those victims." But we are not here for them anymore, I hope; we are here for the victims.

If we pass this amendment, victims and survivors will thankfully be able to go to their lawyer and say, "Do I have a right here? Do you think I have a case? I felt badgered, I felt intimidated and I do not think \$15,000 fairly compensates for the years and years of abuse that I suffered." If their lawyer says, "Yes, I think you have a case, and it is not just and reasonable", they can finally bring their case and have a go at justice. There is some uncertainty in the laws. But the uncertainty is on the side of the institutions, which will have to look at the cases—often tens, hundreds or thousands of cases—that they have signed off in the past, very many of them woefully unfair towards victims and survivors. If the victim and survivor is in a position to see their lawyer and access the new path to justice, those institutions may finally have to pay a fair compensation. If that is uncertainty in the law then I am all for it. Another way of describing that would be opening up a fresh pathway to justice and trusting courts to be the gatekeepers of that. I do not know any other way of doing it, and that is why we support the amendment.

The TEMPORARY CHAIR (The Hon. Catherine Cusack): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2021-009A. The question is that the amendment be agreed to.

The Committee divided.

[In division]

The TEMPORARY CHAIR (The Hon. Catherine Cusack): A difficulty in pairing has been drawn to my attention. Is leave granted to ring the bells for one further minute?

Leave granted.

Ayes20
Noes16
Majority.....4

AYES

Banasiak
Borsak
Boyd (teller)
Buttigieg
D'Adam
Donnelly
Faehrmann

Field
Graham
Houssos
Hurst
Jackson
Moriarty
Pearson

Primrose
Searle
Secord
Sharpe
Shoebridge (teller)
Veitch

NOES

Amato
Fang
Farlow
Farraway (teller)
Franklin
Harwin

Khan
Latham
Maclaren-Jones
Mallard (teller)
Martin

Mason-Cox
Mitchell
Poulos
Roberts
Ward

PAIRS

Mookhey
Moselmane

Taylor
Tudehope

Amendment agreed to.

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

Motion agreed to.

The Hon. NATALIE WARD: I move:

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

Motion agreed to.

Adoption of Report

The Hon. NATALIE WARD: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. NATALIE WARD: I move:

That this bill be now read a third time.

Motion agreed to.

*Documents***COVID-19 AND CORRECTIONAL FACILITIES****COVID-19 HEALTH ADVICE****SYDNEY SCIENCE PARK WATER SERVICES****Variation of Order**

The PRESIDENT: According to sessional order, I inform the House that the Clerk received correspondence dated 20 October 2021 from the Acting Deputy Secretary, General Counsel of the Department of Premier and Cabinet requesting that the scope of the following orders for papers agreed to on 13 October 2021 be varied as follows:

- (1) COVID-19 outbreaks within correctional facilities, requesting that the due date be 17 November 2021.
- (2) Health advice provided to the Public Accountability Committee, requesting that the due date be 17 November 2021.
- (3) Water services for the Sydney Science Park proposal, requesting that the due date be 17 November 2021, and that the resolution be amended.

I table the correspondence. I further inform the House that, in relation to the following order, the relevant member who moved the motion for the orders for papers had agreed to the requests from the Department of Premier and Cabinet:

- (1) Health advice provided to the Public Accountability Committee, that the due date be 17 November 2021.

I further inform the House that, in relation to the following orders, the relevant members who moved the motions for the orders for papers had not agreed to the requests from the Department of Premier and Cabinet:

- (1) COVID-19 outbreaks within correctional facilities, that the due date be 17 November 2021.
- (2) Water services for the Sydney Science Park proposal, that the due date be 17 November 2021, and that the resolution be amended.

The question is that the varied terms of the orders for papers be agreed to.

Motion agreed to.*Bills***ENERGY LEGISLATION AMENDMENT BILL 2021****Second Reading Speech**

The Hon. BEN FRANKLIN (16:43): 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 Government is pleased to introduce the Energy Legislation Amendment Bill 2021.

Our energy legislation has served us well over the last few decades. However, events over the last few years have highlighted that updates to these frameworks are required.

The purpose of this bill is to modernise and improve the legislative framework across a suite of legislation and to ensure that the legislation remains fit for purpose to support the Government's policy objective to make New South Wales an energy economic superpower.

The bill makes a range of amendments to four principle Acts across the energy portfolio. They are the Electricity Supply Act 1995, Energy Utilities and Administration Act 1987, Gas Supply Act 1996, and Pipeline Act 1967.

The amendments to these energy Acts are in large part amendments to improve administrative processes, however the bill also makes other important amendments which are needed to deliver the Government's energy objectives including to:

- support the development of the hydrogen and biogas industries;
- enable New South Wales to opt into the national regulatory framework for Distribution Network Service Provider led Stand-Alone Power Systems;
- improve the administration of the Energy Security Safeguard, including expansion for other fuels and enhanced compliance powers; and
- modernise the energy emergency framework, provide a backstop for cyber security protections for critical infrastructure, and update outdated penalties.

The bill also makes amendments to the Forestry Act 2012, to remove barriers to enable renewable energy projects in State Forest softwood plantations.

I will now turn to the key parts of the bill.

Hydrogen and other renewable gases have emerged as critical new industries to grow the economy while achieving the State's decarbonisation objectives.

In Australia and internationally, industry and governments are dedicating enormous resources to commercialise hydrogen technologies and supply chains.

A commercially mature green hydrogen industry can help to decarbonise our gas network, steel and industrial ammonia production, heavy transport fleets, shipping and aviation, and create new regional industries that thrive in a net zero economy.

These hard-to-abate energy, transport, and industrial sectors account for around 24 mega tonnes or 18 per cent of the State's annual emissions.

At the same time, modelling shows that a green hydrogen industry could attract between \$80 and \$270 billion of investment in New South Wales by 2050.

The New South Wales Government's Hydrogen Strategy announced by the Premier and Treasurer earlier today, will be the vehicle to capture this economic opportunity and transform the state into a green hydrogen superpower.

The bill I present on behalf of the Government today contains the first of several reforms this Government is implementing to support the development of renewable gas industries and provide a clear pathway to deliver the Government's Hydrogen Strategy.

First, schedule 4, item 18 of the bill will address the lack of clarity around the definition of natural gas as renewable gas sources are developed.

It will allow the New South Wales Government to change the definition of natural gas in the Gas Supply Act via regulation, to include suitable hydrogen blends and other renewable gases.

This will ensure the consistent application of the regulatory framework on blends of gases that are suitable for consumption as natural gas.

Under the current framework, a network operator who distributes both natural gas and natural gas-hydrogen blends must hold both a distributor's licence and reticulator's authorisation.

The reforms will remove duplicative licensing requirements and provide clarity as to the application of different parts of the Gas Supply Act 1996.

This change seeks to support the biomethane and hydrogen gas projects, such as Jemena's Sydney Green Gas Project likely to commence operation later this year and their Malabar Biomethane project expected to commence in 2022.

Other projects, such as the Australian Gas Infrastructure Group's Murray Valley Hydrogen Project scheduled to begin operations in mid-2023, will be seeking regulatory certainty before making a final investment decision.

The amendments in schedule 4, item 18 of this bill will amend the Gas Supply Act allow the definition of natural gas to be prescribed by regulation.

The definition will be drafted to enable renewable gases and hydrogen-natural gas blends to be regulated as natural gas, in order to provide industry with that certainty.

New South Wales is actively participating in national processes that are underway to amend the definition of natural gas in the National Gas Law, National Energy Retail Law and subordinate instruments.

These changes look to bring hydrogen blends, biomethane and other renewable methane gas blends within the national energy regulatory framework.

However, the outcome and timing of these national reforms is uncertain.

Allowing the definition of natural gas to be set by regulation will provide the flexibility required to re-align the definition of natural gas once these national processes have been completed.

Secondly, the bill will enable the introduction of new regulations and other exemptions that will significantly reduce the cost of producing green hydrogen in New South Wales.

The purpose of these amendments is to implement the Hydrogen Strategy released by the Government today

One of the primary barriers to developing the hydrogen economy is the cost of electricity.

In the early stages of industry development, the New South Wales Hydrogen Strategy commits to providing a range of concessions to reduce the cost of electricity for hydrogen producers and help kick-start the industry in New South Wales.

Schedule 1, items 37 and 38 and schedule 2, item 10 of the bill amends the Electricity Supply Act and Energy and Utilities Administration Act to allow electricity used to produce green hydrogen to be exempt from costs associated with the Climate Change Fund and schemes under the Government's Energy Security Safeguard.

Schedule 1, item 28 also introduces a new section 192 to the Electricity Supply Act 1995 that will also allow, via regulation, people who buy electricity to provide green hydrogen to be granted exemptions from network use of system charges.

We have existing spare capacity in our electricity networks, particularly near our ports and major potential hydrogen demand centres that electricity customers are already paying for and will be underutilised in the coming years.

Rather than let this capacity lie dormant, the Government intends to provide a 90 per cent exemption from network charges for green hydrogen providers who connect to parts of the network with spare capacity.

These concessions will encourage industry to bring forward investment in hydrogen production infrastructure and make the most of our electricity network assets during this critical time as jurisdictions vie for early market share.

Eligibility for these concessions will be subject to a range of conditions to minimise impacts on other consumers or on the revenue determinations of electricity network businesses.

These include a requirement to use only existing spare network capacity, be controllable by network operators if required during peak events, and concessions are subject to a state-wide cap of 750 megawatts.

Subject to the state-wide cap, hydrogen producers will be able to lock in these concessions by 2030 for a period of 12 years.

After this initial period, they will revert to paying standard network costs.

These changes, along with the other measures in the New South Wales Hydrogen Strategy, will allow the State's industry to produce some of the cheapest hydrogen in the region and position New South Wales to seize this opportunity for our regional economies.

I now turn to the parts of the bill that align New South Wales legislation with the national framework for Stand Alone Power Systems.

Schedule 1, item 1 of the bill amends the definition of a distribution system in the Electricity Supply Act to include a regulated standalone power system. The bill also makes other changes to allow New South Wales to apply the national Stand Alone Power Systems framework.

Stand Alone Power Systems are electricity supply arrangements that are not physically connected to the national electricity grid.

The purpose of these amendments is to provide the option for New South Wales in the future to opt into the national framework for Stand Alone Power Systems if it is beneficial to do so.

Typically comprised of solar photovoltaics, batteries and a back-up generator, Stand Alone Power Systems are a more cost-efficient method to supply electricity to some regional and remote locations, than maintaining a connection to the grid.

By removing the need to build and maintain long distribution lines Stand Alone Power Systems will, over time, support reduced network charges for all customers.

The need for the national regulatory framework to include Stand Alone Power Systems was highlighted in the 2017 Independent Review into the Future Security of the National Electricity Market, by Dr Alan Finkel, and the 2019 Australian Competition and Consumer Commission's Retail Electricity Pricing Inquiry.

After undertaking a review of the regulatory arrangements for Stand Alone Power Systems, the Australian Energy Market Commission has recommended a new national framework for stand-alone power systems to be utilised by electricity distribution networks.

Aligning New South Wales legislation with the national framework will ensure that an electricity distributor is able to operate a standalone power system for a customer that has been transitioned away from physical supply connection to the national electricity grid.

Schedule 1, item 1 of the bill in amending the definition of a distribution system in the Electricity Supply Act to include a regulated stand-alone power system ensures that if a customer were to be transitioned, there will be no change to the rights and obligations imposed on distributors, in relation to the customer's electricity connection and supply arrangements.

I now turn to these parts of the bill relating to the Energy Security Safeguard.

Schedule 1, items 34 to 71 and items 72 to 93 of this bill include amendment to the Electricity Supply Act to improve the operation of the Energy Security Safeguard, which is currently made up of the existing Energy Savings Scheme and the new Peak Demand Reduction Scheme.

The purpose of these amendments is to give effect to parts of the NSW Electricity Strategy and Energy Security Safeguard position paper.

As a market-based instrument, the Energy Savings Scheme has been highly successful at delivering energy savings.

Activities implemented under the scheme between 2009 and 2019 will deliver energy savings of about 32,500 gigawatt hours and bill savings of about \$6.1 billion by 2029.

The Government has expanded the Energy Savings Scheme, continue this good work by expanding the scheme under the Energy Security Safeguard, extending it to 2050 and increasing the energy savings targets.

The Government consulted stakeholders to ensure the new energy savings targets and activities are consistent with the Government's objectives to maximise bill savings, improve reliability and protect the environment.

The New South Wales Electricity Strategy and the Energy Security Safeguard position paper signalled that the Safeguard will cover a wider range of activities that reduce demand on electricity and gas networks. This could include, for example, switching from natural gas to biogas or green hydrogen.

The bill includes various amendments to allow for this broader range of fuel switching projects within the Energy Savings Scheme.

To support the extension and expansion of the scheme the bill makes amendments to enhance the compliance powers for the regulator to better prevent, detect and respond to noncompliance issues. These amendments are made under schedule 1, items 53 to 56, 60 to 62, 64, 65, 69, 81 to 86, and 89.

This includes a new framework for compliance officers and a civil penalty regime which will give the administrator more options in their regulatory toolbox.

Schedule 1, items 46 to 52, 57 to 59, 63, 66 to 67, 71, 74, 77 to 80, 87 and 88 of the bill will improve the administration of the Safeguard scheme, including by streamlining accreditation requirements and clarifying certificate registration timing and registration requirements.

Another key reform in this bill is the modernisation of the State's energy emergency and compliance framework.

Schedule 2, item 2 of the bill includes amendments to the Energy and Utilities Administration Act to align the process for declaring an emergency with that in the Electricity Supply Act.

An emergency situation can evolve very quickly, which highlights the need to streamline and simplify the processes required before government action can be taken.

That is why the first change aligns the process across our energy legislations to allow the Premier, instead of the Governor, to declare an emergency.

Aligning and simplifying the process will allow the New South Wales Government to take quick action where necessary during emergencies.

Schedule 2, item 2 of the bill will also amend section 27 of the Energy and Utilities Administration Act to bring its information gathering powers into line with the existing powers under the Electricity Supply Act.

These information gathering powers play an important role to inform government actions in relation to energy emergencies.

Overall, these changes will support the New South Wales Government in implementing the appropriate response plan in an emergency and mirror those set out in the Electricity Supply Act.

Given the rapid evolution of cybersecurity risks, it is important that critical energy infrastructure have the right processes and systems in place to deal with these threats.

The bill provides the New South Wales Government with appropriate backstops to ensure arrangements are in place to protect critical energy infrastructure against a cyber-attack.

A recent example of a cyber-security incident was seen in May 2021, when the operator of the United States' largest fuel pipeline, Colonial Pipeline, paid US\$4.4 million in ransomware to hackers.

The cyber-attack resulted in the pipeline being closed for nearly a week, creating supply shocks in the US market.

This event highlights the need for the New South Wales Government to be able to take action to ensure critical energy infrastructure companies, such as energy generators, networks, and pipelines, have the appropriate protections in place.

Schedule 1, items 16 to 25, schedule 2, items 1 and 2; schedule 4, items 14 and 15; and schedule 5, items 1, 5 and 6 of the bill make amendments to include these backstop provisions in the Electricity Supply, Gas Supply, Energy and Utilities Administration, and Pipelines Acts, respectively.

There is ongoing work being led by the Commonwealth Government. However, the timeframe for the implementation of the national reforms is uncertain.

The powers provided for in the bill are designed to be able to align with the national cyber security framework.

Schedule 2, items 6 and 8, also updates the penalty units relating to compliance with energy emergencies in the Energy and Utilities Administration Act with those in the Electricity Supply Act. This is to ensure that they are still relevant and appropriate to encourage compliance during emergencies.

The bill's schedule 4, items 1, 3, 4, 6, 8, 9, 12, 13 and 16, updates other penalties under the Gas Supply Act while schedule 5, items 3, 4, 8 to 12 and 14 to 18 updates other penalty units under the Pipelines Act.

These updates will align the penalty units in these Acts with those in the Electricity Supply Act or equivalent provisions in other jurisdictions.

It is timely for these changes as all but one of the penalty units under the NSW Gas Supply Act and the Pipelines Act have not been updated for at least two decades.

For example, currently under section 35 of the Pipelines Act, if a licensee whose licence has been cancelled, fails to comply with a direction to remove certain property and make good any damage to the area caused by its removal, the maximum penalty is 40 units – or \$4,400. The bill will increase this maximum to \$250,000.

These changes will ensure that this framework provides the appropriate incentives to ensure compliance with safety and technical requirements.

I now turn to schedule 3 of the bill.

Schedule 3, items 1 to 3, will amend the Forestry Act 2012 to unlock opportunities for the development of infrastructure for the generation and storage of energy from renewable sources which are located near available transmission assets within State Forests' softwood plantations.

The development of these electricity projects will support the delivery of the New South Wales Government policy priority for delivering cheap, sustainable power whilst benefiting the economic development of regional communities.

The reform will do this by amending sections 59 and 60 of the Forestry Act to provide a clear mandate for the development of renewable electricity generation and storage projects in NSW State Forests' softwood plantations.

I want to stress that these changes will only permit infrastructure for renewable energy projects to be located in State Forest's softwood plantations. The changes will not permit these projects to be located in State Forest areas that contain native forests.

This change will also not remove any approvals or requirements that energy projects are required to adhere to under the existing planning process.

Other jurisdictions internationally and now Queensland and Victoria have allowed renewable projects to be developed within exotic softwood plantation assets.

It is estimated that windfarms with a total capacity of at least 1 gigawatt could be located near available transmission lines in New South Wales softwood plantations.

These renewable projects can play an important role in generating social and economic benefits for regional areas.

The Forestry Corporation of New South Wales will implement actions to minimise the impact of any approved renewable project on forestry operations.

These actions could, for example, include requiring developers to offset land losses at their expense.

Overall, this change will unlock a new revenue stream for the Forestry Corporation of New South Wales, alongside the existing activities of the Corporation.

I will now turn to the several miscellaneous amendments of the bill that will streamline the administration of aspects of New South Wales' energy legislation and cut unnecessary red tape.

The bill will make minor changes that will increase the options available to networks to resolve issues of private structures encroaching on electricity and gas works.

Schedule 1, items 7 to 10 amends section 49 of the Electricity Supply Act while schedule 4, items 11 amends section 50 of the Gas Supply Act to enable the network to offer the owner of the encroaching structure the option of having the network relocated.

The owner will still have the current option of moving their structure. However, it may be cheaper and better for the owner to pay for the relocation of the network and may lead to a faster resolution to this safety issue.

Schedule 1, items 4, 27 and 29 of the bill will repeal the redundant provisions in the Electricity Supply Act relating to the Solar Bonus Scheme. This Scheme ended in December 2016.

Schedule 1, items 12 and 13 of the bill will amend sections 63R and 63U of the Electricity Supply Act to reduce reporting obligations on networks for motor vehicle accidents on non-network owned or controlled land, where electricity or electricity works did not contribute to the accident, or any injury or death.

Currently networks are required to report on and refrain from disturbing or interfering with a site of motor vehicle accidents involving electricity works. All other existing legal obligations relating to reporting of road accidents are unaffected by these changes. These changes will reduce regulatory burden and minimise delays in restoring power.

Schedule 1, items 30 to 33 makes some definitional changes to the Electricity Supply Act to align with the definitions under the National Electricity Rules that distinguishes between metering providers and metering coordinators. This will provide greater clarity to stakeholders about who are responsible parties for metering services for New South Wales.

Schedule 4, items 2 and 7 makes changes to improve administrative processes related to the determination of applications under the Gas Supply Act. The amendments to sections 9 and 38 of the Act will enable the Minister to grant an application for an authorisation or licence with modification. Currently the Minister is only able to grant or refuse an application.

The bill also streamlines the provisions in the Gas Supply Act and Pipelines Act for the setting of authorisation and licence fees. These changes, which are in schedule 4, items 5 and 10, and schedule 5, item 13 of the bill, will ensure the appropriate costs are recovered and align the provisions with those set out under the Electricity Supply Act.

I now turn to schedule 5. Schedule 5 makes a few minor changes that will improve administrative processes under the Pipelines Act 1967.

The bill's schedule 5, item 2 amends section 5A of the Pipelines Act to give the Minister the ability to set the date by which a particular pipeline needs to be licensed under the Pipelines Act. The current provisions require twelve months to pass before such an Order can take effect. This change will ensure new critical pipeline projects can be subject to the appropriate safety and technical oversight in a timely manner.

Schedule 5, item 7 also amends Pipelines Act to update section 20 to remove the requirement for the Registrar-General to notify the Minister of charges incurred by the Registrar-General in registering a deposited plan.

Deposited plans contain information relating to the legal boundaries of the land. If an easement is applied for, and granted by the Minister under the Pipelines Act, the applicant must lodge this with the Registrar-General.

The bill makes important amendments to improve and streamline administrative processes, enhance network efficiencies, ensure robust compliance and enforcement regimes and unlock low emission technologies like Stand Alone Power Systems and hydrogen.

These amendments will provide clarity and improved regulatory processes for the New South Wales' energy industry.

The bill will strengthen protections for energy consumers, safeguard our critical energy infrastructure, increase economic opportunities for State Forests and pave the way for New South Wales' hydrogen industry.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (16:43): The Labor Opposition does not oppose the Energy Legislation Amendment Bill 2021. The bill proposes amendments to the following Acts: the Electricity Supply Act 1985, the Energy and Utilities Administration Act 1987, the Forestry Act 2012, Gas Supply Act 1996, and the Pipelines

Act 1967. I do not intend to make a long contribution to this debate as my colleague the shadow Minister for Energy and Climate Change in the other place, the member for Lakemba, gave quite a long overview of Labor's position on the bill. The purpose of these amendments to the energy Acts is largely to improve administrative processes. The amendments reflect alternative sources of energy, including hydrogen and biogas, being introduced into the New South Wales energy supply. They enable New South Wales to opt into the national regulatory framework for standalone power systems [SAPs] and improve the administration of the Energy Security Safeguard and the energy emergency framework. They also enhance cybersecurity protections for the energy system.

The bill also enables renewable energy projects in softwood plantations—not native forests—within State forests. I note that distinction is extremely important to the Opposition. Several miscellaneous provisions will increase options available to networks to resolve issues of private structures encroaching on electricity and gasworks. Green hydrogen is developing and the bill addresses a lack of clarity on the definition of "natural gas" as a renewable energy source. The NSW Hydrogen Strategy sets a target of 10 per cent hydrogen gas network blending, which is considered safe within the existing pipeline infrastructure. Blended gas would be illegal because it does not meet the current definition of "natural gas". The amendments allow for industry certainty, which Labor supports.

The bill also enables certain concessions to lower the price of electricity for green hydrogen production. That will allow electricity use to be exempt from costs associated with the Climate Change Fund under the Government's Energy Security Safeguard. People who buy electricity to provide green hydrogen will also be given an exemption from network system user charges. Concessions will be available for a period of 12 years. The bill enables the national standalone power systems framework. They are electricity arrangements that are not physically connected to the national electricity grid. The amendments provide for New South Wales to opt into the framework if it is beneficial to do so. As SAPs typically consist of photovoltaic solar panels, generators and batteries, they are an effective way to supply electricity to regional and remote areas rather than maintaining a connection to the grid. The changes enable a distributor to operate a SAP for a customer. They impose consistency of rights and obligations on distributors operating as SAPs.

The bill gives effect to parts of the Energy Security Safeguard announced in 2019, which includes two separate schemes: the Energy Savings Scheme [ESS], running now until 2050 with an energy savings target increase of 13 per cent; and a new Peak Demand Reduction Scheme [PDRS] to support activities that reduce the demand at peak times, including flexible demand response. This is outlined in the September 2021 position paper released by the Government. In relation to the energy emergency and compliance framework, the bill amends processes to align how an energy emergency can be declared. Currently an electricity emergency can be declared by the Premier but other energy-related emergencies can only be declared by the Governor. The bill provides for the Premier to declare an energy emergency in non-electricity energy-related emergencies.

The bill creates backstop provisions to ensure that energy generators, networks and pipelines have protections in place from cyber attacks. A Federal framework does not exist so the amendments effectively enable New South Wales to align with a future national framework. Labor believes that it is time that the Federal Government gets its skates on in relation to these matters. We are seeing international cyber attacks on energy security. I do not know why the Federal Government is dragging its feet. It is just not acceptable. My colleague the Hon. Mick Veitch will have more to say on forestry as he has carriage of the part of the bill that enables renewable energy projects in State forests.

As I said, the bill should make clear that it is softwood plantations, not native forests. We support that. We will move an amendment to make sure that we do not lose land in local areas for using State forests in that way. Basically we support it, but plantation, particularly softwood plantation, is important and worth a lot of money to the State. I understand some discussions are ongoing about that amendment. We will deal with it at the Committee stage. That is my contribution to this bill. I refer members to the member for Lakemba's speech in the other place about this. We will deal with the amendments as they come through in the Committee stage. We support the bill.

The Hon. MARK LATHAM (16:49): I speak to the Energy Legislation Amendment Bill 2021. This omnibus bill masks some dreadful pieces of public policy. More corporate welfare funded by working class taxpayers, more picking winners, more Perrottet preferment, more crony capitalism, more funding of rent-seekers, more massive Matt "Green" wastes of public money based on unproven theories, speculation and hope about so-called green technologies not yet proven in the commercial market. One Nation opposes the bill. It is another rent-seekers' picnic primarily for the benefit of Australia's richest man, Andrew "Twiggy" Forrest. This raises an obvious question. If green hydrogen is so good, why can it only be expanded commercially with the support of New South Wales Government subsidies to Australia's wealthiest man, a multi-billionaire? Green hydrogen cannot be much of an emerging industry if someone as mega rich as Andrew Forrest cannot fund and develop it from his own corporate resources.

The Hon. Robert Borsak: How do you think he got that rich?

The Hon. MARK LATHAM: I acknowledge that interjection. In some respects Twiggy Forrest is engaged in a massive national apology. He got rich by exporting iron ore to China, ostensibly causing the problem he is now worried about—climate change—and he is trying to make up for it. But one could also quite honestly say about him, that he has got a very good nose for free money. He is in there with his snout in the trough big time. He is part apology, part rent-seeker.

Ironically, the omnibus bill also contains a new emergency measure, a panic provision, to cover for the way in which Matt "Green" is sleepwalking New South Wales into electricity blackouts. This is the true cost of the Government's green experiments, afflicting upon New South Wales the European disease—the power grid failure, soaring energy costs and economic calamity. We too are rushing way too fast to the transformation of the power grid without the necessary precaution of sustainable baseload 24/7 electricity, the backup for when the sun is not shining and the wind is not blowing.

If Minister Kean's reforms were so good, why is there a new panic provision, a state of emergency, to guard against the blackouts he fears? Recently, when he was not talking to the ABC and *The Guardian*, he acknowledged that there is concern the coal-fired power stations in New South Wales will close earlier than scheduled. That is the exact same thing that One Nation said just twelve months ago. Minister Kean denied it then, but now he is having to support Angus Taylor's capacity measure effectively to provide money for the coal-fired power stations to stay open and keep the lights on.

This bill provides \$3 billion of corporate welfare, not to battling small business in Blacktown, Bega or Broken Hill, but essentially to Andrew Forrest. Schedule 1 [28] prevents a network service provider recovering charges from the likes of billionaire Forrest when he buys electricity to split the atom and produce green hydrogen. In schedule 2 [10] the electricity purchaser is exempt from making a payment towards the licence distributor's annual contribution to the Climate Change Fund.

In the Committee of the Whole, One Nation intends to delete these two donations to billionaires engaging in technological experiments that imperil our power supplies in New South Wales. Minister Green wants to give Twiggy Forrest a 12-year holiday from paying his fair share and Labor and The Greens, whom sometimes claim to care about social justice, are supporting this handout to Australia's wealthiest man. They have no intention of getting between the money scroungers and rent-seekers and this big bucket of New South Wales public money—a total package of \$3 billion.

What about toll relief in western Sydney? No, their priority is ticking off more money for Twiggy. What about cheaper electricity bills for low-income families? No, they would rather be funding Forrest. This is what happens to those who worship at the altar of climate change. Even though Alan Finkel has said the elimination of Australia's omissions will have virtually no impact on global climate, Labor and The Greens are throwing obscene amounts of money at the rich without any prospect of lowering global surface temperatures. They have joined the worst elements of the New South Wales Liberal Party in sprinkling Photios dust on all aspects of energy and economic policy. One can see the little sprinkles coming down on this bill, electric vehicles, 100 per cent renewables, the whole shebang. This is at the huge cost of \$3 billion, and all this miserable document—the so-called hydrogen strategy—can claim is 10,000 jobs over a long period of time.

That is a massive \$300,000 per job, and it begs the question: Why not just give the money to the workers? I back the workers to invest the \$300,000 wisely, maybe put it into a small business venture, skill up, become a tradie, join the building boom, look after their own money. These subsidies are so paltry, you are better off giving the money to the workers direct. That is a real working-class policy, instead of worshipping at the green altar of climate change. The unproven technology is massively inefficient. Hydrogen is using energy to make a different form of energy automatically and, by any economic criteria, inefficiently—for example, hydrogen fuel cell cars have not taken off.

The studies from the transport and environment department in the United States show that the process of electrolysing hydrogen loses 30 per cent of the energy from the process of splitting the H₂ from oxygen. You then lose another 30 per cent of the remaining energy transporting hydrogen to the fuel station, so half is gone. Compare that to losing 5 per cent as electricity transfers over wires. Then in the hydrogen car engine, recombining the hydrogen and oxygen to produce water, creating electricity by other means, you lose half the initial energy again. From your starting pool of energy, you are down to one quarter of the original electricity used for the green hydrogen. You have lost three quarters of your power supply. This is a hopelessly inefficient and expensive technology, not yet scaled up in the commercial market. Why would anyone in their right mind be throwing \$3 billion at it, to land in the pocket of Australia's wealthiest man.

The Hon. Robert Borsak: Because the taxpayer is paying it.

The Hon. MARK LATHAM: The taxpayers are paying it. That is the point I constantly make about the rent-seekers and the corporate welfare. How easy is it to spend other people's money in this fashion? If Matt Kean had to spend his own money like this, he would faint. He would have a heart attack. He would really lose the plot. It is so easy to throw money like this when it is not your money and your only responsibility is to turn up at a press conference with Andrew Forrest and falsely claim that somehow you are saving the planet. Hydrogen is a non-starter in the energy-scarce world in which we live.

Then you come to the costs of transporting it. To be trucked the hydrogen needs to be condensed because it has such low density. It is 3.2 times less dense than natural gas and 2,700 times less dense than gasoline. It is incredibly inefficient and also flammable. As a gas, hydrogen is non-toxic but also has an ignition energy that is 20 times smaller than that of natural gas or gasoline. It can be ignited by mobile phones or an electricity strike kilometres away. This is a public menace and a public danger. The safety of this product moving across our roads has not been proven. Why fund it until it is commercially scaled up to a publicly safe level? Then you have the alternative of establishing piping systems to move the hydrogen around. That is going to cost you trillions of dollars to create a whole new pipe network across Australia. There is a corrosion problem of hydrogen interacting on the surface of pipes, eating them away, particularly if they involve steel or alloys.

Matt Kean says that this hydrogen will help to decarbonise really difficult parts of the energy system, transport, gas and the industrial sectors—but at what cost? A huge inefficiency. An unproven technology. Huge public risks. People have complained about the public risks of nuclear, which internationally has had a far stronger safety record than other forms of electricity generation, but no-one can point to the safety of hydrogen. So why spend \$3 billion of other people's money on an inefficient technology, subsidising billionaires, when public safety is at risk? But I know that is the world in which The Greens are now moving—subsidising the mega-wealthy, imperilling public safety and not relying on the commercial evidence of a market that is working, either in terms of technology or profitability.

United Kingdom studies have shown that, when using hydrogen processors for heating houses, you end up with just 62 per cent as much heat as the heat value of the electrical energy with which you started. Obviously, having the original energy sent in to power the heating is cheaper and more efficient for consumers, rather than losing some 38 per cent because it has been converted to hydrogen. This is completely unmanageable. Hydrogen is also likely to leak because the molecules are smaller, and it produces air pollution in the form of nitrous oxides when burned. The New South Wales Government has not presented a business case for this \$3 billion investment. Even the Australian Clay Target Association in Wagga Wagga had a business case. It was bodgie, but at least there was an attempt to go through the process of a business case and a benefit-cost ratio. That was subsequently boosted up because Wagga was going to become a mecca for international tourists to shoot clay targets.

The Hon. Wes Fang: It already was.

The Hon. MARK LATHAM: The Hon. Wes Fang says that it is already a mecca for international tourism, but I do not think that anyone could really believe the benefit-cost ratio of Dodgy Daryl's club was at all valid. Unfortunately, in terms of a lack of economic scrutiny, this is the parkland equivalent of the \$90 million pit in Hornsby. The Minister stated in the second reading speech:

... modelling shows that a green hydrogen industry could attract between \$80 billion and \$270 billion worth of investment in New South Wales by 2050.

Anyone who has done any rudimentary economics or who got through year 10 commerce would know that, if the best of the modelling shows variability between an \$80 billion and a \$270 billion gain, it is not much of a model or not much of an estimate. Those figures are 350 per cent apart. It is guesswork. It is throwing a dart against the dartboard and seeing where it lands. If you go to this wretched, inadequate document and look at where the so-called modelling is coming from, you see Minister Kean never publishes the modelling. The best he can do is a couple of footnotes, in this case, on page 28 of the hydrogen strategy. There are the names of a couple of rent-an-outcome outfits like Deloitte and KPMG. Then the crowning glory of what New South Wales is relying on for these economic figures comes from a 2020 document from the Ministry of Economy, Trade and Industry in Japan.

The Government has done an international search to find anything to give this flimsy thing a bit of credibility and has landed in downtown Tokyo, at the Ministry of Economy, Trade and Industry. Are we seriously spending \$3 billion on this junk? Modelling has not been published and a business case has not been presented. The Government toured around the world and looked at Cuba, North Korea and Albania—at any place where it could find a smidgen of credibility for this rubbish. It landed in Tokyo. If warrants were out for those committing economic policy larceny, Matt "Green" would be Australia's most wanted. That is the truth of this guy and his record on modelling and economic credibility. But, for all of that, he was promoted to Treasurer. We look forward to Treasury estimates.

The Hon. Walt Secord: Oh boy.

The Hon. MARK LATHAM: Oh boy, oh boy! Mookhey will be off the long run, and I will be pushing off from the sight screen. We will sort things out at that point. The electricity road map had no modelling, other than that of Cameron Hepburn from the now-collapsed Blueprint Institute. Now even Minister Kean is conceding that the coal-fired power stations will close early, and he is having to embrace Angus Taylor's capacity measures. When will the Government learn about the dodgy figures that are used in these documents? When you have modelling varying between \$80 billion and \$270 billion, just pick a number; it could be the real outcome. The modelling is guesswork that brings shame upon the Government and shows the lax way in which it would use \$3 billion of public money.

How would any of those sponsoring this bill know about the development of technology in the energy sector? The Premier is a former liquidation lawyer. The Treasurer is a Hornsby accountant. The shadow Minister appears to have been a very good schoolteacher in Punchbowl. I always wonder about these politicians who know so much about where the technology is heading and where the commercial benefits are going. Why are they wasting their time in this Parliament? They should be out there on the bond market, investing all of their knowledge and expertise to turn themselves into the new Twiggy Forrest, the new billionaire.

The Hon. Shayne Mallard: So should you.

The Hon. MARK LATHAM: No, I do not profess to know where the technology is heading. I am a humble economist trained by the University of Sydney, a former municipal mayor of some standing and a failed Federal leader of the Labor Party, who landed here kind of by accident. I do not claim to have any technological expertise. I am not so arrogant as to spout my understanding of where the energy sector is heading.

Mr David Shoebridge: Other than coal, coal, coal, coal, coal, coal and coal. It is just coal.

The Hon. MARK LATHAM: Other than the Woollahra workers comp lawyer, who is expert on every subject—

The Hon. Ben Franklin: Point of order: I find it offensive that I cannot hear the very interesting ruminations of my good friend the Hon. Mark Latham. I ask that Mr David Shoebridge be called to order.

The PRESIDENT: The member has been a little out of order, repeating the same word a number of times. The Hon. Mark Latham has the call. He will be heard in silence.

The Hon. MARK LATHAM: What we know about coal is that it keeps the lights on. It is a proven technology. But if you went to James Ruse High School and walked out of the place hating it and you end up sponging off the working classes as a workers compensation lawyer from Woollahra, apparently you are an expert on every subject, including carbon capture.

Mr David Shoebridge: Point of order: If this bloke wants to insult me, he has to do it by formal motion.

The PRESIDENT: I uphold the point of order. The member has the call.

The Hon. MARK LATHAM: I am sorry I smashed that glass jaw one more time. I promise not to do it again, Mr President. The truth is that the best way of relying on technological development is to let the market tell you. Millions of decisions by producers and consumers every day will provide a base of knowledge and development upon which you can rely. But until these things are commercially developed in the market, why would you be spending other people's money on speculation? All of this is pure speculation. The document, the bill and the Minister at no stage address the very legitimate concerns about the cost, the inefficiency and the lack of safety for hydrogen development. These things are always presented as the next miracle around the corner. Hydrogen is one of a long line of miracles that, apparently, are going to make renewables viable. Batteries and pumped hydropower are said to do this.

In the public debate, where does hydrogen come from? In Australia the hydrogen debate between high-level people in State Government has been raging for 40 years. The first notable person in Australia to spruik the benefits of hydrogen was Joh Bjelke-Petersen, the Premier of Queensland, in 1980. What a beautiful alliance there is now among Mr David Shoebridge, Matt Kean and Joh Bjelke-Petersen, spruiking the wonders of hydrogen. Forty years ago, Joh said that it was going to cause a revolution, but it did not create a murmur on the streets. There was no uprising or revolution. There was 40 years of nothing really happening, to the point where all we have now is Matt Kean, Premier Perrottet, Twiggy Forrest and \$3 billion of other people's money.

Twiggy Forrest, as I mentioned earlier, is operating off a guilty conscience. He is giving one great national apology. Having shipped all that iron ore to China and turned himself into a billionaire, he has just become another rent-seeker with a good nose for free money. I have heard some of his radio interviews on this. You would have to say they are gibberish. It is pure psychobabble. One of his arguments on Sydney radio was that we are moving

to hydrogen because it is the equivalent of what the car did with the piles of horse manure on the streets of London in the early 1900s.

This stuff is just incomprehensible and certainly not the basis on which you could judge and make public policy. Shipping a lot of iron ore to another country does not make someone an economic genius. This bloke has had plenty of failed ventures. Look at Western Australian Rugby Union, for example. Nonetheless, he has won the support of the unusual energy alliance of the National Party, the Liberal Party, the Labor Party and The Greens. They appear to have no problem with subsidising Australia's richest man in an unproven technology, which is likely to be an unsafe technology that will not fly in terms of efficiency.

Twiggy Forrest gets a holiday on his electricity network charges, while the battlers in Blacktown have had skyrocketing bills over the past 15 years because the grid tried to go green. All the subsidies for the production of renewable energy include a trillion dollars to redo the grid. There is also the underwriting of renewable profitability and Kean's road map and Malcolm Turnbull's \$13 billion Snowy 2.0, which some experts say will actually use more energy than it creates.

The reality is that Turnbull describing a crisis inside a crisis means the base is not there for backup firming power for when the sun is not shining and the wind is not blowing. Those are all massive problems that are unresolved. Europe has moved too fast into transforming its electricity grid to renewables, which it deeply regrets. It wants to bring back coal, nuclear and other baseload power and it is scrambling to do that. I compared it to a scene from *Mad Max* where all the scavengers are out looking for fossil fuel. Europe is in a bad state. Financially, this aggregated set of subsidies to rent-seekers in the renewable sector and the likes of Twiggy Forrest is the greatest scam since the South Sea bubble.

The responsibility of government is to not be so lax and reckless with other people's money. People work hard to pay their taxes in New South Wales and we should not be speculating on unproven technology in this way. It seems to be the only policy The Nationals-Liberal-Labor-Greens coalition has in the energy sector. Instead of relying on proven technologies, they want to make a transition. The logical way to do it is steadily with due caution and introduce nuclear as an emission-free baseload power. They have not gone in that direction and, unfortunately, there will come a day in New South Wales where that is deeply regretted. Because there is so much doubt, confusion and hidden information, the bill should go to an upper House committee for examination and proper scrutiny. If we have committees on battery chickens, surely we should have an inquiry into the expenditure of \$3 billion in such dubious circumstances. I move:

That the question be amended by inserting after "now read a second time" the words "and then referred to Portfolio Committee 1 – Premier and Finance for inquiry and report by 1 March 2022".

The Hon. WALT SECORD (17:11): As shadow Minister for Police and Counter Terrorism, I make a brief contribution to debate on the omnibus Energy Legislation Amendment Bill 2021. The bill amends various Acts administered by the Minister for Energy and Environment concerning the supply of energy to the State and for related purposes. I note that it amends five separate Acts: the Electricity Supply Act 1995, the Energy and Utilities Administration Act 1987, the Forestry Act 2012, the Gas Supply Act 1996 and the Pipelines Act 1967.

The purpose of the amendments to the energy Acts are in large part to improve administrative processes. The amendments reflect alternate sources of energy, including hydrogen and biogas, being introduced into the New South Wales energy supply and enable the State to opt into the national regulatory framework for standalone power systems. It also improves the administration of the Energy Security Safeguard and the energy emergency framework. The bill enables renewable energy projects in State forests, but only in softwood plantations, not native forests. Several miscellaneous provisions will increase options available to networks to resolve issues of private structures encroaching on energy and gas works.

Finally, the bill claims to enhance cybersecurity protections for the energy system. As the Opposition already canvassed the bill in the other place, and the Leader of the Opposition in this place has indicated that we will not oppose the bill, I limit my remarks to the sections relating to cybersecurity. My colleague the member for Lakemba, who is also Labor's spokesperson on energy and climate change, advises that the section of the bill relating to cybersecurity creates backstop provisions to ensure energy generators, networks and pipelines have protections in place in the event of cyber attacks. A cyber attack is an attempt to disable computers, steal data or breach computer systems to disable or disrupt supply.

One of the biggest cyber attacks involved electricity supply in Europe in March 2020. It involved the European Network of Transmission System Operators for Electricity, which represents 42 European operators in 35 countries. Between 2010 and 2014 in the United States, there were 150 successful attacks on energy supply through cybersecurity. I return to the specific part of the bill that relates to cybersecurity, schedule 5 [6], which "enables the Minister to direct a pipeline licensee to take certain action to respond to or prevent a cybersecurity incident." It defines a cybersecurity incident as:

... acts, events or circumstances involving, or likely to involve, 1 or more of the following—

- (a) unauthorised access to computer data or a computer program,
- (b) unauthorised modification of computer data or a computer program,
- (c) unauthorised impairment of electronic communication to or from a computer,
- (d) unauthorised impairment of the availability, reliability, security or operation of a computer, computer data or a computer program.

The regulations will be able to provide for the adoption and implementation by a pipeline licensee of cyber security policies and procedures. It will be a condition of the pipeline licence that the licensee comply with the requirements of the regulations and with a direction given by the Minister.

As the Hon. Mark Latham pointed out, when we scratch the surface of the bill we find that there are a few pearls. We discovered that the Federal Government and the State Government do not have policies in place involving cybersecurity attacks on our electricity supply. A Federal framework for cybersecurity does not exist, so the amendments in the bill will eventually enable New South Wales to align with a future national framework. Sadly, those amendments, which we support, highlight the deficiencies at the State and national levels. There is much work to be undertaken at the State and Federal levels in relation to cybersecurity in our national energy supply. On 15 July I asked a series of questions without notice to the Hon. Natalie Ward, representing the Minister for Police and Emergency Services, about the Government's response to cybercrime. On 5 August the police Minister replied:

In 2017, as part of the re-engineering of the NSW Police Force, a standalone Cybercrime Squad was launched ...

He went on to state that currently it employs "62 sworn and eight unsworn employees". His answer continued:

State Crime Command receives and triages approximately 1,000 referrals per month in relation to cybercrime, many of which are sent to Police Area Commands and Police Districts for investigation. Over the past 18 months the Cybercrime Squad has charged 34 people for 510 offences.

Furthermore, in relation to activity by state actors, which are overseas agents, jurisdictions and representatives, the police Minister replied:

Questions relating to state actors are best directed to the Commonwealth Minister for Home Affairs.

I asked that question because in June 2020 there was national attention on sophisticated State-based actors escalating cyber attacks against Australian businesses and government actions. For the record, in late August this year, Federal Department of Home Affairs Secretary Mike Pezzullo, who is also one of the nation's top national security figures, said that cyber attacks against Australia's critical infrastructure, including electricity, were his "most pressing and immediate concern". In New South Wales many organisations have been subjected to documented cyber attacks. Most recently they have included the Department of Education and Transport for NSW and, several years ago, the agency responsible for mining in New South Wales.

Finally, without going into details, the bill unfortunately highlights that New South Wales is unprepared for energy-related cyber attacks, which could result in blackouts. I also note that in its examination of the bill and provisions relating to cybersecurity, the Legislation Review Committee expressed concerns about a Minister issuing emergency orders to respond to a cybersecurity incident and that there might be the need for oversight or review of those provisions. It also observed that a public notice declaration of a cybersecurity incident or energy emergency or disruption may serve to aggravate the situation or limit the ability of the Government or impacted persons to respond to the incident. In conclusion, the bill highlights that there is not the framework at the State and Federal levels to respond to a cybersecurity incident involving electricity supply. On that note, I thank the House for its consideration.

Mr DAVID SHOEBRIDGE (17:19): The Greens do not oppose the Energy Legislation Amendment Bill 2021. There has been a lot more talk about this bill than it deserves when one closely reviews it. It is a modest set of changes and amendments to energy legislation in New South Wales. It makes amendments to the Electricity Supply Act, the Energies and Utilities Administration Act, the Forestry Act, the Gas Supply Act and the Pipelines Act. Importantly, the bill makes amendments to the Electricity Supply Act to extend the power of the Government to declare an electricity supply emergency if a cybersecurity incident affects electricity supply.

That is a genuine concern. We have seen substantial growth in cybersecurity attacks against energy utilities, particularly in the United States. The need to strengthen our electricity supply system to make it more resilient to cybersecurity attacks is real. There may be circumstances where a utility or network provider is unable to adequately respond to a cybersecurity attack. We may need the resources of the State to step in, to maintain the operation of the grid and to respond directly to the incident. The bill gives them that power. We have not yet seen the regulations that will allow that to be implemented. That should be done rapidly because it is a genuine risk to all of us.

The bill makes a number of fairly modest amendments, but an important one is that it allows for the proper regulation of standalone power systems. As we roll out renewable energy zones and as renewable energy and storage solutions continue to become cheaper, we will see more opportunities for standalone power systems, off the national grid, to operate around the State. It is important to put in place the laws to allow that to happen in advance and in a regulated way. We support those amendments. Indeed, we will move some amendments to have it go slightly further and to put in place arrangements for community batteries, which in some ways operate like standalone systems. I will deal with those by way of amendment at the in-Committee stage. The bill also increases the power of the Government to respond to an energy supply emergency, whether by written order or declaration. The amendments to the Energy and Utilities Administration Act work together with the amendments to the Electricity Supply Act to allow that intervention where there has been a significant cybersecurity incident.

The bill also seeks to amend the Forestry Act 2012. Those amendments raise some concerns in The Greens because they see the potential for parts of the plantation estate to be cleared to allow for the building of electricity generation and storage facilities. The Greens are committed to expanding the publicly owned plantation estate in New South Wales. We see that as the obvious way to transition out of logging native forests and all the environmental and economic damage that causes. We understand the Opposition has further amendments, which will be considered. Our review of the first draft showed that they were trying to get the compromise right between ensuring forestry operations can continue in plantation estates and ensuring there are appropriate mechanisms to allow for some renewable energy infrastructure if the case is made out and it does not cause undue loss of the plantation estate.

I say again, The Greens support the maintenance and the growth of the softwood plantation estate in New South Wales. Not only is it the most secure way to provide timber for use in the housing industry and industry more broadly but it also provides secure, long-term and often unionised jobs in regional New South Wales and substantial opportunities for downstream manufacturing and value adding. For those reasons, we have always supported the softwood plantation estate.

The bill also makes amendments to the Gas Supply Act and the Pipelines Act. Critically, it expands the regulatory arrangements that The Greens first put into the 2020 renewable energy zone legislation to support green hydrogen. The capacity to put \$50 million of climate change money towards the expansion of green hydrogen was first introduced through The Greens amendments to the 2020 legislation. Together with that, provisions in that bill exempted the energy used for the production of green hydrogen from distribution and transmission costs. That was the first time we saw some structured support for the green hydrogen industry in New South Wales. The bill expands that form of support with some further concessions on other fees and charges for green hydrogen, which is defined as hydrogen that is created from 100 per cent renewable energy.

The Greens support those kinds of measures in the short term, but we hope the Chamber will adopt our amendments to put a time limit on those concessions where the green hydrogen is being mixed with fossil fuels. We do not want to see a permanent crutch for the fossil fuel industry through the ability to mix fossil fuels with green hydrogen that has been provided at a subsidised rate. We propose that any such concessions should end by 1 January 2030. With those observations, we do not oppose the bill.

The Hon. WES FANG (17:27): I am pleased to speak in support of the Energy Legislation Amendment Bill 2021. I support the amendments it makes to the Forestry Act 2012. The changes will only permit infrastructure for renewable energy projects to be located in the State's softwood plantations. That will be a win for regional communities and for delivering the Government's priority of keeping the lights on, getting electricity prices down for homes and businesses across the State and achieving our objectives of a 50 per cent reduction in emissions by 2030 and net zero by 2050.

The changes will remove a legal barrier that has prevented the use of small areas of softwood plantation estates in State forests to host renewable energy developments such as wind farms. Other jurisdictions internationally, and now Queensland and Victoria, have allowed renewable projects to be developed within exotic softwood plantation assets. Forestry Corporation has estimated that wind farms with a total capacity of at least one gigawatt could be located near available transmission lines in softwood plantations in State forests. Those are big numbers in terms of electricity generation that are equivalent to one-third of the proposed capacity of the Central-West Orana Renewable Energy Zone or half of Snowy 2.0, but the infrastructure to support such capacity only requires a very small proportion of softwood plantation estates in State forests.

Wind farms with a total capacity of one gigawatt are estimated to take up around 200 hectares of land. In State forests the current softwood plantation estate is around 230,000 hectares, so one gigawatt of wind farms would represent less than 0.1 per cent of softwood plantation estates in State forests. The development of these renewable energy projects will not have an impact on the ability of Forestry Corporation to deliver existing softwood timber supply obligations. Renewable energy projects in these softwood plantation areas would not result in a large area of land unavailable for future timber production. In fact, the wind farms would coexist with

the range of other uses already taking place side by side in the State forests, including tourism, grazing, timber production and access for recreation.

The purpose of the amendment is to complement Forestry Corporation's operations, not to cannibalise productive softwood plantations. That is why Forestry Corporation is requiring offsets. Forestry Corporation intends to put in place a mechanism to incentivise the developer to minimise the impacts on the plantation footprint, otherwise the developer will have to fund the establishment of replacement plantation on lands within the same wood supply catchment at their own cost. Importantly, wind farms would not impact on the role the softwood plantations serve in sequestering carbon. All forests sequester carbon in the standing trees and this carbon remains locked up in the timber products created from the trees.

Further, the presence of wind farms in softwood plantations will not have any detrimental effect on Forestry Corporation's employment or adversely impact the timber supply. This infrastructure will coexist with renewable timber production in the State's softwood plantations and with the industries and jobs that depend on them. It is anticipated that there will be substantial additional business and employment opportunities associated with the development of wind farms for the regions in which they are located. But this is not development at all costs. Developers of individual projects will need to follow the normal planning assessment processes, including undertaking consultation for their proposal. They will need to address community concerns as part of the development assessment process. Community consultation must, and will, be undertaken as part of this process. The planning process provides the community, industry and regulators with a clear framework for the assessment of large-scale wind energy development proposals that are State significant developments.

In line with the New South Wales wind energy guidelines, consultation with residents and the community will be required to occur at key points in the process. This includes preliminary consultation with affected individuals and communities to identify community values, environmental or land use constraints and opportunities in the project area to inform the siting and design process. Furthermore, once the environmental impact statement is complete, the proposal will be publicly exhibited for a minimum of 28 days where anyone can make a submission about the project. During the public exhibition period for State significant development applications, the Department of Planning, Industry and Environment will notify surrounding residents in writing, place an advertisement in statewide and local newspapers, and place electronic copies of all the applications and all supporting information on the department's major projects website.

All in all, the possibility of wind farms in the State's softwood plantations offers a positive environmental outcome, regional employment and the maintenance of the existing timber supply from these lands. The required checks and balances will be in place to ensure that this development is truly sustainable. I have outlined the benefits of this policy for our rural and regional communities in terms of job creation and economic prosperity. We have an abundant supply of land in the regions that can be utilised. I commend the bill to the House.

The Hon. SHAYNE MALLARD (17:34): I speak enthusiastically in support of the Energy Legislation Amendment Bill 2021. I commend the Minister for Energy and Environment and the Parliamentary Secretary who is representing the Minister in this House for their diligent work in the area of renewables and for helping our State to lead the nation into the future of energy, which the community is very much demanding. I am pleased to speak to how this bill and actions taken by the Government pave the way for the State's future economic prosperity and support the Government's goal of achieving net zero by 2050—I hope that Canberra is listening today. The bill creates new opportunities and new jobs in renewable industries, as well as new opportunities within regional New South Wales. It does this by supporting renewable generation in State forests, as we have just heard from the Hon. Wes Fang, and renewable gases such as hydrogen.

Given the future potential for hydrogen, it is important for the New South Wales Government to focus its efforts on this developing industry and on driving uptake on a rapid scale. I note the comments on hydrogen made earlier. I represented the Government at the opening of Toyota's spare parts warehouse at Eastern Creek, which is the largest in the Southern Hemisphere, and met with the executives. They had hydrogen cars there that we could drive. They told me that Toyota has put all its eggs in the basket of hydrogen energy because it believes that hydrogen is the future of energy production in the car industry. Investment in hydrogen will not only protect the industries and jobs that New South Wales families rely on but also fuel their growth and their expansion. That is why the NSW Hydrogen Strategy sets out the State's bold vision and pathway to enable us to be a global leader in the hydrogen industry, with ambitious policies that capitalise on our natural strengths.

Together, the strategy and the reforms in the bill will help to capture the flow of capital towards clean technology to create new industries, grow our economy, increase our exports and support jobs. Our strategy will set New South Wales apart as the most attractive location for investment, with the largest and most tailored package of support by an order of magnitude to build our hydrogen industry in this State. A hydrogen industry is likely to lead to more than \$80 billion in capital investment by 2050 across hydrogen, green steel and ammonia production, clean transport and more. This means that in New South Wales we can expect to see up to 10,000 new

jobs created by 2030, which is just around the corner. This bill is a crucial step to enable our gas networks to start their transition to clean energy. It enables gas networks to blend hydrogen with other renewable gases, bringing down the cost of hydrogen storage, reducing the emissions of our gas supply and bringing renewable gas to our major industries that need green molecules, not just green electrons.

The Hydrogen Strategy will provide up to \$3 billion in support for the hydrogen industry, including the Government investing \$70 million in hydrogen hubs in the Illawarra and Hunter and incentivising green hydrogen production and rolling out hydrogen refuelling stations. The Government is not waiting, and I am pleased to hear that progress has already been made to establish the hubs. The Government's \$70 million hydrogen hub initiative will open for expressions of interest later this month. Following a competitive process, grants will be awarded in 2022. This is not just a pipedream—no pun intended. This is reality being delivered as we speak. The New South Wales Government has recently awarded \$500,000 of funding from the regional New South Wales Port Kembla Community Investment Fund to Coregas. With this funding, Coregas will develop a hydrogen refuelling station at its existing Port Kembla hydrogen production facility, supporting the introduction of hydrogen fuel cell trucks to the Illawarra and Shoalhaven regions—an Australian first.

But the strategy is more than that. It is a holistic approach to position New South Wales at the forefront of the global hydrogen economy. It is estimated that the policy set out in the strategy will support industries to reduce the cost of hydrogen by up to \$5.80 per kilogram and provide a total of up to \$3 billion of incentives. This will support New South Wales in delivering its 2030 target of 110,000 tonnes of annual hydrogen production, 700 megawatts of electrolyser capacity, and a reduction in the cost of hydrogen to below \$2.80 per kilogram. It is also pleasing to see progress being made on the Government's Electricity Infrastructure Roadmap, which the members of this House will be well familiar with—that was a long night—and legislation introduced last year aimed at supporting investment and creating jobs in regional New South Wales.

Additionally, the New South Wales Government is in the early stages of planning for the Hunter-Central Coast and Illawarra renewable energy zones. These regions have unique features that make them ideal locations for renewable energy zones, including access to renewable resources such as offshore wind. Further, they also benefit from existing power stations, high-voltage network infrastructure, port and transport infrastructure, and a very skilled workforce. These renewable energy zones will play a key part in the recently announced NSW Hydrogen Strategy and will boost investment, create jobs and help make New South Wales a green hydrogen superpower. The bill and the hydrogen strategy will allow us to build the modern electricity grid that we desperately need and that will benefit regional communities. A new generation of people emerging in our State are asking us to show leadership in that area.

An important role of the Government is to ensure that the energy utility frameworks are fit for purpose and working as intended. The bill will achieve this goal by introducing a suite of amendments that will cut red tape—we all like cutting red tape—reduce costs and modernise operational compliance frameworks. We need to modernise provisions that have not been updated for some time, particularly on compliance and penalties, to align with more modern standards within other jurisdictions and to remain relevant and competitive. As minor but important amendments to the laws contained in the bill, these reforms will deliver positive outcomes for the New South Wales community.

The bill contains amendments that increase efficiency and save costs by reducing regulatory burden and cutting red tape. I will focus on reform dealing with issues of encroachment of private buildings or structures onto electricity or gas networks and how these can be resolved more efficiently and at lower cost. This reform will remove unnecessary red tape and provide cost savings by giving electricity and gas network providers more flexibility to resolve network encroachment issues. Overall these changes will reduce the regulatory burden for businesses and, most importantly, they achieve the goal of making it easier to do business in New South Wales. For these reasons I commend the bill to the House.

The Hon. BEN FRANKLIN (17:43): On behalf of the Hon. Don Harwin: In reply: I thank all honourable members for their contributions to debate on the Energy Legislation Amendment Bill 2021, which is an important bill. I will discuss some of the issues that were raised in each of their contributions. I will start with the Opposition. I thank the Hon. Penny Sharpe and the Hon. Walt Secord for their contributions. I note the presence in the House of Mr Jihad Dib, the shadow energy Minister. I thank him for being here. I welcome the support of the Opposition for the bill. The Hon. Penny Sharpe spoke correctly about the importance of the bill in providing confidence to the emerging green hydrogen industry, which the Government wholeheartedly agrees with given its importance to the future of our economy.

I note the comments that she made about the need to secure our timber supplies and make sure renewables developed in softwood plantation forests do not come at the cost of that supply. I also note comments by the Hon. Wes Fang in this regard. The Government indeed agrees that we need to safeguard our timber supplies and I acknowledge the Opposition's intention to move an amendment on this issue. I also acknowledge the Hon. Walt

Secord's comments about the importance of safeguarding our energy infrastructure from cyber attacks. He is correct to point to incidents that have occurred internationally and the risks posed to critical infrastructure like our pipelines. The reforms set out in the bill will indeed provide an important backstop for the Commonwealth's reforms currently underway.

I now move to the contribution of my friend the Hon. Mark Latham, who raised concerns about the need to support a strong hydrogen industry in New South Wales. Let me assure all members of this: Green hydrogen presents a huge opportunity for the State. In fact, it is expected to attract over \$80 billion in private investment and support 10,000 jobs. It is an opportunity too good to ignore and one that other jurisdictions in Australia and internationally are racing towards. We must not miss out.

I acknowledge the contribution of Mr David Shoebridge to the debate. He spoke correctly about having robust frameworks to respond to cyber security threats. He also indicated his intention to move an amendment relating to community batteries, which I am personally committed to as well. The Government agrees that community batteries are an emerging technology that can help improve the resilience and affordability of the grid. I foreshadow that the Government will support his amendment. Finally, I thank the Hon. Wes Fang and the Hon. Shane Mallard for their excellent contributions, as always. I commend the bill to the House.

The PRESIDENT: The question is that this bill be now read a second time, to which the Hon. Mark Latham has moved an amendment. The question is that the amendment of the Hon. Mark Latham be agreed to.

The House divided.

Ayes4
Noes33
Majority.....29

AYES

Banasiak
Borsak

Latham (teller)

Roberts (teller)

NOES

Amato
Boyd
Buttigieg
Cusack
D'Adam
Donnelly
Faehrmann
Fang
Farlow
Farraway (teller)
Field

Franklin
Graham
Harwin
Hurst
Jackson
Khan
Maclaren-Jones
Mallard (teller)
Martin
Mitchell
Mookhey

Moriarty
Moselmane
Pearson
Poulos
Primrose
Searle
Secord
Sharpe
Shoebridge
Veitch
Ward

Amendment negatived.

The PRESIDENT: The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have three sets of amendments: One Nation amendments on sheet EB075, Opposition amendments on sheet c2021-111G and The Greens amendments on sheet c2021-113C. I will start with the One Nation amendments.

The Hon. MARK LATHAM (17:58): I move One Nation amendment No. 1 on sheet EB075:

1. Page 8, delete Schedule 1 (28).

This is one of the distribution and transmission charge holidays for people like Australia's richest man, Twiggy Forrest, that I outlined at length in my contribution to the second reading debate. So as not to inconvenience the Chamber, I refer to my remarks in that contribution. I foreshadow that One Nation will adopt that pattern in the Committee stage. It may convenience the House to advise members of the possibility of the one-minute bell.

The Hon. BEN FRANKLIN (17:59): The Government opposes the amendment. Providing network concessions for green hydrogen production that connects to parts of the grid with spare capacity will indeed play a critical role in reducing the cost of green hydrogen, so we oppose the amendment.

The Hon. PENNY SHARPE (17:59): I will be brief, and I thank other members for their brevity in relation to the matters already canvassed in the second reading debate. I flag that Labor does not support the Hon. Mark Latham's amendment and will not be supporting his other amendments. We are comfortable with the bill as it stands, although we will deal with some minor tweaks. Given that the Hon. Mark Latham has made his view on this very clear, he will be unsurprised that Labor does not support the amendment.

Mr DAVID SHOEBRIDGE (18:00): The Greens do not support the amendment or the further amendments to the same effect being moved by One Nation. We think there is a place for incentives to get the green hydrogen industry up and running. We are on record as doing that in the 2020 bill and getting \$50 million put aside to encourage green hydrogen. Working people in the Illawarra and Newcastle are desperately keen for that to happen and unions in the Illawarra and Newcastle are desperately keen for that to happen. They want the jobs and the investment. For once they do not want New South Wales to be left behind. We join them.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Latham has moved One Nation amendment No. 1 on sheet EB075. The question is that the amendment be agreed to.

The Committee divided.

[In division]

The CHAIR (The Hon. Trevor Khan): Before I announce the result of the division, I implore members to remain where they are. A series of amendments will be moved quite quickly. If members remain where they are, we will seek leave to ring short bells and get out of here quickly.

Ayes4
Noes34
Majority.....30

AYES

Banasiak (teller)
Borsak

Latham

Roberts (teller)

NOES

Amato
Boyd
Buttigieg
Cusack
D'Adam
Donnelly
Faehrmann
Fang
Farlow
Faraway (teller)
Field
Franklin

Graham
Harwin
Houssos
Hurst
Jackson
Maclaren-Jones
Mallard (teller)
Martin
Mason-Cox
Mitchell
Mookhey

Moriarty
Moselmane
Pearson
Poulos
Primrose
Searle
Secord
Sharpe
Shoebridge
Veitch
Ward

Amendment negatived.

The Hon. MARK LATHAM (18:11): I move One Nation amendment No. 2 on sheet EB075:

2. Pages 33-34, delete Schedule 2 (9) and (10).

This is another unnecessary subsidy to people who do not need the money, a charging holiday and it should be supported by the House and deleted from the bill.

The CHAIR (The Hon. Trevor Khan): I interrupt the member. We are working on the basis that members remain where they are, so that we will be able to all leave earlier.

The Hon. MARK LATHAM: So moved.

The Hon. BEN FRANKLIN (18:12): The Government does not support this amendment. Exempting hydrogen from a range of scheme charges and costs, including the Climate Change Fund costs, will play an important part in lowering the price at which we can produce green hydrogen. This is important to help New South Wales compete on the global green hydrogen stage to attract vast amounts of investment to New South Wales in this emerging industry.

The Hon. PENNY SHARPE (18:12): Labor does not support this amendment. We support green hydrogen, One Nation do not. We do not support this amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Latham has moved One Nation amendment No. 2 on sheet EB075. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes4
Noes33
Majority.....29

AYES

Banasiak (teller)
Borsak

Latham

Roberts (teller)

NOES

Amato
Boyd
Buttigieg
Cusack
D'Adam
Donnelly
Faehrmann
Fang
Farlow
Farraway (teller)
Field

Franklin
Graham
Harwin
Houssos
Hurst
Maclaren-Jones
Mallard (teller)
Martin
Mason-Cox
Mitchell
Mookhey

Moriarty
Moselmane
Pearson
Poulos
Primrose
Searle
Secord
Sharpe
Shoebridge
Veitch
Ward

Amendment negatived.

The Hon. MARK LATHAM (18:18): I move One Nation amendment No. 3 on sheet EB075:

3. Page 35, delete Schedule 3

This is an amendment to delete schedule 3 from the bill, schedule 3 being the wacky proposition that we should be converting State-owned timber plantation to wind farm and solar farm facilities. As Mr Justin Field has pointed out, 20 per cent of those areas were burnt in the bushfires. How crazy is it to put energy infrastructure in areas prone to bushfire? How crazy is it to threaten the timber worker jobs? How crazy is it to put pressure on the native forests as a substitute timber source, particularly when there is a shortage of timber in Sydney at the moment? As the member for Bankstown has adeptly pointed out we are in a building boom and because of the bushfires we have not got enough timber. The last thing any of us need are wind and solar farms in the softwood timber plantations. I understand that Labor has an amendment in this space that will probably carry the day, so I am moving this amendment but not intending to divide on it.

The Hon. MICK VEITCH (18:19): I move Opposition amendment No. 1 on sheet c2021-111G:

No. 1 **Sustainable forest management**

Page 35, Schedule 3 [2]. Insert after line 12—

(1B) An action by the Corporation under subsection (1A) must—

(a) be consistent with the obligations of the Corporation under a sustainable forest management certification scheme, including the following—

(i) restrictions on converting forested land to non-forest uses,

- (ii) requirements to support local communities and timber processors with sustainable yield of forest products in the short, medium, and long term, and
- (b) not result in premature harvesting of timber or the net loss of timber or land available for forestry operations.
- (1C) The Corporation must ensure that any land used for forestry operations in substitution for land used for the construction and operation of renewable energy infrastructure—
 - (a) is a similar distance from local timber processors as the land for which it is substituted, and
 - (b) is of the same or greater productive capacity, and
 - (c) has the same or greater average annual rainfall.

This amendment is about making sure we protect timber worker jobs. As the Hon. Mark Banasiak knows, a timber inquiry is currently taking place. Some compelling case studies were delivered in testimony to that inquiry about the impact of the bushfires on softwood plantations and the need to make sure that we maintain those plantations in a way that people keep their jobs after the bushfires. I acknowledge the discussions of the shadow Minister, Tania Mihailuk, and the Minister today to get to this point. As I understand it, the Government will be supporting the amendment. I also thank the union for its assistance in agitating for those measures.

The Hon. BEN FRANKLIN (18:20): The Government opposes One Nation amendment No. 3. There is commercial interest to develop renewable energy projects in our softwood plantations because of their proximity to transmission links. That provides an opportunity for Forestry Corporation to increase its revenue source by leasing parts of its estate to renewable projects. Forestry Corporation put in place strong safeguards to ensure that there is no net loss of timber supply from the development of any renewable projects, which is a win-win. The Government is therefore pleased to support Opposition amendment No. 1.

The Government's intention to allow renewable energy development in plantations is to complement forestry activity, not to adversely impact on it. The Opposition amendment makes that clear by requiring that no net loss of timber supply or land for forestry will take place. It also supports local businesses in a forestry area that depend on current timber production levels by ensuring that any new land made available for forestry to offset land that is being applied for renewable energy is in the same local area. For that reason, the Government is happy to support the amendment.

The Hon. MARK BANASIAK (18:21): The Shooters, Fishers and Famers Party supports Opposition amendment No. 1 because it provides legislative certainty for timber workers and timber supply, which is desperately needed.

Mr DAVID SHOEBRIDGE (18:22): The Greens oppose Pauline Hanson's One Nation amendment No. 3. However, we support Opposition amendment No. 1. The Greens are on record as supporting the maintenance and expansion of our public softwood plantation industry. That is critical if we are going to get out of native forestry. It is also critical if we want to have long-term, high-wage jobs in the regions, which are often unionised. The softwood plantation estate is one of the best ways of providing the resource for substantial manufacturing and downstream processing jobs in the regions. Of course, we support their role in renewable energy projects. We support opportunities to site those within parts of land set aside for softwood plantations, which are most economically viable for providing energy, particularly to regional centres—subject to the checks and balances contained in the Opposition's amendment, which ensure no net loss. In one view, we would have a net gain to the softwood plantation estate.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Latham has moved One Nation amendment No. 3 on sheet EB075. The question is that the amendment be agreed to.

Amendment negated.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendment No. 1 on sheet c2021-111G. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. MARK LATHAM (18:23): I move One Nation amendment No. 4 on EB075:

4. Page 41, delete lines 28-29

The amendment deletes from the dictionary on page 21 of the bill the redefinition of so-called green hydrogen as a natural gas. The proposition is just amazingly wrong. There is nothing natural about creating large capital plants, filling them with water, using man-made electricity—be it from renewables or any other source—moving that in by transmission wires, splitting the atom, using the energy to create a different form of energy and then calling that natural gas. We are told constantly to follow the science, follow the science, follow the science. Minister Kean

is trying to rewrite the science textbook by maintaining that this process, which is man-made at three or four different stages, is a natural gas. I am reliably told that the place one is most likely to find hydrogen as a natural gas is Jupiter. I know Matt Kean is a bit of a spaceman but not even he is going to travel all the way to Jupiter to try to harness hydrogen and bring it back here for those green purposes. I do not know how the Parliament can entertain a complete rewriting of the scientific reality that the process—

The Hon. John Graham: He'd do a press release about it.

The Hon. MARK LATHAM: He'd do a press release about it? Well, he will be at the press conference with new Premier Perrottet because they look like Siamese twins. They are together so often I sometimes think that if Perrottet gets up for a leak in the night, Matt Kean would be in the toilet. So he is the everywhere-man but I do not think he is going to be on Jupiter harnessing the true natural gas of hydrogen that we just do not find on planet Earth. Let us ground ourselves on planet Earth, recognise that the stuff we are talking about is composite in water, split out by all these man-made processes and there is nothing natural about it. It is plainly ridiculous to entertain the fantasy—

Mr David Shoebridge: We're finally at Jupiter.

The Hon. MARK LATHAM: The Greens are fantasising about Jupiter. If I can buy Mr David Shoebridge a one-way ticket, I will. We should be realistic and at least have an honest, scientific, factual definition of what is a natural gas instead of debasing the whole process by pretending that hydrogen being produced in many man-made stages is somehow natural. Clearly it is not.

The Hon. BEN FRANKLIN (18:26): The Government does not support the amendment. This part of the bill will allow the definition of natural gas to be expanded to include green hydrogen gas blends. The State's gas distributor, Jemena, is currently developing its western Sydney green gas plant to inject green hydrogen into the gas network, starting later this year or early next year. We must ensure we have a robust framework to regulate this practice to maintain the safe supply of gas to consumers. For that reason, the Government opposes the amendment.

The Hon. PENNY SHARPE (18:26): Labor does not support the amendment because it would amend a provision that is an important part of setting up the system that will operate in relation to hydrogen.

Mr DAVID SHOEBRIDGE (18:27): The Greens do not support the amendment. We just did a word search on "Jupiter" and we could not find it in the bill. We also think that the provisions are important in the short term to support the green hydrogen industry. For reasons we have previously outlined, working people want this because there are jobs in it. For once we need to position New South Wales at the front of the industry and at the front of these kind of world developments instead of at the back. That is why we supported similar measures in 2020 and we support them now.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Latham has moved One Nation amendment No. 4 on sheet EB075. The question is that the amendment be agreed to.

Amendment negated.

Mr DAVID SHOEBRIDGE (18:28): I move The Greens amendment No. 1 on sheet c2021-113C:

No. 1 **Community-scale batteries**

Page 8, Schedule 1 [28], proposed section 192A. Insert after line 29—

192A Regulations relating to community-scale batteries

- (1) The regulations may provide for the construction and use of community-scale batteries, including provisions that deal with the following—
 - (a) authorising and facilitating the ownership and operation of community-scale batteries, or classes of community batteries, by specified persons,

Example—Regulations could authorise and facilitate the ownership and operation of community-scale batteries by the following—

 - (a) local councils,
 - (b) distribution network service providers,
 - (c) Incorporated associations,
 - (d) co-operatives.
 - (b) regulating service tariffs for energy flows between connection points where a community-scale battery scheme operates,
 - (c) exempting community-scale batteries from fees, charges or tariffs under this or any other Act,

- (d) ensuring community-scale batteries do not compromise the energy security and reliability of the distribution and transmission systems.
- (2) The regulations may modify the application of, or disapply, a provision of the *National Electricity (NSW) Law* or the *National Electricity Rules* to the extent reasonably necessary to give effect to regulations made under subsection (1).
- (3) In this section, **community-scale battery** is a battery or series of inter-connected batteries with a storage capacity not exceeding 30 megawatts.

Provisions in the bill facilitate standalone electricity networks, which are good. As I said in my second reading debate contribution, as we expand renewable energy opportunities and storage opportunities, and that technology becomes cheaper and easier to distribute, we will see more standalone power systems being built across New South Wales, because it makes sense. If we have the capacity to have the storage, the distribution and the production of enough energy in a localised area, then we do not need to link into the national grid or the broader distribution system. There are real opportunities that we will see develop more over time.

One of the biggest opportunities that we have is to develop community-scale batteries within a decentralised grid. Those batteries will be connected to the distribution network and can have storage capacities of up to five megawatts. They tend to range anywhere from 30 kilowatts to five megawatts. Those distributed community batteries that have one element of it on one property and other elements of it on another property, connected by a local grid, provide a significant opportunity to create more stability in the network. They also allow people to come together to build a community battery, to pool their resources. That is already happening in trials with local councils in Victoria. Community batteries in New South Wales are being trialled.

[*Members interjected.*]

I note the two interjections that it is also happening in the Australian Capital Territory and South Australia. In December last year a report by the Australian Renewable Energy Agency stated that a number of potential regulatory hurdles exist to rolling out community batteries. One of those is that the way in which the national electricity market operates means that it may not be economically viable, particularly for distribution network service providers to be driving community batteries. In terms of social returns we do not say that is the best way to operate community batteries. However, there is an opportunity for a distribution network service provider to have community batteries scattered throughout its system because they provide a system with additional energy stability. We particularly see opportunities for local councils, incorporated associations and cooperatives to come together to build community batteries.

Community batteries may not be economically viable when you have a distributed battery around, say, 30 properties in a small region. The benefit of a community battery is that different users, often households, will have different energy demands at different times. The energy being produced across that network, often from solar power, is fed into the local batteries. If a household with solar and battery fills up its battery, the energy then goes to fill up another battery in the community network where it is stored. That results in a uniform fill of the batteries. As the energy is drawn down—different users draw it down at different times—the energy from one household battery is sent to another household, and it moves around the local system as energy goes in and out of the batteries. The same can be done for households, businesses and other providers such as local councils.

At the moment the problem is that every time community batteries access the energy that is coming either from the solar panels to the battery or from the battery to the end users, they access the local distribution network and incur a distribution access fee as if they were getting the energy from 800 kilometres away in a major production facility, such as a power station. They are paying as though they are getting access from 800 or 1,000 kilometres away when actually they are only using a small part of the local network. As a result, the access charges for the energy coming in and going out are excessive and can make community batteries not as economically viable as they should be. One of the provisions in this amendment is a power to regulate the service tariffs for those energy flows between connection points where a community-scale battery operates. That is an important way of making them more economically viable. I may not have explained that as effectively as I could.

The Hon. Penny Sharpe: It was a good effort.

Mr DAVID SHOEBRIDGE: I accept that. The Greens think this is an exciting opportunity. Again, we want New South Wales to be at the front of this development, not at the back. For those reasons, I move this amendment hoping to facilitate the rollout of community-scale batteries across New South Wales.

The Hon. BEN FRANKLIN (18:34): The Government supports the amendment because it recognises the potential value of community batteries. There are a number of very promising community battery trial projects. In future, regulations could remove some of the barriers to make them more commercial and to encourage broader uptake. That is consistent with the Government's priority to keep the lights on and to get electricity prices down for homes and businesses across New South Wales. Not only can community batteries offer value for customers

but they can also be used to support network security and reliability, and potentially curtail or delay the need for network investment. The Government supports the amendment.

The Hon. PENNY SHARPE (18:34): Labor supports the amendment. Community batteries are important. I welcome the opportunity for us to be ahead of the game rather than behind it, in terms of the regulation and facility of them. It is a good amendment and should be supported.

The Hon. MARK LATHAM (18:35): One Nation opposes the amendment for the reason that community batteries are in use already without those particular provisions. For example, one has been launched in the vicinity of Hornsby, undoubtedly with ample public subsidisation in that part of the world, although not as ample as the pit that has been turned into a park up there but perhaps it is not far behind. In subparagraph (c) there is an exemption "from fees, charges or tariffs under this or any other Act". There has been no costing whatsoever. The Chamber would be initiating a financial measure and the amendment is out of order. No-one has mentioned that.

The Greens member who moved the amendment has not mentioned it. Of course, the fairies at the bottom of the economic garden would not mention anything to do with the cost of their proposal. Subparagraph (c) exempts "community-scale batteries from fees, charges or tariffs". That would have a financial impact on the State budget, but no costing whatsoever has been offered, nor has any way of paying for it been identified. I suppose it is simply a debt measure. Is it right for this Chamber to initiate a financial provision? I do not believe it is. It should be rejected accordingly.

Mr DAVID SHOEBRIDGE (18:36): I will deal with the purported constitutional impediment raised by the Hon. Mark Latham. Proposed section 192A is a regulation-making power, granting the Executive the capacity to make a regulation to exempt community-scale batteries from some fees, charges or tariffs. It clearly is not an expenditure measure. It is a regulation-making power permitting regulations that would waive certain fees for community batteries. I will give an obvious example. Given the role that community batteries play in reducing our carbon footprint by making renewable energy projects and renewable energy an even more viable part of our energy system, it would make sense to exempt them from any contribution to the NSW Climate Change Fund because they are doing it already. That is one that comes to mind, and it would be sensible. There is no constitutional impediment. The amendment has a sensible rationale behind it.

The Hon. MARK LATHAM (18:37): Where is the evidence that community batteries are powered by renewables? Right now in New South Wales 80 per cent of the electricity comes from coal. If community batteries are to function in any capacity, they are very much driven by coal-fired power stations. The Greens have a magic-wand approach. They pretend all those things are happening against reality and that those nice woolly green intentions are some form of fact when they are not. The argument put by the leader of The Greens is factually incorrect. He wants to subsidise batteries that play a limited role with power that is 80 per cent generated by coal-fired power stations day in, day out in New South Wales.

Batteries play a limited role. They cannot possibly scale up to replace what we call the energy grid. Technologically, that is not possible. All they do is stabilise the grid for maybe a couple of hours; a problem is curtailed and not as severe. The former head of AGL said that if we want to replace electricity with batteries in Australia, we would put them in shipping containers, placed end to end, that would extend from Sydney to Perth and into the Indian Ocean. This sort of approach considered by the fairies at the bottom of the economic garden never stacks up. It is simply wrong to say that community batteries are a 100 per cent renewable initiative when they are not.

The provision of a regulation to allow the fees, charges and tariffs to be abolished is a de facto financial measure. I object to the amendment on the economic principle that things brought to Parliament that impose debt or extra cost on the taxpayer should at least be costed. A full department, the Treasury, could have costed this to say it is going to cost x number of millions of dollars so at least we know what we are getting into. With a budget that is heavily in deficit already, it is fiscal vandalism to say, "We will just pass this through. We are not telling anyone the cost. We will work that out later." Well, if we are going to budget like that, my great-great-grandchildren will be paying off the debt in New South Wales. The amendment should be rejected on that principle.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2021-113C. The question is that the amendment be agreed to.

The Committee divided.

Ayes34
Noes4
Majority.....30

AYES

Amato	Graham	Moriarty
Boyd	Harwin	Moselmane
Buttigieg	Houssos	Pearson
Cusack	Hurst	Poulos
D'Adam	Jackson	Primrose
Donnelly	Maclaren-Jones	Searle
Faehrmann	Mallard (teller)	Secord
Fang	Martin	Sharpe
Farlow	Mason-Cox	Shoebridge
Farraway (teller)	Mitchell	Veitch
Field	Mookhey	Ward
Franklin		

NOES

Banasiak (teller)	Latham	Roberts (teller)
Borsak		

Amendment agreed to.

Mr DAVID SHOEBRIDGE (18:49): I move The Greens amendment No. 2 on sheet c2021-113C:

No. 2 Mixed green hydrogen exemptions sunset

Page 9, Schedule 1, Insert after line 3—

[33A] Section 197

Insert after section 196—

197 Green hydrogen exemptions not valid from 1 January 2030 if mixed with fossil fuel gas

An exemption under this Act or the *Energy and Utilities Administration Act 1987* that provides a benefit to a person in relation to the production or use of green hydrogen, however defined, does not have effect on and from 1 January 2030 if the green hydrogen is, or is to be, mixed with a fossil fuel gas for use.

The amendment establishes an exemption under this Act or the Energy and Utilities Administration Act that provides that a benefit to a person in relation to the production or use of green hydrogen does not have effect on or after 1 January 2030 if the green hydrogen is, or is to be, mixed with a fossil fuel gas for use. The Greens understand that, in the very short term, a small proportion of green hydrogen may be mixed with an existing gas supply and piped to develop the market. Of course, it cannot be more than 10 per cent using existing technology. There may be a small opportunity for that in the very short term to encourage green hydrogen. Therefore, some potential financial incentive to produce that green hydrogen is understandable.

But we need to get to a radical reduction of our greenhouse gas emissions by 2030. We should be looking at that target. The Greens do not want a subsidy on green hydrogen to be a crutch for the ongoing supply of fossil fuels after 2030. There has to be an end to that kind of transitional arrangement for green hydrogen. Clearly, it should be on or before 1 January 2030, when we need to have made an extremely large reduction in our greenhouse gas emissions. There should be no role for fossil fuel gas after 1 January 2030. The amendment says, "Yes, the subsidies can be provided for the production of green hydrogen even where it has been mixed with fossil fuel gas in the very short term but that must end on or before 1 January 2030." For those reasons, I commend the amendment to the House.

The Hon. BEN FRANKLIN (18:51): The Government does not support the amendment because it could have adverse impacts on the Government's aspiration to achieve 10 per cent blending of green hydrogen in the gas network by 2030 and to support the development of the green hydrogen industry more broadly. The gas network remains one of the hardest-to-abate sectors and will require supportive policy settings to achieve decarbonisation beyond 2030. Removing these incentives could inhibit industry's ability to deliver low-carbon solutions for the gas network. Importantly, the exemptions have been designed to leave it open to industry to determine the highest value use of the hydrogen it produces. The amendment could have adverse impacts for the broader development of the green hydrogen industry and the decarbonisation and economic benefits it could deliver for New South Wales in other sectors of the economy.

In practice, the amendment as drafted would likely reduce investment certainty and prevent industry from making any investment decisions on gas blending, as the exemptions would expire only one to five years into the project life—less than half the expected project life. Furthermore, we expect there will be issues with enforceability and administration of the proposed amendment. This would change the electricity load that is exempt from year to year and create onerous obligations for data and reporting. It would be particularly onerous for network businesses that recover scheme and network charges through regulated tariff structures. For those reasons, the Government opposes the amendment.

The Hon. MARK LATHAM (18:53): This is another ridiculous proposition from the leader of The Greens. You only need to state the proposition to know its absurdity. His idea is that after a certain date, if you mix fossil fuel gas into hydrogen, the impost becomes payable to government. How would you administer that? Does the person doing the mixing put their hand up and say, "Your Honour, I am guilty here. I have to pay my tax now. I had this hydrogen in storage for a couple of years. I mixed it today"? No-one is going to do that. Otherwise you have a whole new cadre of government gas inspectors trying to check the mix to see if the tax is payable. The proposition is beyond administration. If the honourable member wants to ban fossil fuel gas, he should move that instead of trying to achieve it de facto through a tax system that cannot possibly be administered in any sensible way. If he wants to ban the gas he does not like, he should do it that way. Because clearly you would need a time tunnel to work out when someone did the mixing. When the tax is due, the people doing the mixing will not own up. It will cost a fortune to go around checking everyone's mix to work out what is in there and if the tax is payable.

The Hon. PENNY SHARPE (18:54): Labor does not support the amendment. I understand what The Greens are trying to do but we do not think that this is the way to do it.

Mr DAVID SHOEBRIDGE (18:54): It is not a tax. You do not store hydrogen for two years. The amendment obviously has a solid policy purpose.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 2 on sheet c2021-113C. The question is that the amendment be agreed to.

Amendment negated.

The Hon. MICK VEITCH (18:55): I move Opposition amendment No. 2 on sheet c2021-111G:

No. 2 Forest permits

Page 35, Schedule 3[3]. Insert after line 22—

- (1A) The land manager of a forestry area must not issue a permit under subsection (1)(b) unless the land manager is satisfied that issuing the permit—
 - (a) is consistent with the obligations of the land manager under a sustainable forest management certification scheme, including the following—
 - (i) restrictions on converting forested land to non-forest uses,
 - (ii) requirements to support local communities and timber processors with sustainable yield of forest products in the short, medium, and long term, and
 - (b) will not result in premature harvesting of timber or the net loss of timber or land available for forestry operations.
- (1B) The land manager of a forestry area must not issue a permit under subsection (1)(b) unless and used for forestry operations in substitution for the land subject to the permit—
 - (a) is a similar distance from local timber processors as the land for which it is substituted, and
 - (b) is of the same or greater productive capacity, and
 - (c) has the same or greater average annual rainfall.

The amendment is very much the same as Labor's previous amendment. I again extend our appreciation to the Government for its assistance in support of this amendment.

The Hon. BEN FRANKLIN (18:55): The Government also supports the amendment. It helps achieve the same purpose as Opposition amendment No. 1 and the Government supports it for the same reasons I expressed earlier.

The CHAIR (The Hon. Trevor Khan): The Hon. Mick Veitch has moved Opposition amendment No. 2 on sheet c2021-111G. The question is that the amendment be agreed to.

Amendment agreed to.

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

Motion agreed to.

The Hon. BEN FRANKLIN: 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. BEN FRANKLIN: On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

Motion agreed to.**Third Reading**

The Hon. BEN FRANKLIN: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.*Adjournment Debate***ADJOURNMENT**

The Hon. DON HARWIN: I move:

That this House do now adjourn.

KANGAROO INQUIRY

The Hon. MARK PEARSON (18:58): For more than 25 years I have been fighting to end the bloody and barbaric slaughter of millions of kangaroos whose lives are taken in the dark of night far from the oversight of animal welfare authorities. Their broken bodies end up in the nation's dog food or are flogged off as haute cuisine—if you do not mind the off whiff of acetic acid. You need something to knock out any bugs in the less-than-unsanitary collection of headless carcasses as they bounce around and are hung up in the back of dusty utes swarming with flies until they get to the chillers for processing. The recent upper House inquiry into the health and wellbeing of kangaroos and other macropods was one of the highlights of my past seven years in Parliament.

My 2015 election campaign promise included working to reveal the cruelties of the commercial kangaroo industry and the deep flaws in the methodology used by the Department of Planning, Industry and Environment kangaroo management program to calculate kangaroo populations available for exploitation by industry. So badly did the department perform that it abjectly failed to answer questions as simple as, "Can you tell me the biological growth rate of kangaroos?" It was called back for further examination with an instruction that it had to bring its experts who could answer the question.

As I anticipated, expert evidence given at the inquiry shredded the credibility of the department by exposing numerous flaws in calculations for quota setting. The inquiry also laid bare the inherent conflict of interest of the department charged with the responsibility of ensuring the protection of kangaroos yet working hand in glove with vested commercial interests that need as many dead bodies as possible to make their industry economically viable. It also exposed the inability of government to guarantee that the deaths of joeys and adult kangaroos was humane. We learned of the psychological suffering and stress of adjoining landholders, who are subject to the terrifying sounds of gunshots in the night, as well as carers fearing the worst for kangaroos healed and released into the nearby bush only to be shot.

I am not naive, and I understand the ways and means of political bartering, but I was not prepared for the gutting of most of the critical draft findings and recommendations, which were based on very compelling evidence. This can be seen in the minutes of the deliberative, which are in the appendices of the final report. It was quite disheartening to see Labor voting with The Nationals to remove or water down findings and recommendations based on strong evidence that was either uncontested or poorly contested. I urge those in the general public, supporters of kangaroos and anyone who cares for representative democracy to read and weep at the compelling evidence of the manifest failure of the department to protect kangaroos and ensure sustainable populations into the future.

The question has to be asked, why has the commercial kangaroo industry been able to capture the Government's kangaroo management program? Who benefits from the killing off of findings such as that kangaroo numbers are in serious decline in New South Wales, with mobs becoming marginalised and fragmented

throughout the landscape? Further, notwithstanding the impact of drought on kangaroo populations, land clearing, licensed killing for agricultural interests and the commercial harvesting industry are major factors in this decline.

The changing methodology used over the course of the past 20 years of kangaroo management plans makes it impossible to have confidence in the long-term trend data on kangaroo populations. I am disappointed but I will not be defeated. Nor will the ecologists, biostatisticians, Indigenous Elders, carers and advocacy groups who presented their testimony with sincerity, integrity and care. One of the important recommendations that does remain is to call on the Auditor-General to examine the kangaroo management program in New South Wales and determine whether it is meeting the requirements of environment protection legislation. I know that it is certain that the judgement of the Auditor-General will be that the kangaroo management plan is absolutely not protecting kangaroos. *[Time expired.]*

SYDNEY METRO - WESTERN SYDNEY AIRPORT PROJECT

The Hon. SHAYNE MALLARD (19:03): Recently, the planning processes for the Sydney Metro - Western Sydney Airport line were completed, with the Minister for Planning and Public Spaces, the Hon. Rob Stokes, approving the application. This paves the way for construction to begin on this game-changing rail link to connect Western Sydney Airport and surrounding aerotropolis with the rest of Greater Sydney. The metro will act as the transport spine for greater western Sydney and complete the outer wheel of the New South Wales Government's wheel-and-spokes modern model of public transport. The Bradfield model of spokes to the centre of the city is now completed by rings of transport—road and rail. With trains arriving every five minutes, the metro is made up of a new generation of safe, fast and reliable trains that get passengers from A to B without the hassle of planning their journey around timetables.

As a boy from Penrith, I know all about the long commute that people in western Sydney have to make every morning and evening to get to and from good jobs—I did that for many years. But no more. With the Western Sydney Airport metro line and aerotropolis, 200,000 estimated good jobs will be a short and safe metro trip away in western Sydney. The metro is expected to transport up to approximately 8,000 passengers an hour each way and take around 110,000 vehicles off local roads every day. This not only allows thousands of western Sydney residents to get to and from work faster but also reduces congestion on local roads, improves the environment and improves the livability of western Sydney. The benefits that metro lines can provide have been seen with the operation of the North West Metro, which has been hugely popular, between Chatswood and Tallawong. Carrying over one million passengers per month, the North West Metro has reduced travel times and crowding on the Greater Sydney transport network and is part of the strategy to relieve the transport network.

All around the world, metros—driverless trains—have been built and implemented over the past two decades to complement heavy rail transport systems. They are not to replace them; they complement them. In Asia in China, Hong Kong, Taiwan and Singapore, in Dubai, in other cities like Sao Paulo in Brazil, Toronto and Vancouver in Canada, San Diego in Chile, and in the United States in New York, San Francisco, Las Vegas, Miami and Memphis, metro rails are being built to complement transport systems. Of course, my favourites are the ones in Copenhagen, Paris, Budapest, Rome, Barcelona, Tokyo, Delhi and Seoul. All these cities are building or have built metro rail.

The Western Sydney Airport line is a vital part of the New South Wales Government's commitment to a 30-minute city—the idea that Sydney residents should be able to access a good job, recreation and quality lifestyle amenities within 30 minutes of home. The Western Sydney Airport metro is the next step towards achieving this goal by connecting western Sydney residents with over 200,000 jobs expected to be created in the aerotropolis zones. Construction of the metro is expected to support over 14,000 jobs. More than 250 of them will be made available to apprentices, equipping 250 new entrants to the job market with the necessary skills and experience to access the jobs of the future. Jobs of the future are the headline of the airport and the surrounding aerotropolis.

With the metro planned to operate in line with the first flights from Western Sydney International (Nancy Bird Walton) Airport—I love that name—the metro will connect western Sydney to the world, unlocking a new frontier of investment and job creation. The aerotropolis is expected to support over 200,000 jobs in cutting-edge industries, and the metro will play a crucial role in connecting western Sydney residents to these jobs of the future. Investment and job creation in the aerotropolis is already well underway with commitments from advanced 3D printing company GE Additive, vitamin and pharmaceutical maker Vitex and aerospace company Northrop Grumman, to name a just few. These investments will lead the way in the training and employment of thousands of people in the jobs of tomorrow in industries like advanced manufacturing, aeronautical engineering and advanced electronics.

The New South Wales Government has secured commitments from research and training organisations to equip western Sydney residents with the skills for these jobs. The University of Newcastle, the University of New South Wales, the University of Wollongong and Western Sydney University are collaborating to deliver a

new STEM-focused multiversity, the University of Sydney is building a global agricultural science hub and a partnership has been secured with the University of Technology Sydney for its involvement in the aerotropolis. The aerotropolis puts an innovation, investment, and training hub right in Sydney's backyard with good jobs just down the road—or the metro track—from western Sydney residents. All this would not be possible without the game-changing links provided by the metro line providing the aerotropolis with a fast, safe and reliable connection with Greater Sydney and a connection between western Sydney and the world.

COVID-19 AND FREEDOM

The Hon. COURTNEY HOUSSOS (19:08): We are at the end of our first sitting fortnight for almost four months. When Parliament last sat in June, it was to pass the budget, in his speech for which then Treasurer Perrottet spruiked our recovery from COVID. But just hours later, we discovered that the Delta variant of COVID was on the loose, even entering this building. Our last day of sitting—Thursday 24 June—ended with us being confined to our offices, our colleagues being put into isolation and the bare minimum of members being rapidly tested and then sent in to this Chamber to ensure that the budget bills were passed. It was the beginning of another remarkable period in this global pandemic. Our city has endured a 108-day lockdown, with some of the harshest restrictions imposed on our community. We have emerged only because of the record rates of vaccination across New South Wales.

We were fortunate. Like many office workers, we could quickly switch again to working from home. Our committee system kicked into gear using the technology we established during last year's lockdown. While working from home and remote learning was a juggle for every parent—and I give a shout-out to every parent, teacher and student who has been coping with learning at home for the last 13 long weeks—we were the fortunate ones. In New South Wales over the past three months, 260,000 people have lost their jobs. Small businesses, especially our hospitality and retail businesses, have been smashed by this lockdown. Many were already carrying debt from last year's lockdown, having incurred rents or delayed mortgage payments, and were again forced to close. But there were a number of significant differences between 2020 and 2021.

This year, the New South Wales Coalition Government did not say, "We're all in this together." Instead, when the outbreak that started in Bondi spread to western Sydney, this Government sought to divide our community into "LGAs of concern" and the rest. It divided Sydney virtually in half, with 47 per cent of our population across western Sydney under tighter restrictions than those in the rest of the city. We were divided into those who had to wear a mask outside and those who did not, those who had a curfew and those who did not, those who had to apply for a permit to go to work and those who did not, and those who had police helicopters hovering overhead and those who were allowed recreation time on the beach.

These social restrictions had important economic consequences. Turnover for businesses in western Sydney declined by 70 per cent, while it declined by just 30 per cent in other parts of the city. Indeed, some parts of the east and the North Shore actually saw an increase in economic activity as people worked from home. I lived through the lockdown in one of the local government areas of concern and, like so many of my Labor colleagues, I witnessed the struggle of our local small business owners. People like Emmanuel, Jackie, Andreas and Peter faced a daily struggle not to close their doors for good. I pay tribute to their resilience and tenacity. Small business owners told me over and over how they did not want to ask for help, but they had no choice. When they did ask for help, they faced weeks—sometimes months—of delays and difficulties in accessing the promised government grants.

The then Premier might have stood up every day professing that there was help for small business, but it proved so difficult to access that some simply gave up. The experience on the ground simply did not match the sound bites, and it infuriated communities across Sydney. It was the same for the vaccination rollout. The then Premier scolded the community for failing to get vaccinated, but actually finding an appointment was like winning the lottery. As I bought my coffee one morning, my barista asked me in a quiet, urgent tone if I knew how he could access a vaccine. The wait for an appointment at the Olympic Park vaccination hub was weeks. He had tried calling the local medical centres listed on the website, but there was nothing available for months. For weeks, those of us in the LGAs of concern suffocated under tightening restrictions, amid accusations that we were not abiding by the rules.

The breaking point came when fully vaccinated people were allowed to picnic with friends if they lived by the beach, but people in western Sydney were limited to only members of their household. We may have a new Premier, but nothing has changed. Even today, the Coalition Government has announced vouchers for accommodation that families cannot access for six months. There are new grants promised for outdoor dining, but no application form in sight, and in western Sydney you can get Uber Eats delivery faster than you can get a paramedic at times. This Government is all about the sound bite and the glossy brochure. Our communities have seen this deception. This lockdown was a tale of two cities, and it is a tale that western Sydney will not soon forget.

TRIBUTE TO NORM PROVAN

The Hon. MARK LATHAM (19:13): I pay tribute to the great rugby league "Immortal" Norm Provan, who passed away last week. As a lifelong Dragons fan, the Provan legend is irresistible. It is woven into the folklore of our club and is the reason why so many follow the Red V. Provan's rugby league record is well known. He was an Australian international representative player, the pre-eminent second rower of his time and he boasted a record 10 premierships wins in a row—the last four as captain coach. Norm "Sticks" Provan revolutionised the game with the toughness of his defence, the fabled Dragons "brick wall". With his attention to physical fitness and inspirational leadership skills, he was, in every respect, a giant of the game, a man amongst men. Earlier this year a National Rugby League team participated in a behind-the-scenes documentary, and some of us were surprised to hear that every second word from the coach began with "F". I asked one of the greats of the Dragons from the 1956 to 1966 era what he thought of this. He replied:

Norm and "Killer" Ken Kearney never had to resort to that language. They stood above the players as role models. Tough men, yes, but also respected for their fairness and character. When Norm walked into the dressing room, there was an instant silence. We looked up to him in every way.

Recently I finished reading the first volume of the St George club's centenary history. There is a wonderful account of Sticks' impact, as follows:

When he came running down the tunnel at an away game at a suburban ground, leading out the mighty Dragons, it was a sign of two things about to happen in the eyes of the opposing fans. The sight of Provan, towering in white with the big red V, entering the arena like a rugby league god, signalled that defeat was imminent for the home team. And, worst of all, it told those home fans that they were out of luck—the St George team bus hadn't got lost on its way to the ground that morning—and the team of Provan, Raper, Langlands, Smith, Ryan, Walsh, Gasnier, Lumsden, Clay and King was ready for battle.

Never before and never again. Sticks Provan played his last game in the 1965 grand final at the Sydney Cricket Ground [SCG] in front of a crowd of 78,000—plus those hanging from the roof of the Sydney Showground tower. Surely this was the greatest assembling of rugby league talent in the history of the game—the St George legends mentioned earlier matched against the rising South Sydney champions: Simms, Cleary, Coote, Sattler, McCarthy and O'Neill. Naturally, of course, the Dragons won 12-8 and Provan was swamped by the adoring young fans who ran onto the ground at full-time, many of whom had watched the match from inside the SCG picket fence.

Norm Provan was not just a magnificent competitor on the field, hurling himself into ruck after ruck, he also became a successful standalone coach, guiding Cronulla to their unlikely draw against Manly and then defeat in the 1978 grand final. He also ran a popular retail business and contributed mightily to his family and local community for much of his life in the shire. I convey my condolences to the Provan family and, I am sure, the respect of this House in recognition of the full and amazing life of a great Australian—a role model, a man and a footballer without peer. Rest in peace, Sticks Provan. As long as they play the greatest game of all, he will be missed and forever immortal.

COVID-19 AND CENTRAL WEST AND WESTERN NEW SOUTH WALES

The Hon. SAM FARRAWAY (19:16): In the past six months, the Central West and western New South Wales have, like many parts of the State, faced significant challenges due to COVID-19. In the regions, we have had to endure droughts, floods, mouse plagues and bushfires, but I must say the second wave of COVID has certainly tested our bush resilience yet again. Unfortunately, the Central West and western New South Wales ended up becoming a COVID hotspot. As at today, the NSW Western Local Health District [LHD] has recorded 1,564 cases and 13 deaths since the second outbreak occurred a few months ago.

The communities out in the west are tough. They are resilient, they are compassionate and they all came together in their time of need. The communities rolled up their sleeves and played an important part in getting this great State and our local communities and economy back on track. The vaccination rates across the Central West and western New South Wales are now some of the highest in the country. Most communities in those regions have vaccination rates well over 80 per cent, if not in excess of 90 per cent, for their first dose and well over 70 per cent, if not over 80 per cent now, on their double dose rates.

I have seen communities such as Armatree, Gilgandra, Bathurst, Orange, Parkes, Forbes, Condobolin, Narrabri and many more pull together to support the "Get Vaxxed" campaigns locally. Many of the pop-up clinics were hosted by the Australian Defence Force in conjunction with NSW Health or local health districts. I must make mention of the Royal Flying Doctor Service, who delivered vaccination programs right across the regions, which has meant that our vaccination rates are in line with the State average and we are now ready to reopen on 1 November.

I make special mention of the outgoing NSW Health Western Local Health District CEO Mr Scott McLaughlin. Scott's leadership throughout this health crisis has been impressive. Scott demonstrated what leadership should look like in NSW Health, within our LHD. His calm and clear daily messages to the

western New South Wales communities became a part of everyday life for a few months. I wish Scott and his family all the very best for the future. Once again, I thank Scott for all his hard work in navigating the Central West and western New South Wales frontline health services during the height of the COVID outbreak.

I also pay special mention to my friend and colleague the member for Dubbo, Dugald Saunders. The Dubbo electorate was one of the hardest hit areas outside of Greater Sydney. To put this into perspective, of the 1,564 COVID cases as of today in the Western NSW Local Health District, 967 were in Dubbo. Throughout the lockdown Dugald showed real leadership on the ground. He delivered critical, clear and calm information not only to the people of his electorate of Dubbo but also to people right across western New South Wales.

As the House appreciates, local government can be the closest form of government for most people. I acknowledge all the mayors across the Central West and western New South Wales for their tireless efforts to date during the COVID-19 pandemic. They have shown incredible leadership and I have seen firsthand how important their role is within their local communities, particularly in delivering very important information and updates right across the community as well as driving the vaccination campaign in their local government areas. As I mentioned before, throughout our vaccination rollout program in the west, the Royal Flying Doctor Service and the Australian Defence Force have become a very important resource to the regions. Both organisations work with NSW Health and our health districts. They have developed a very coordinated approach and have been able to deliver tens of thousands, if not more, vital vaccinations to the most rural and vulnerable communities in our State.

I thank the frontline health workers who kept this State safe during the pandemic. From Bondi to Bourke, our frontline health workers have played an important role in the testing clinics, in the public awareness campaigns and in the vaccination programs, but always with a smile—never a whinge—as they go about their work to keep us all safe. We say a big thankyou to them. As we move forward the regions are all rebounding and preparing to reopen to all of New South Wales' residents from 1 November. The regions need to see the tourists again, they need to see the corporate travellers again and they want to showcase the very best of what we have to offer. The regions are at the heart of this great State and I encourage everyone this Christmas to consider buying from the bush to support our regional businesses and local shopkeepers and to keep their dollars in our State and in our regional areas. I encourage everyone to holiday in their own backyard this holiday season and to enjoy what our great State has to offer.

COVID-19 AND RETAIL, FAST FOOD AND WAREHOUSE WORKERS

The Hon. MARK BUTTIGIEG (19:21): I thank our retail, warehouse and fast food workers for all their hard work on the front lines of this pandemic. They have worked tirelessly during a global health emergency. They went into work every day during a significant health crisis to ensure the needs of our communities right across the State were met, despite often having to undertake their work in high-risk settings. Liberal and National politicians did not turn up to work at Parliament when they were supposed to, although they too were deemed essential workers. Our heroic retail and warehouse workers turned up to challenging workplaces each and every day. They have been absolutely essential to our State getting through this crisis.

Unfortunately, despite being amongst the heroes of this crisis, retail workers have been subjected to increased verbal abuse and physical violence. Prior to the pandemic, customer violence and abuse was a significant issue for workers in the retail industry and it has only worsened. Workers have been experiencing threatening behaviour, intimidation, stalking, swearing, yelling, hitting and spitting. Not one person in our State should have to endure this, especially when these wonderful people are just turning up to work each day to do their job. The Shop, Distributive and Allied Employees Association [SDA], the union for workers in retail, fast food and warehousing, conducted a survey of workers, which had extremely alarming results. Over 88 per cent of workers experienced verbal abuse in the past 12 months, and 70 per cent of those workers said that the abuse and violence was more frequent during the pandemic. Female workers were more likely to have endured verbal abuse from customers. Eighty-nine per cent of female workers endured abuse and 83 per cent of male workers also experienced verbal abuse. It is absolutely horrific that more than one-fifth of workers said that they had been coughed on or spat at during COVID-19.

The abuse ends up affecting all facets of these workers' lives. Seventy-one per cent of respondents said that the experience of customer abuse and violence had impacted their physical or mental health. It is not just the SDA's results that demonstrate this huge issue. The NSW Bureau of Crime Statistics and Research data analysed by the McKell Institute demonstrated alarming results too. Intimidation, stalking and harassment incidents at retail and wholesale premises increased by 22 per cent since prior to the pandemic. In local government areas such as Sydney there was a 42 per cent increase in such incidents over the last financial year, and in Campbelltown there was a 78 per cent increase.

The SDA has been supporting these workers throughout this distressing time. The secretary of the SDA, Bernie Smith, has been leading the way in calling attention to this issue and helping impacted workers across New South Wales who endure abusive and violent behaviour from customers at work. Barbara Nebart, SDA Newcastle and Northern Branch secretary, has also been part of this very important work. Bernie Smith has been reiterating that the Government has a responsibility in enforcing compliance for any public health requirements. The State is reopening; our retail and fast food workers should not have responsibility for enforcing compliance with the Government's health regulations and requirements for their customers. It is absolutely imperative that the New South Wales Government allocate as many resources as possible to protect these workers. They are facing huge safety risks and the Government needs to ensure that people are not having to endure verbal abuse and violence when carrying out their jobs.

We cannot have our workers face verbal abuse and violence when they are simply trying to make a living. Retail workers do not make the rules. Police and health authorities must deal with the enforcement, not retail workers. All of our State's residents deserve safe workplaces. These workers have been doing their absolute best throughout a very tough time and they deserve kindness and respect from all our State's residents. There are zero excuses for abuse or for taking out frustration on workers. Once again I thank our retail and warehouse workers. They kept our State going through a monumental health crisis.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 19:28 until Tuesday 9 November 2021 at 14:30.