



**New South Wales**

# **Legislative Council**

## **PARLIAMENTARY DEBATES (HANSARD)**

**Fifty-Seventh Parliament  
First Session**

**Thursday 13 October 2022**

Authorised by the Parliament of New South Wales



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## LEGISLATIVE COUNCIL

**Thursday 13 October 2022**

**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*

#### **BETTY'S PLACE**

**Ms ABIGAIL BOYD (10:03):** I move:

- (1) That this House commends the work and advocacy of Betty's Place, a cross-organisational women's refuge operating in Albury which provides essential accommodation to women and their children escaping domestic and family violence who are homeless or at risk of homelessness.
- (2) That this House notes that:
  - (a) Betty's Place provides support to women and children across the Murrumbidgee region, and as a result of servicing multiple jurisdictions the refuge faces additional difficulties and challenges in providing supports;
  - (b) in 2021 there were 404 incidents of domestic and family violence responded to by police in the Albury local government area;
  - (c) data on domestic and family violence is not reflective of the likely reality of its prevalence because many women do not report violence due to a wide range of complex factors;
  - (d) according to a report published by Yes Unlimited in October 2021, entitled *A Case for Change: Betty's Place*, women and children escaping domestic and family violence in Albury make up approximately half of the clients seeking support from specialist homelessness services; and
  - (e) Betty's Place is in need of urgent funding to continue providing essential housing accommodation to women and their children fleeing domestic and family violence.
- (3) That this House commends Betty's Place for their work supporting victim-survivors of domestic and family violence in the Murrumbidgee region and calls on the New South Wales Government to commit to adequately fund Betty's Place and other similar services across the State.

**Motion agreed to.**

#### **NATIONAL COUNCIL OF SOCIAL SERVICE REPORT**

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

- (1) That this House notes that according to research conducted by the National Council of Social Service [NCOSS] in March and April of 2022, in a report entitled *Tough Times, Hard Choices: Struggling households and the rising cost-of-living in NSW* published in July 2022:
  - (a) across New South Wales, low-income households and individuals living below the poverty line are severely struggling in the current cost-of-living crisis;
  - (b) 61 per cent of people in New South Wales are experiencing housing stress, and 22 per cent are experiencing extreme housing stress;
  - (c) nearly 80 per cent of households below the poverty line are experiencing housing stress;
  - (d) groups struggling most significantly are private renters, single parents, young people, people working part time, people juggling multiple jobs, those in casual employment, people who speak a language other than English at home and Aboriginal and Torres Strait Islander households; and
  - (e) those in part-time or casual work are more likely to be living below the poverty line and to have experienced job loss, reduced hours or job security over the past 12 months.

**Motion agreed to.**

#### **INTERNATIONAL EQUAL PAY DAY**

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

- (1) That this House notes that:
  - (a) Sunday 18 September is International Equal Pay Day, a day that calls for governments to take action to eliminate the gender pay gap and the systemic inequalities it is rooted in, and recognises the historic and systemic undervaluing of women's workplace status and contributions;

- (b) according to the United Nations:
  - (i) the day was established in 2019 because despite decades of activism, significant legislation and policy changes on equal pay, and campaigns to fight gender inequality, globally there is concerning and slow progress on women's economic empowerment, eliminating pay inequality, and fighting the undervaluing of women in traditionally female-dominated sectors;
  - (ii) women's unequal status and pay in the workplace feeds inequality, and there is an urgent need to end harmful gender stereotypes, remove institutional barriers, and recognise, redistribute, and value the unpaid care work that is disproportionately done by women;
  - (iii) women with children, women of colour, women refugees and migrants, women with disabilities and LGBTIQ+ people are disproportionately impacted by pay inequality and the barriers and challenges that come with it; and
  - (iv) all levels of society, especially governments, need to take action well beyond legislative change to advocate for true and genuine gender equality in the workplace and in society; and
- (c) according to the report by KPMG, the Diversity Council Australia [DCA] and the Workplace Gender Equality Agency [WGEA] entitled *She's Price(d)less* and published in July 2022:
  - (i) the gender pay gap in Australia remains prevalent regardless of labour force size, gender composition or average rate of pay;
  - (ii) the pay gap between men and women is equivalent to \$966 million per week, or \$51.8 billion per annum;
  - (iii) systemic drivers of the gap remain the largest contributors to the gender pay gap, with gender discrimination against women being the primary driver followed by the combined impact of family, unpaid care and time out of the workforce participation; and
  - (iv) research conducted does allow for an examination of the gender pay gap through an intersectional lens, so there is a clear need for policymakers to broaden data collection to recognise non-binary genders as well as other intersections such as disability status, race, linguistic diversity and more.
- (2) That this House calls on the New South Wales Government to take stronger action to address the systemic drivers of the gender pay gap through policy, advocacy and education.

**Motion agreed to.**

#### *Documents*

### **ANIMAL RESEARCH**

#### **Dispute of Claim of Privilege**

**The PRESIDENT:** I inform the House that on Tuesday 11 October 2022 the Clerk received from the Hon. Emma Hurst a written dispute as to the validity of a claim of privilege on documents lodged with the Clerk on Wednesday 2 June 2021 relating to animal research. According to standing order, the Hon. Keith Mason, AC, KC, was appointed as an Independent Legal Arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk released the disputed documents to the Hon. Keith Mason, AC, KC.

### **SENIOR TRADE AND INVESTMENT COMMISSIONERS**

#### **Dispute of Claim of Privilege**

**The PRESIDENT:** I inform the House that on Wednesday 12 October 2022 the Clerk received from the Hon. Daniel Mookhey a further written dispute as to the validity of a claim of privilege on documents lodged with the Clerk on Thursday 28 July 2022 relating to the appointment of the Senior Trade and Investment Commissioner. According to standing order, the Hon. Keith Mason, AC, KC, was appointed as an Independent Legal Arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk released the disputed documents to the Hon. Keith Mason, AC, KC.

#### *Business of the House*

### **POSTPONEMENT OF BUSINESS**

**The CLERK:** According to standing order, I advise the House of the following postponements:

- (1) Matter of Public Importance No. 1, standing in the name of the Hon. John Graham, postponed until Thursday 17 November 2022.
- (2) Government business order of the day No. 1, standing in the name of the Hon. Damien Tudehope, postponed until a later hour of the sitting.

#### *Matter of Public Importance*

### **BIODIVERSITY OFFSETS SCHEME**

**Ms SUE HIGGINSON (10:15):** I move:

That the following matter of public importance be discussed forthwith:

The Auditor-General's report entitled *Effectiveness of the Biodiversity Offsets Scheme*, dated 30 August 2022.

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** The question is that the motion be agreed to.

**Motion agreed to.**

**Ms SUE HIGGINSON (10:16):** Today I speak about a matter of upmost public importance. On 30 August 2022 the Auditor-General's report entitled *Effectiveness of the Biodiversity Offsets Scheme* was tabled in the House. To say the report is damning is an understatement. The report has identified that the scheme is seriously failing. It is rare to see such a succinct, frank and damning report that outlines how badly, at every level, a scheme is failing. That is why I think this is a matter of public importance that the House should take note of today. Our biodiversity is in serious trouble, and only a fool would think otherwise. When we read the Auditor-General's report, in its clear terms, it is obvious that in operating the offset scheme the New South Wales Government is trading on biodiversity that does not and cannot exist anywhere in the State. The Government is trading on the imminent extinction of our precious biodiversity.

To give some context, 78 species are already declared extinct in New South Wales. There are 115 ecological communities that are listed as threatened, 1,043 threatened species and 116 critically endangered species. The most recent biodiversity modelling predicts that only 50 per cent of the 991—nearly 1,000—terrestrial species listed in New South Wales will survive over the next 100 years. The management and conservation efforts we are planning, even with our best efforts, are not likely to be enough to save many of those species if we do not seriously address key threats, such as habitat removal and climate change. The groups at greatest risk of extinction are land-based mammals, amphibians and birds. Let us not forget that 36 per cent of all freshwater fish species in the Murray-Darling Basin are now listed as threatened.

We are looking at really rapid rates of species decline and, therefore, the very bottom part of the slippery slope towards extinction. The Auditor-General has confirmed, in no uncertain terms, that the scheme—which has been in place for five years—that we were promised would and that we were relying upon to arrest the declining status and extinction of these species is not working. The top-line conclusion in the Auditor-General's report states:

The Scheme has been in place for five years, but the biodiversity credit market is not well developed. Most credit types have never been traded.

This is fundamental. Let's get specific. Some 96 per cent of demand for credits cannot be met. The report continues:

... there is likely to be a substantial credit undersupply for at least seven endangered flora species, three endangered fauna species, and eight threatened ecological communities. Credit demand is projected to grow ...

Right now the Government's \$112.7 billion, four-year infrastructure pipeline is seriously under threat because the offsets scheme is not working. Frankly, under the current rules of the current regime, it is very hard to see how it will work. The truth is that we knew the scheme was failing and was in trouble before this report was tabled. We knew the Government has been trading on imminent extinction and that it has been doing so in a morally and ethically bankrupt framework. Through an incredible body of investigative journalism, Lisa Fox of *The Guardian* uncovered the terrible reality of this failing system. That work uncovered the scheme's "appalling practices"—to use the then environment Minister's words—such as a form of insider trading and profiteering, including by consultants from a company that advised governments on major developments in New South Wales, which made windfall gains of tens of millions of dollars by selling offsets to the Government. However, that biodiversity is not protected.

It was also revealed that the scheme was guilty of up to 20-year delays in delivering environmental protection through offsets and that offsets were, in fact, being generated where the environment was already protected—a foul practice of double dipping—providing absolutely no additionality whatsoever and breaching one of the most fundamental and basic rules of integrity of an offsets system. In fact, the scheme was so off the rails that it actually became some weird, elite property market profiteering slush fund for those select few in the know. Then there was the coalmine factor. Through questions asked in this place, we found out that of the 41 coalmines approved over the past decade, one did not even require offsets, 14 had not yet triggered the requirement to deliver their offsets and nine had land set aside but permanent protections not in place. Not one coalmine approved in the past decade had been required to participate in the offsets scheme with any degree of integrity.

How did we get here? We know that an offsets system has to have strict rules, and those rules have to be enforced. We know that because internationally we have spent decades talking about what an offsets system should look like. We have been talking about the development of those rules. The IUCN developed those rules. Biodiversity offsets must be used only as a last resort and after proper consideration of alternatives to avoid,



minimise or mitigate impacts. They must be based on a like-for-like principle. Clear limits must be set on the use of offsets, and offsets must be very limited. They must achieve benefits in perpetuity and be designed to improve biodiversity outcomes. They have to be additional, and the arrangements must legally enforceable. There must be transparency around the scheme's operation. Now, of course, any framework has to build in the response to climate change and climate change events to ensure that we have the necessary agility and flexibility to increase the capacity to respond to those events.

Let us face it: The scheme was introduced in 2014 because we knew, in no uncertain terms, that we were trading off biodiversity in the planning system as we were approving developments like there was no tomorrow. Those developments included significant projects and all the coalmines in ecologically significant woodlands, in the Gunnedah Basin, in the Hunter and all those around the Sydney Basin—the underground mines that were having significant impacts on the upland swamps. In 2014 those on the other side of this Chamber, alongside and in deep consultation with the Minerals Council of Australia and the Australian Property Institute, introduced the biodiversity scheme. We said, "It's okay. We're going to introduce this system, but we'll start talking about variations immediately. We'll have flexible rules. We need participants to buy into this. We need developers to be happy as they develop and give us money. We'll sort out the biodiversity later somehow, perhaps."

Essentially, we have been taking money. In fact, as the Auditor-General finds, we have been taking up to \$90 million. We do not know what to do with it because we cannot spend it on the biodiversity outcomes that where are meant to spend it on—that is, trying to prevent the extinction of some of the most threatened, vulnerable and critically endangered species and woodland communities. When the scheme was formally introduced in 2016 in the Biodiversity Conservation Act 2016, we were promised that it would arrest and ultimately reverse the decline of the State's biodiversity while facilitating ecologically sustainable development. But we just have not done that. We have gone very wrong. It is going backwards. The Auditor-General's report confirms that in no uncertain terms.

The offsets scheme is a market-based mechanism. If we are going to use a market-based mechanism, we have to be real about it. We have to play in the market, and we have to have strict rules about it as if we were a corporation playing in the finance market. Right now, if the Government was playing in that market with this scheme under these rules with these outcomes, it would be wound up. It would be done for insolvent trading and probably put behind bars. The report is an indictment of a scheme that has gone drastically wrong. But the problem is we knew from the outset that if we got it wrong our biodiversity would be in peril—in dire straits. We have got it wrong. Our biodiversity is in peril. This Government and all of those who influenced the introduction and the creation of this scheme have taken us down this path. They are responsible. It is on their hands.

We have a chance to turn this around. But I am very worried about the fact that when the Auditor-General's report was tabled, somehow—and I just do not know how—the Minister responded by saying, pretty much, that it is all going to be okay, that somehow we were now focused on making sure the scheme was easier to participate in, on bringing greater consistency to its application and on stimulating the supply of efficiently priced biodiversity credits. I do not think the Minister has read the same report that we have all read. The report tells us that we are in real trouble and that we need to make significant changes right away. If we do not do that, things are going to continue to get worse.

I know that the Biodiversity Conservation Act, within which this scheme fits, is under review. Its five-yearly statutory review is being led by Dr Ken Henry and will be tabled in Parliament in August next year. That presents us with a great opportunity. The evidence clearly suggests it is our final opportunity. We must get it right. We must reform the system. But in the meantime it is time for a moratorium. We should stop taking developers' money under the guise of the varied rules where there is no like for like, where the red flags are waving and the red lights are flashing. We cannot offset this biodiversity because it does not exist anymore. It is vulnerable and critically endangered. It is on the brink of extinction. We must stop doing that now. We must prioritise and centralise the conservation of these very important parts of our environment and biodiversity that are threatened and on the brink of extinction.

The jury has returned its verdict: The scheme is fundamentally flawed. It is failing, which is on the hands of this Government. We need to turn things around. I implore the Government to consider a moratorium on the taking of funds where there is no like-for-like offset. I hope that the response to this report will be that the Government takes a stark, hard look at itself and starts playing by the rules of biodiversity offsetting with integrity, because right now there is no clear, objective requirement to improve biodiversity outcomes. Like-for-like offsetting and the rule variations are far too flexible, which is what got us into this mess. Biodiversity conservation measures are allowed instead of proper, genuine, direct offsets. This is failing us.

The inquiry will table a report and make findings and recommendations. It was as clear as clear can be that the evidence presented before it of the failing scheme was the same as the Auditor-General has found and tabled in this report. The Department of Planning and the Biodiversity Conservation Trust are failing us. They need

support. They need clear rules and direction. We have one last chance to get this right. We are trading right now on imminent extinction and biodiversity decline. We are trading on the hope and future of our grandchildren and our environment. It has come to an end. It is time for this Government to wake up, take responsibility, set the rules properly and play by them. [*Time expired.*]

**The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (10:31):** Biodiversity in New South Wales is at significant risk. The 2021 State of the Environment report was a sober reminder of the pressures facing the New South Wales environment. The Biodiversity Offsets Scheme is an important component of the New South Wales Government's approach to addressing this challenge. This world-leading scheme allows for development to occur with no net impact on biodiversity. It requires impacts to biodiversity to be avoided, minimised and offset. No other jurisdiction in Australia has such comprehensive arrangements in place.

The scheme is legislated under the Biodiversity Conservation Act 2016 and builds on nearly 20 years of experience in this State in implementing market-based approaches to biodiversity conservation. It is underpinned by a robust and repeatable scientific method for measuring loss of biodiversity values at development sites and gains in biodiversity at stewardship sites to a no-net-loss standard. Stewardship sites provide in-perpetuity protection and management of land, creating biodiversity credits, which are a measure of gain in biodiversity value. In the absence of the scheme, there would be no requirement for development to avoid and minimise impacts on biodiversity and to offset any unavoidable impact.

The scheme is delivering biodiversity outcomes. As of 30 September this year, 42,714 hectares were protected in perpetuity under biodiversity stewardship agreements, and \$200 million had been invested in a fund providing for the ongoing management of stewardship sites. In 2021 and 2022 nearly \$10 million has been paid to landholders who have committed to stewardship on their land, generating biodiversity gains through management of weeds, pests and fire, and restoration.

The scheme is world leading, but we are continuously listening to stakeholders, learning, and improving the delivery of the scheme. The Government acknowledges that improvements can be made to the scheme to deliver improved environmental outcomes and to ensure its efficiency. I welcome the Audit Office's recent performance audit on the effectiveness of the scheme. The Government has agreed or agreed in principle to all 11 recommendations from the audit. These recommendations go to the core of work that was already underway to improve the scheme. Indeed, the Audit Office was able to make its detailed findings and recommendations because this Government has diligently documented concerns with the scheme and developed robust responses.

The scheme itself provides transparency in how the impacts to biodiversity from development are assessed, approved and offset, and we are increasing reporting to increase transparency and provide more information on the extent of offsets delivered. In mid-2021, the previous environment Minister, the Hon. Matt Kean, appointed Mr Mike Mrdak, AO, to independently monitor delivery of an integrated improvement and assurance program, or IIAP, for the scheme. In the most recent progress report to the Minister for Environment and Heritage, Mr Mrdak found that "strong and well-structured progress" is being made to deliver key improvements and that "the scheme is now in the strongest position it has been in since commencement".

But work to improve the scheme is only accelerating and will continue as a priority. A key focus in the audit report and for this Government is to bring greater certainty to the biodiversity credits market. The Government recently announced the \$106.7 million Biodiversity Credits Supply Fund to fast-track the supply of biodiversity credits. The fund enables credits to be purchased up-front at competitive market prices before development impacts occur, based on forecast demand, and then sold to public or private proponents to meet credit obligations. The returns from the sale of credits will be used to make further purchases, enabling \$200 million in credits to be bought and sold over three years, and, most importantly, secure land under stewardship arrangements ahead of development impacts occurring.

Rapid steps are being taken to make entering stewardship agreements easier. The \$2,600 application fee has been waived until 30 June next year. The department's dedicated Credits Supply Fund task force is offering biodiversity assessments at no up-front cost to landholders, generating in-demand credit types, with costs recovered through credit sales. This investment will enhance confidence in the biodiversity credit market, increase supply and reduce unnecessary project delays without compromising biodiversity outcomes. It will also help to boost confidence in the scheme.

Following extensive public consultation, on 17 October 2022 we will commence a new Biodiversity Conservation Fund charge system. This is a new way to price biodiversity credit obligations that are transferred to the Biodiversity Conservation Trust [BCT]. The new charge system aims to better reflect the costs incurred by landholders when supplying credits and the costs incurred by the BCT when sourcing credits. The new system

will support the financial stability of the BCT in meeting transferred obligations with like-for-like biodiversity credits while providing more stable pricing for proponents.

We are further strengthening the integrity of the scheme. We are engaging the Independent Pricing and Regulatory Tribunal [IPART] to monitor and report annually on competition in the biodiversity credits market, to ensure that the market is working effectively and to oversee government participation within it. IPART will publicly consult on the terms of reference for undertaking this role. We are delivering a compliance and assurance plan for ecologists who are accredited to apply the scheme's scientific method. This includes an ongoing audit program, a de-accreditation process and a conflicts-of-interest protocol. Measures are in place to secure and monitor the on-ground biodiversity outcomes at stewardship sites.

The BCT is establishing a dedicated team to ensure that biodiversity outcomes are on track, and ecological monitoring requirements are part of all new agreements. Measures are in place also to improve information on the scheme and our engagement with stakeholders. We have established a Stakeholder Reference Group for the scheme, chaired by Mr Mrdak, which provides a regular forum for updates about the scheme and to hear from key environment, industry, local government and Aboriginal stakeholders.

Throughout 2022 the Department of Planning and Environment has been delivering a local government support program to build capacity, with 272 local government staff members, from 79 per cent of councils, participating in the training program. The department has published user-friendly guides and other tools to help with pricing credits, assist in determining whether the scheme applies to a development, and align assessments that need approval under the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999 as well. A new helpdesk has been set up for all scheme participants, and webinars and newsletters provide regular updates and opportunities for feedback from them.

The Government has never shied away from a commitment to improve the scheme. Recently the Minister for Environment and Heritage released the terms of reference for the five-year statutory review of the Biodiversity Conservation Act 2016 referred to by Ms Higginson. The review provides a key opportunity to consider if the objects are being achieved. The overarching purpose of the Biodiversity Conservation Act is to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into future, consistent with the principles of ecologically sustainable development. The Biodiversity Offsets Scheme is essential to achieving this purpose. The review will be conducted by a panel of independent experts led by Dr Ken Henry, AC, and supported by Mr Mike Mrdak, AO, Dr John Keniry, AM, and Professor Michelle Leishman. There will be opportunities for public consultation during the review.

By creating a system to value biodiversity, that value can be factored into decisions. The New South Wales community is not left to bear the cost of losing biodiversity to development, and landholders who want and manage the biodiversity on their land can be paid to do so. We will deliver all the Audit Office recommendations. The New South Wales Government welcomes all opportunities to consider ways to further improve the integrity of the Biodiversity Offsets Scheme for the people and environment of New South Wales.

**The Hon. PENNY SHARPE (10:40):** I thank Ms Sue Higginson for making this a matter of public importance because biodiversity in New South Wales and indeed in Australia and across the world is in a genuine crisis. Recently the Premier has made a big fuss about people before plants. I point out that people cannot live without the biodiversity of plants and animals on this planet. We need to take biodiversity and the crisis of the loss of species incredibly seriously if we want to protect land, water and people as well as the animals and plants that we are trying to save. Members would be familiar with the ghostly footage of the last Tasmanian tiger, known as Benjamin, who died in 1933. After being taken from the wild, he was put into a zoo. He was there for three years. Then they left him out overnight and he died. He died because of neglect from humans and was the last animal of his species. This is known as an ending. Across New South Wales we are seeing way too many endings for plants and animals. It is just not sustainable.

We are too quick to dismiss out of hand the importance of land, plants and animals, without acknowledging how fundamental ecosystems are to everything we rely on for survival. Balanced and protected biodiversity delivers the food we eat, the air we breathe and the water we drink—three things we all rely on to survive. There are intensive relationships between biodiversity, ecosystem degradation and climate change, with a loss of economic, social and health outcomes for human beings and communities. We all think about bees, and we know the impact that the Varroa mite has had and will continue to have on our farmers. But we also need to remember that creatures like flying foxes pollinate a significant proportion—I think over one-third—of the crops in Australia. They are often seen as a pest for some communities but are fundamental to the economics of many regional communities.

The loss of pollinators for our crops is an issue; degrading soil health is another. Too many of our communities have experienced fires, floods and droughts, and a loss of green space in our cities is leading to urban

heat islands. Biodiversity in balance is the backbone of human wellbeing. It has never been as simple as "people over plants". Despite this, we have to be honest in New South Wales about where we find ourselves. There have been attempts to protect biodiversity, but we have to tell ourselves the truth: Things are getting worse. All of the data is pointing in the wrong direction. The last State of the Environment report said there were 1,043 threatened species in New South Wales. With the parma wallaby, I am not sure whether we are now up to 1,044. That is a new one added recently. That is 54 more than 12 years ago when this Government came to power.

Species are also becoming critically endangered at an alarming rate. The number has increased 68 per cent to 116 this year. Many plants are on track to become extinct in our lifetimes. We have lost two species to extinction in the past decade, bringing the total to an unacceptable 78. These species can never be replaced, and each loss was preventable. We can prevent further loss with better action, and there is such an important role for Government to play. The New South Wales State of the Environment report says the measure monitoring threatened species is rated as poor and getting worse. This paints a grim picture for the future of threatened species and the likelihood of species like koalas, greater gliders, swift parrots or long-footed potoroos, which may be lost in just one or two generations.

Koalas in this State are on track for extinction in the wild by the middle of this century. This is reflected in the New South Wales Government abandoning a huge portion of its target for threatened species in the recent budget. The Government is giving up on efforts to get 120 threatened species on track to be secure in the wild. It slashed the target for threatened species from 270 to 150 in just a year. While those threatened species remain on the list and the Government would argue that they are being dealt with, the reality is that this is putting up the white flag. It cannot deal with, nor put enough funding into, protecting species in the wild.

One of the most serious threatening processes we have in New South Wales, which is getting worse, is the impact of deforestation and land clearing. No species can survive in the wild without habitat, yet this Government has allowed habitat to be cleared at an alarming rate and a rate that we have not seen for decades. The 2020 landcover change reporting in June this year painted a devastating picture of native species habitat in New South Wales. The average annual land clearing rates in New South Wales increased 72 per cent since the Government watered down the environmental protections in 2016 and 2017. We have lost a staggering 284,400 hectares in just four years.

The Auditor-General has confirmed that the Biodiversity Offsets Scheme is fundamentally incapable of delivering on its core purpose, which is to protect biodiversity. You rarely see a report from the Auditor-General that is as scathing as this one. Rather than always applying the clear "avoid, minimise or offset" hierarchy, this scheme has enabled developers to treat critically endangered habitat like a magic pudding, pouring money into offsets that are never realised, rather than genuinely finding and protecting like-for-like habitat. Unfortunately, unlike the magic pudding, the number of threatened species left in the wild and their habitat are finite and rapidly diminishing. Additionally, the scheme is overly complicated and opaque, making it nearly impossible for landholders or developers to understand or properly engage in the scheme.

The Auditor-General found several serious problems with the biodiversity offsets scheme. The New South Wales Government failed to design it in line with the biodiversity outcomes required under its own Act. They failed at the first hurdle. Those outcomes include the principle of ecologically sustainable development. The market that underpins the scheme was poorly developed and unable to meet growing demand. Tools provided by the scheme are unreliable and missing key information. There are substantial concerns about the integrity, transparency and sustainability of the scheme, without proper safeguards against conflicts of interest. And there was a lack of future planning and monitoring to make sure biodiversity outcomes are being genuinely provided by the scheme.

I recognise that the Government has said that it has made some changes. Those are welcome and urgently needed. I also welcome the fact that the Government welcomes its own report that shows that it has utterly failed in designing a system that protects biodiversity in this State. Under its own scheme, 90 per cent of demand for the credits cannot be supplied. The problem will grow worse with the future planned infrastructure that we need to manage in order to manage the State. The Auditor-General found that without urgent reforms, the scheme will spell the extinction of half of our threatened native species in New South Wales.

I acknowledge, though, that a lot of work is going on. I acknowledge the work of people who have spoken out on this issue. I look forward to finalising the cross-party report of the inquiry on the issue. All members of the inquiry, including those from the Government, have actively engaged on how we deal with issues relating to biodiversity offsets. We have heard concerns from scientists, landholders, developers, local government and environmentalists that the scheme is failing. We need to make sure that we make that better. I look forward to hopefully providing more architecture and more meat on the bones regarding what needs to change to make this scheme work and protect biodiversity.

The final point I want to make is that we need to do more consultation with landholders. The scheme is too complicated for them to understand and it is hard for them to gain the support they need to protect biodiversity on their land. They come up against the brick walls of a very complicated system that just does not work for them. In a rare development, I support the need for developers to be able to have certainty and rigour and to understand the process so that, rather than their default position being "Let's pay money", they are able to engage with a process, a market and a system that do what they are supposed to do, that is, avoid the destruction of biodiversity in the first place.

At the moment the system does not do that. It incentivises paying money and making it go away. Regional areas are getting perverse outcomes. There are some desperately needed housing projects and other projects where the biodiversity system is costing more than development. There is no ability to sit around the table and have a discussion about how to deliver these developments as well as protect biodiversity. We need to sort that out. I welcome that the Government is reviewing the scheme as part of the Biodiversity Conservation Act 2016, but it will have to get it right. The number of threatened species is increasing. Our biodiversity is getting worse, and that impacts on our air, our water, our crops and our plants and animals. [*Time expired.*]

**Mr JUSTIN FIELD (10:50):** We are discussing a matter of real public importance—the protection of biodiversity in New South Wales and the Auditor-General's report *Effectiveness of the Biodiversity Offsets Scheme* or, as it should have been titled, the dismal failure of the New South Wales Biodiversity Offset Scheme. Unfortunately, this was not unexpected. Those of us who have watched this space over the past few years absolutely knew and could foresee when it was proposed that it would be a failure. We have watched it become a train wreck. The scheme exists alongside the ongoing logging of critical habitat of endangered species and the widespread approval of hundreds of thousands of hectares of new land clearing over the past few years. The ongoing, bit-by-bit, death-by-a-thousand-cuts loss of biodiversity and habitat, including areas relied on by some of our most threatened species, comes at every turn. There are no red lines for this Government. Ultimately, nothing cannot be touched or managed away with some sort of scheme.

I listened to the Minister's contribution. I would ask him to read his speech outside of this place and think about the notes that he has just been given. Did he recognise the absurdly complex set of rules, compliance arrangements, assurance programs, subsidies, pricing mechanisms, assessments, help desks, call centres, websites, webinars and feedback loops? He has tried to give integrity to a system that is flawed at its core and that ultimately allows for the offset of the destruction of nature in one place with apparent protection in another. We now have authoritatively from the Auditor-General's report what we have always suspected: often those offsets are made somewhere entirely different, sometimes at the other end of the State. Some of them will never be delivered at all. They certainly have not been delivered for years. In many instances, the type of biodiversity habitat needed to offset what has been lost simply does not exist.

To think we can manage our way out of the extinction crisis in New South Wales is untenable. There is only one approach if we genuinely want to preserve biodiversity and habitat, particularly for the most endangered species: Do not cut it down. There need to be red lines in a system like this. We need to agree that some areas should not be offset. It does not matter if it is a new road, housing development or critical piece of infrastructure, it is critical that the habitats that our most endangered species rely on do not get lost. There needs to be a moratorium on the ability of developers to pay into the fund. We have absolutely clear evidence that often the Biodiversity Conservation Trust [BCT] will take years to find offsets. It may never find them. If it does, they will probably not be like for like. In some instances there is not even the sort of habitat that could offset what has been lost. There should be a moratorium.

If developers can find suitable habitat, establish the offset locations and buy the land, then they can fill their boots. We should make them carry the risk. At the moment the Government is failing to deliver its obligations through the BCT, so the environment carries the risk. The environment is losing. It cannot handle it anymore. This is an absurd scheme. It could be better. Many of the offset requirements in New South Wales come about because of large public infrastructure. In many instances, the Government is causing the problems. But it is not like it does not know what is coming. I will illustrate with one example. There is a program of works to improve, widen and duplicate the Princes Highway south of Nowra and there will be a decade, 15 years or 20 years of work between Nowra and Batemans Bay, which will have huge biodiversity implications.

The Government knows it is coming. It could make a judgement today about the likely impact of that development. It could be setting aside areas today. It could be making genuine biodiversity improvements, improving connectivity and joining up those bits of nature that have been fragmented from development in the past and from the impact of the fires. It could put in a program of works to minimise the damage. Most people would agree that for the safety improvement of the road we may well have to live with consequences. But the Government knows it is coming. It should do the work, put the money aside and make the improvements now, so that the animals already have a place to live when the project is delivered to the community.

The Government is the creator of this problem. It has the money to fix it. Why does it not ensure in advance that the objects of the scheme, as stated, can be delivered? I do not understand why it is so hard. The Government forecasts major infrastructure so far in advance and then it is left scrapping around at the end of the day trying to work out how it will manage its offset obligations. It is an absurdity. The fundamental tenets of the legislation under which the offsets scheme is built are not being complied with. The principles in the Act and the principles of ecologically sustainable development make it clear to, first, avoid and minimise the impact before even considering offsets.

The Halloran Trust Lands have been a point of contention in the Callala community for many years. There are large parcels of land in very sensitive environmental areas around Lake Wollumboola and the townships of Culburra and Callala. There is a biodiversity certification proposal currently before the environment Minister for an area of around 40 to 70 hectares, some 300 or 400 lots. The community has had so much development on that land, but now another piece of land will be developed. The proposal is to establish an offset site that will ultimately add to the national park around the edges of Lake Wollumboola. It seems like a good deal on paper—"we locked that away". The reality is that the proposed offset sites are never going to be open for development. The areas around the edges of Lake Wollumboola are hugely sensitive to coastal run-off, impacts from climate change and the like. They will never be developed.

But, of course, it is a sweet deal for the Government. It gets to say that it is putting the area aside and will add it to the national park, and that it is delivering on the objectives and getting real gains. The patch of land that will be developed has a resident population of greater gliders. I was there only the other day. There are large old-growth trees in the section that will be developed, and within half an hour I saw four greater gliders. There are so few places where people can walk in there of a night and spot greater gliders. They are living within 50 metres of the existing township of Callala. There seems to be no ability, under the Government's offsetting scheme and the arrangements set up through the biodiversity certification process, for the Minister to say, "How about we don't develop that bit?" because it is part of a suite, a package and an offsetting plan. That bit over there is exchanged for this bit over here, but it ignores the reality of nature that greater gliders live there.

As the Hon. Penny Sharpe said, under this scheme the Government seems unable to sit down around the table and work out the best way to deal with those challenges. I would say that development there should simply not occur. If it does occur, let us not cut down the old-growth trees that exist in one corner of the block. Government members seem to be so caught up with their rules, assurance programs, subsidies and complex arrangements that they cannot see the forest for the trees. They just cannot keep cutting it down. There have to be red lines, and we have to be able to decide that some places cannot be offset and must not be destroyed. I thank Ms Sue Higginson for bringing this discussion on today, which is of significant public importance. The way that the Government has allowed the destruction of nature in New South Wales has been a fast-moving train wreck. There is not one bright spot on the horizon when it comes to the protection of biodiversity by this Government.

**Ms CATE FAEHRMANN (11:00):** As spokesperson for planning and koalas for The Greens, I speak to this excellent matter of public importance brought by my colleague Ms Sue Higginson. I also speak to this as somebody who previously held The Greens' environment portfolio for quite a few years and has witnessed over those years the community's attempts to draw attention to the failure of biodiversity offsets as almost an ideology, and particularly the latest appalling iteration under this Government—the Biodiversity Offsets Scheme. I call it the "species extinction scheme", because let us be clear: This scheme has essentially been set up for developers, miners and the Government to clear biodiversity and often threatened species habitat for new suburbs, new mines, new highways and other infrastructure. Right now the scheme is obliterating koala habitat and threatened species habitat. The Biodiversity Offsets Scheme is fast-tracking species extinction in this State.

A couple of years ago—due to my office being flooded with correspondence and phone calls from concerned members of the community and a series of excellent investigative pieces by *The Guardian* journalist Lisa Cox, which my colleague Ms Higginson mentioned—I wrote to Auditor-General Margaret Crawford requesting she undertake a performance audit of the scheme. I briefly put on the record some of what I included in that letter to her on 23 April 2021:

The public should be able to have confidence in a system established by the NSW Government to "avoid, minimise and offset the impacts of the proposed development and land-use change on biodiversity" as stated in the objects of the Act. Instead, it appears that there may be systemic issues in a scheme that oversees hundreds of millions of dollars without transparency or oversight while producing poor conservation outcomes.

I respectfully request that you conduct a performance audit into the Biodiversity Conservation Trust and the Biodiversity Offsets Scheme, as well as the Department of Planning, Industry and Environment's role and involvement in relation to both, particularly with regards to the following:

1. The lack of protections against conflict of interest in the purchase and sale of biodiversity offsets.
2. The delivery of offset obligations in NSW for Major Projects and Strategic Approvals;

3. The impact of overdue and absent offset reporting.
4. The impact of delays and failures to deliver on offset requirements.
5. The use of offsets that do not comply with the NSW Principles for Biodiversity Offsetting (such as non-perpetual offsets) on biodiversity conservation outcomes.
6. The impact of non-additional offsetting practices (the use of existing conservation areas including Local Government reserves and Western Sydney Parklands) on biodiversity outcomes.
7. The impact of non-additional offsetting practices on credit prices and the opportunities for private landowners to engage in conservation.
8. The suitability of current BAM Additionality Criteria in ensuring genuine additionality, including the impact of the 70% limit on Additionality discounts.

I wrote to the Auditor-General and she got back to me very quickly—an incredibly efficient office and person, and it is fantastic that Margaret Crawford is in that position. She wrote back to me on 11 May:

My forward audit program to 2023 includes 'biodiversity offsets' as a planned performance audit topic. I have decided to commence this audit in the latter part of 2021 and my officers are now scoping this audit topic in more detail.

This is a shout-out to members of the community and great investigative journalists for bringing those issues to the fore. The Auditor-General responded because of the overwhelming concern about what was going on and brought forward her investigation, which has produced the report that my colleagues have spoken about in such depth today. It has obviously shown how the Biodiversity Offsets Scheme is not working and is fast-tracking species extinction in this State.

Portfolio Committee No. 7 also launched in inquiry into the Biodiversity Offsets Scheme while I was chair, and I understand that inquiry will report before the end of the year, sometime in November. So many community members contributed to that inquiry with extraordinary stories from right across the State of really precious biodiversity and threatened species habitat. So many endangered ecological communities that cannot be found in too many other places in New South Wales have been cleared for development on the back of dodgy offsets.

In the time I have remaining, I will talk about how much the Biodiversity Offsets Scheme has failed the people of western Sydney. Mr Justin Field talked about the South Coast, but the community is up in arms right across the State about what is happening to their precious local environment under this scheme. The flawed Biodiversity Offsets Scheme is being used, and has been used over the past decade or so, to facilitate massive new transport projects and new suburbs in western Sydney and entire new growth centres in north-west Sydney and south-west Sydney—new suburbs and shopping centres smack bang in the middle of the habitat of Sydney's last remaining healthy koala populations.

Save Sydney's Koalas campaigns incredibly hard and passionately for the protection of Sydney's koalas. It has provided my office and Minister Griffin's office with an extensive briefing note about the Cumberland Plain Conservation Plan [CPCP], the South West Growth Centres Biodiversity Offset Scheme and just how dodgy it all is in terms of protecting koala habitat. In other words, it is not; it is clearing and facilitating the destruction of koala habitat. I quote from its briefing note:

Commonwealth biodiversity certification of this program—

that is the Biodiversity Offsets Scheme for the North West and South West Growth Centres—

—in 2012 required that funds be spent, as a first preference, on priority areas that contain the largest remaining areas of high conservation value bushland on the Cumberland Plain in recognition that less than six per cent, or around 6,400 hectares, of the original critically endangered Cumberland Plain Woodland (CPW) in Western Sydney still exists:

- Achieving the delivery of biodiversity offsets on the Cumberland Plain for the development impacts of the North West and South West Sydney Growth Centres is now even more challenging given that the CPCP will lead to intensive development in and around what's left of the already fragile Cumberland Plain ecosystem.
- Even before the draft CPCP was released, the Growth Centres Biodiversity Offset Program's most recent annual report acknowledged that land suitability and cost-effectiveness may impede its ability to deliver all of the required biodiversity offsets on the Cumberland Plain.

In other words, there is just not enough Cumberland Plain woodland left to offset the development that is happening on the Cumberland Plain. That is why my colleague Ms Sue Higginson is calling for a moratorium on any further developments or use of the scheme where biodiversity, an ecological community or a threatened species habitat cannot be found anywhere else except where development will occur. That is the situation right now in south-west Sydney. Since its introduction in 2008, the Growth Centres Biodiversity Offset program has permanently protected only 749 hectares of land in 21 locations in western Sydney. It is supposed to be protecting 2,400 hectares.

We need to scrap this dodgy species extinction scheme. It is clear that we urgently need a whole suite of new laws—strong laws—that protect threatened species in their habitats, which have copped such a beating under this anti-environment, pro-developer, pro-logger, pro-coal Government. Only by kicking out this Government and electing more Greens members to this Parliament will we see laws in this State that truly protect our biodiversity and our wildlife.

**Ms SUE HIGGINSON (11:10):** In reply: I thank the Leader of the Opposition in this House for recalling the very tragic story, which I am sure everybody has seen, of beautiful Benjamin, the last thylacine. That is part of this discussion. We are also talking about something even bigger. We are talking about the loss of landscape resilience and ecosystem collapse, and we are talking about the health of future generations. I also thank Mr Justin Field for mentioning one of the really obvious things that is happening right now, not just around infrastructure development and that we could be doing things a lot better, but also the fact that we are logging.

We are still undertaking the industrial-scale logging of our public forest estate, which is the hub and harbour of so much of our biodiversity and our very rare, threatened and unique forest-dependent species. This includes greater gliders, yellow-bellied gliders and incredible owls, which are internationally significant. In the north, we are talking about koalas—the very animal that we are all on absolute red alert to prevent from disappearing and vanishing completely by 2050. The year 2050 is not very far away, but we know that is the fate of the koala.

I thank my colleague Ms Cate Faehrmann for raising this matter of public importance and for bringing the community into the discussion. The community is out there ringing the bells. Members of the community are actually putting their lives on the line at times to raise the alarm, to draw our attention. Meanwhile, Government members in this House are introducing laws to shut these people up, lock them up and give them hefty fines. There is a kind of absurdity going on here when it comes to nature, the voice of nature, and the rules and the laws around nature.

The Biodiversity Offsets Scheme is failing. Again, I refer to Mr Justin Field's comments about the Minister's response. I was noting these things—the help desks, the this, the that. It feels like la-la land, when we need to go to the substance of what we are talking about and what we know we need to do: frankly, what the Audit Office and the Auditor-General have now put in black and white and in no uncertain terms. We need to have a system of integrity, a system that is effective and a system for which the administration is properly resourced and will properly administer the rules.

We have just heard that the South Coast, south Sydney and the mid-North Coast are under siege in terms of the logging operations. In the Cumberland Plain Woodland in western Sydney, we know that the conservation plan has been made under these rules and is going to bring us grief. Again, I call on the members in this place who have some control, some authority, some power and some mechanisms to change the fate of nature and biodiversity in this State now. We should do the reasonable thing and place a moratorium on the taking of cash now for offsets that do not exist or offsets that might possibly be found in the future. We just have to stop it.

I remember when the Biodiversity Offsets Scheme was introduced. I remember it very well. We were talking about variations from the first day. We never delivered an offset scheme with rules that were focused around biodiversity. We have never, ever given it a go. Government members introduced the scheme, and it was doomed to fail from the day it was introduced because they sat at the table with the Minerals Council and the Property Institute and placated their desires as to what the biodiversity offset scheme should look like. We know what the scheme should look like. It should have red flags, like-for-like, be based on additionality and should not have a cash for extinction component to it. Right now, the Government is trading on the imminent extinction of many of our threatened species.

We know that the natural rate of extinction is not the rate we are experiencing now. We know that we are at the beginning of the cascade. It is a cascade. It will not be, "Oh dear, we've just added the greater glider. Oh, we've just up-listed the greater glider." These things will now happen in waves. That is what is called the "extinction crisis" and it is upon us. We are in it, and we have an amazing opportunity to deal with it. Right now we have the Premier standing there being a fool. He is dividing our community by comparing one or the other. He is saying, "It is people or plants, plants or people. We are going to put people before plants." That is just foolish. It is unreasonable, it is cruel and it is unfair. We deserve better.

We can have a remarkable, healthy, diverse environment. It can be managed into the future so that it thrives and it is regenerated, so that our children and their children can grow up not fearing the extinction crisis, not fearing the loss of the beautiful environment, the unique environment, that they claim their identity from and connection to. I thank the House for allowing this matter of public importance to be discussed today. I thank all the members who have participated. I implore every member to read the Auditor-General's report. She has worked hard. It is tabled and it is damning. Please hold the Government to account. And let us get on with developing and



implementing a system with integrity, a system that will work and a system with rules that all will abide by. Thank you.

**Discussion concluded.**

### *Bills*

## **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (FAMILY IS CULTURE) BILL 2022**

### **First Reading**

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

**The Hon. NATASHA MACLAREN-JONES:** According to standing order, I table a statement of public interest.

**Statement of public interest tabled.**

### **Second Reading Speech**

**The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (11:19):** I move:

That this bill be now read a second time.

The New South Wales Government is pleased to introduce the Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill 2022. The bill implements several recommendations of the report entitled *Family is Culture: Independent Review into Aboriginal and Torres Strait Islander Children and Young People in Out-of-Home Care in New South Wales*, which I will refer to as the Family is Culture report. When I refer to Aboriginal people in this speech, it represents both Aboriginal and Torres Strait Islander people. In doing so, I acknowledge and pay my respects to the many Aboriginal communities and Torres Strait Islander people in New South Wales. In February of this year I made a commitment to bring forward consideration of the 25 legislative recommendations of the Family is Culture report, which recommended changes to the child protection law and court process. I said that I would consult with stakeholders and seek to implement as many of those recommendations as possible by the end of 2022.

The Government has listened to the voices of Aboriginal people, community representatives and other stakeholders, including Aboriginal community controlled peak organisations, Coalition of Aboriginal Peak Organisations partners, AbSec and the Aboriginal Legal Service. It has also heard from legal stakeholders, particularly the Children's Court of New South Wales, about the operational impact of the recommendations relating to court proceedings. The perspectives of all stakeholders have been carefully considered and have directly informed the bill, which I am proud to bring before the House today. The bill is a clear demonstration of the New South Wales Government's commitment to changing the way it does things to be more responsive to the needs of Aboriginal children, families and communities; to support children and families now and into the future; and to ensure that the voices of Aboriginal children, families and entities are heard in decisions that affect their children.

The Government acknowledges that Aboriginal children and young people continue to be over-represented in the child protection system and that more must be done to address this. It is not acceptable that Aboriginal children and young people make up almost half of all children and young people in out-of-home care. This often leads to poor outcomes for children across all major indicators—health, wellbeing, education and employment. The bill is an important part of a suite of initiatives that this Government is implementing to connect families with culturally appropriate services and supports, including prenatal parenting programs, support networks, and early intervention and preservation programs to keep families together. For Aboriginal children and young people who are in care, this means working with them and their families in a culturally appropriate way to address risks and provide support so that children and young people can return home to their parents and families safely and quickly.

The bill requires a greater focus on culturally appropriate early interventions. The Government continues to make targeted investments in this area, including an additional \$98.7 million to establish six new Aboriginal Child and Family Centres and expand the nine centres that already exist, to provide culturally safe, integrated health and childhood services; \$38.6 million for statewide expansion of the Pregnancy Family Conferencing program for vulnerable women and their families, delivered jointly by the Department of Communities and Justice and the Ministry of Health to help families get the support they need before the birth of a child; diverting up to \$11 million per year for family-preservation funding to Aboriginal community-controlled organisations by June 2024 to support around 300 more Aboriginal children and young people each year; \$3.9 million over four

years to develop an Aboriginal-led commissioning model that involves Aboriginal communities in the design, delivery and monitoring of programs and services for Aboriginal families; \$8.6 million over four years to support local community-determined consultation mechanisms across New South Wales; and \$9.9 million over four years for families at risk of having their children removed to access legal advocacy support delivered by the Aboriginal Legal Service.

The amendments in the bill will enshrine best practice in legislation that lifts the collective focus on improving outcomes for all children and young people. Before detailing the content of the bill, I briefly acknowledge the important work of the Family is Culture report, which is the basis of these reforms. In 2016 my predecessor, the former Minister for Family and Community Services, the Hon. Brad Hazzard, commissioned Cobble Cobble woman Professor Megan Davis to lead an independent review into the causes of the high rates of Aboriginal children and young people in out-of-home care and to develop strategies to reduce the number of Aboriginal children in care and improve pathways to family reunification. The landmark Family is Culture report was released on 7 November 2019 and made 125 systemic recommendations that are, in the words of Professor Davis, "the result of the courageous advocacy of the Aboriginal men, women, aunties and uncles, grandmothers and grandfathers whose children, relatives and kin have been removed from their families in New South Wales".

Twenty-five of the recommendations were around changing legislation and court processes. To deliver on my commitment to hear the views of Aboriginal people and take action on the recommendations, in April and May of this year the department consulted widely across New South Wales with Aboriginal people and community organisations, legal and court stakeholders, child protection staff and other government agencies. Their feedback has directly shaped this bill. I express my deepest gratitude to everyone who took the time to share their views, particularly the many Aboriginal people and community representatives who shared their personal stories, which revealed wounds that are still painful and raw. Effective reform of the child protection system cannot be achieved without the participation of Aboriginal people and communities in decision-making about matters that affect them. The Government has done this and will continue to do this.

The Government is also looking at ways to strengthen self-determination and agreed ways that Aboriginal people and communities can have control over their own lives and a collective say on the future wellbeing of their children and young people. The proposed amendments will improve how decisions are made to ensure the focus is on preventing children from entering or staying in out-of-home care. This is being done by (a) requiring the secretary to take active efforts to reduce the entry of all children and young people into care and, where they have been removed, to restore them safely to parents and family as soon as possible; (b) improving how restoration and permanency decisions are made by the Children's Court of New South Wales and how evidence of risks to children are presented in court, thereby strengthening the court's oversight of child protection casework; (c) reinforcing requirements to keep Aboriginal and Torres Strait Islander children safely connected to their families, communities and culture; (d) improving casework practice so that it is culturally appropriate and informed by the participation of children, families and relevant Aboriginal organisations; and (e) improving transparency, accountability and oversight of the system.

I stress that the amendments in the bill do not in any way diminish the overarching principle in the Act that the safety, welfare and wellbeing of the child or young person is the paramount concern. This principle guides all child protection actions and decisions, and it prevails over all other considerations. Schedule 1 to the bill contains amendments to the Children and Young Persons (Care and Protection) Act 1998, which I will refer to as the care Act from here on. Schedule 2 contains amendments to several other Acts. I turn to the detail of the bill. Item [2] of schedule 1 inserts new section 9A, which includes a new principle of active efforts into the care Act. This specifically requires the secretary to make timely and targeted active efforts to prevent children and young persons from entering out-of-home care where it is safe to do. Where children and young persons have been removed from their parents or families, the secretary is required to make active efforts to restore them safely to their parents. If restoration is not possible or in their best interests, the secretary is to make active efforts to place children and young persons with family, kin or community.

This proposed amendment implements recommendation 26 of the Family is Culture report, which recommended that the care Act be amended to require the Department of Communities and Justice to take active efforts to prevent Aboriginal children from entering out-of-home care. This principle is modelled on legislation in the United States, the Indian Child Welfare Act of 1978, which requires child protection workers to use active efforts to provide remedial services and rehabilitation programs designed to prevent the break-up of Indian families. Unlike the United States model, which creates a tiered system, the positive obligation on the secretary to make active efforts is not limited to Aboriginal children. It will apply to all children and young people. This ensures that the highest standard of practice is the norm and is applied consistently across the board.

To ensure that the requirements of this new principle are well understood by caseworkers, lawyers, the Children's Court and children and their families, the bill provides guidance as to the meaning of "active efforts".

The bill sets out some examples of "active efforts", including providing or helping with access to support services and other resources; finding and contacting family, kin and community; and making better use of alternative mechanisms for keeping children safe that already exist under the care Act, such as alternative dispute resolution.

Active efforts must always be tailored to the specific family situation. It is, therefore, not appropriate for legislation to prescribe an exhaustive checklist of active efforts that must be made. However, the description and examples provided in new section 9A provide clarity as to some minimum requirements and actions that would constitute active efforts. The requirement that active efforts must be timely emphasises how important it is to empower families with appropriate support before matters escalate into crisis. It is also important that active efforts be culturally appropriate and conducted in partnership with the child or young person, their family and community. Further details regarding "active efforts" will be set out in regulations and we will continue to work in partnership with Aboriginal communities and organisations to determine what else is needed.

If the department brings an application to the court for a care order, new section 63 of item [8] of schedule 1 to the bill states the department must provide supporting evidence to the court about what active efforts it made before bringing the care application and the reasons why those active efforts were unsuccessful. This includes showing what active efforts were made to provide, facilitate or assist with access to support services, and what the department did to find and contact the family, kin and community of the child or young person. However, this does not apply to emergency care and protection applications, because these are only sought when the child is at risk of serious harm and the department has not had any prior involvement with the family.

New section 63 also requires the Children's Court to consider what alternatives were considered or used by the department before making a care application. If the Children's Court is not satisfied with the department's evidence of the active efforts it made or alternatives to a care order that were considered, the court can adjourn the proceedings and make interim care orders or any other interim orders the court considers appropriate for the safety, welfare and wellbeing of the child or young person, thereby strengthening oversight and accountability of casework practice. New sections 9A and 63 give effect to recommendations 26 and 54 of the Family is Culture report.

Item [7] of schedule 1 to the bill embeds into the care Act the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle [ATSICPP], published by SNAICC — National Voice for our Children [SNAICC], and requires decision-makers to apply each of these elements when making decisions concerning Aboriginal and Torres Strait Islander children. In doing this, New South Wales meets its national commitment to incorporate the SNAICC principle into New South Wales child protection legislation, ensuring New South Wales continues to be a leading jurisdiction in this area.

To avoid confusion with existing placement principles in the care Act, we have called this principle the Aboriginal and Torres Strait Islander Children and Young Persons Principle—a single principle comprising the following five elements: prevention, which recognises that Aboriginal children should be brought up within their own family, community and culture; partnership, which acknowledges that Aboriginal community representatives should be involved in service delivery and design, and child protection decision-making; placement, which guides where an Aboriginal child should be placed if they are to be placed in out-of-home care, consistent with the established placement principles in section 13 of the care Act; participation, which ensures that Aboriginal children and their parents and family participate in all child protection decisions; and connection, which recognises that Aboriginal children must be supported to maintain connections to their family, community, culture and country.

Embedding the SNAICC principle into New South Wales law highlights that there are other core elements that must be considered by decision-makers when making decisions about Aboriginal children and young people other than actual placement decisions. Collectively, the five elements are aimed at enhancing and preserving Aboriginal children's sense of identity as well as their connection to their culture, heritage, family and community. Items [9] and [17] of schedule 1 further embed the Aboriginal and Torres Strait Islander Children and Young Persons Principle into substantive provisions of the care Act.

Item [9] specifically incorporates the partnership, participation and connection elements of the Aboriginal and Torres Strait Islander Children and Young Persons Principle into care and permanency planning. It legislates a requirement that a cultural plan be developed as part of every care plan for an Aboriginal child, and that the care plan, including the cultural plan, should be developed in consultation with the child or young person, their parents, family and kin, and relevant Aboriginal or Torres Strait Islander organisations or entities for the child or young person. These are organisations or entities that have a relevant connection to the child or their family—for example, an organisation from the child's or family's community or a community-based organisation providing services to the child or their family.

The care plan must address how it complies with the permanent placement principles in section 10A and the Aboriginal placement principles in section 13 of the care Act, as well as the new principle in section 12A. A cultural plan is an individualised plan for the child or young person that aims to develop or maintain their cultural identity through connection to family, community and culture while they are in care. The plan will include relevant cultural information that will, in most cases, be provided by the child or their family, which is why it is so important that the plan be developed with the child, family and community. The plan will also set out what activities the child may participate in to maintain their cultural identity and connections with family and community, and the supports they need to maintain those connections and to be able to participate in the activities documented in the cultural support plan.

Cultural plans help to ensure that planning and decision-making for the child while the child is in care are culturally appropriate and are in the child's best interests. The importance of cultural planning for an Aboriginal child or young person cannot be overstated. Maintaining an Aboriginal child or young person in their culture reinforces their cultural identity, sense of belonging and connection with family, community and country, and is an important element for their lifelong wellbeing. To ensure compliance with the new care and permanency planning requirements, item [16] of schedule 1 requires the Children's Court, before making a final care order, to be satisfied the department has complied with the Aboriginal and Torres Strait Islander Children and Young Persons Principle. I note, as I have mentioned previously, that the paramount concern guiding all decisions made under the Act is the safety, welfare and wellbeing of the child or young person.

The amendment to section 87 of item [17] of schedule 1 to the bill embeds the partnership and participation elements of the new Aboriginal and Torres Strait Islander Children and Young Persons Principle. Section 87 currently provides that the Children's Court cannot make an order that has a significant impact on family members who are not party to the proceedings, unless a representative of the family has been given an opportunity to be heard. New subsection (2A) will allow Aboriginal community representatives to speak on behalf of family who may be significantly impacted by an order of the court, so that they may be heard in proceedings. These amendments implement recommendation 71 of the Family is Culture report, as well as the Government's commitments under *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*. The combined effect of the new provisions is that Aboriginal children, families and community organisations will be more greatly involved in decisions that impact on Aboriginal families, strengthening Aboriginal family-led decision-making and creating the foundations for greater self-determination within the child protection system.

I now move to a number of amendments in the bill that relate to restoration and permanency decisions. We know that children need safe, secure and stable homes to thrive. Restoration to preserve the family relationship, where it is in the best interests of the child, has always been the preferred permanent placement option for a child in care. This is reflected in the department's Permanency Support Program, where there is an increased focus on considering and assessing whether a child can safely return home, and supporting their family to make restorations permanent and successful. Item [11] of schedule 1 to the bill responds to community concerns that the requirement on the court to make an order no longer than 24 months works against those families who may need a longer time to address issues so that their children can be restored to them.

Section 79 (10) of the care Act currently allows the Children's Court to make an order for longer than 24 months if satisfied that there are special circumstances that warrant a longer period. However, the Act does not say what those special circumstances are. New section 79AA will provide guidance to the court about what matters it can consider when deciding whether special circumstances exist to allow it to warrant a longer order. One factor the court may consider is whether parents need a longer period to access services to address complex issues. Another factor is what active efforts have been made to restore the child or young person to their parents. The bill includes a regulation-making power to prescribe additional matters the court may consider in deciding whether there are special circumstances warranting more time. This amendment implements recommendation 117 of the Family is Culture report and applies to all children and young persons.

Item [15] of schedule 1 ensures that casework practice aligns with the ability of the Children's Court to make an order longer than 24 months in special circumstances. This amendment will allow the department to assess that there is a realistic possibility of a child or young person being restored to their parents within a period longer than 24 months, but only if there are exceptional circumstances that warrant that longer period. Decisions about restoration need to be made within child-centred time frames. The current 24-month time frame for assessing realistic possibility of restoration ensures that permanency outcomes are decided as soon as possible. While the restoration process cannot be rushed, decisions about whether restoration is realistic and how it will be supported must occur quickly, in line with permanency policy. This is also so that the child is not harmed by failed attempts at restoration and multiple placement changes. So it is important that there be clear parameters guiding the use of this discretion. These will be set out in regulations, which will be developed in consultation with stakeholders.

Importantly, the amendments in this bill do not deviate from the need to act quickly in relation to achieving permanency for all children and young people in out-of-home care. Other provisions of the bill relating to restoration decisions give the Children's Court a more active role in ensuring restoration is a preferred placement—implementing recommendation 112 of the Family is Culture report—and introduce additional requirements when preparing a permanency plan for Aboriginal and Torres Strait Islander children and young persons, in line with recommendation 113 of the Family is Culture report. These requirements include compliance with all the relevant Aboriginal placement principles; the development of a cultural plan that outlines how the Aboriginal child will be supported to stay connected to community and culture; and that the child or young person, their family, kin and community, and relevant Aboriginal organisations and entities should be involved in the development of the permanency plan, including the cultural plan.

Items [3] to [6] of schedule 1 to the bill clarify that, where restoration to a parent is not practicable or in the best interests of the child, the next preferred permanent placement is for a child to be placed with a relative, kin or other suitable person under a guardianship order. If a guardianship order is not practicable or in the best interests of the child, an order giving parental responsibility to a suitable person—usually a relative of the child—is a preferred permanent placement ahead of adoption or parental responsibility to the Minister. This responds to feedback we received for more options to support children to be formally placed with family, kin or community members outside of guardianship.

The Children's Court is an informal jurisdiction, and the rules of evidence do not generally apply in care and protection proceedings unless the court orders otherwise. The ability of the Children's Court to determine if and how the rules of evidence are to apply in proceedings will not be limited. However, item [19] of schedule 1 to the bill provides guidance as to the circumstances when the court might decide that the rules of evidence should apply, as recommended in recommendation 123 of the Family is Culture report. Items [20] and [21] of schedule 1 relate to recommendation 48 of the Family is Culture report. It will remove the presumption in section 106A of the care Act that if the parent or primary caregiver has had another child removed from their care in the past, the child or young person who is the subject of a current care application is automatically in need of care and protection.

Section 106A was originally introduced to respond to community concerns that, where siblings had previously been removed by the department, subsequent children were not being adequately protected. However, the Family is Culture report found that this provision has had a significant detrimental impact on Aboriginal families, perpetuating a cycle of successive removals of children at birth. Concerns were also raised that the provision has had unintended consequences which are detrimental to health outcomes for mothers and babies, as expectant mothers who have experienced previous contact with the child protection system may be reluctant to access prenatal support due to fear their baby will be placed in out-of-home care.

The amendment in the bill to section 106A provides that the burden should not be unfairly placed on a parent to rebut the presumption, while ensuring that all relevant evidence is before the court. Evidence of the prior removal of siblings will be relevant to the proceedings and therefore should continue to be required to be admitted into the proceedings. Such evidence will be relevant to the court's assessment of whether a child is in need of care and protection, so it is appropriate that this evidence be put before the court. It will then be a matter for the court to determine the weight to be given to this evidence in the circumstances of the individual case. Amendments in this bill are aimed at bringing greater transparency and accountability to the child protection system, which the Family is Culture report identified as being critical to improve its performance and enhance public confidence in the system, particularly among Aboriginal communities.

Item [22] of schedule 1 amends section 245 of the care Act so that decisions not to authorise a person as an authorised carer under the Act are reviewable by the NSW Civil and Administrative Tribunal. This amendment implements recommendation 94 of the Family is Culture report. Currently, the tribunal does not have jurisdiction to review these decisions. The Government has heard that current carer authorisation processes can particularly disadvantage Aboriginal people and prevent Aboriginal family members from becoming authorised carers, impacting on cultural rights and the ability of Aboriginal children to be cared for by Aboriginal people. This amendment will increase transparency and accountability of decision-making about who may be an authorised carer. Given the far-reaching consequences of decisions to authorise persons as authorised carers and the impact this has on the availability of Aboriginal carers, it is important that these decisions are open to scrutiny and can be independently reviewed by the NSW Civil and Administrative Tribunal.

Schedule 2.1 to the bill amends the Advocate for Children and Young People Act 2014 to give oversight of the out-of-home care functions of the Office of the Children's Guardian to the parliamentary joint committee, the Committee on Children and Young People. The joint committee already monitors and reviews several of the functions of the Office of the Children's Guardian, including functions relating to Working With Children Checks and the reportable conduct scheme. Schedule 2.1 implements recommendation 19 of the Family is Culture report.

Schedule 2.3 amends the Ombudsman Act 1974 to clarify that the Ombudsman may undertake investigations despite there being any actual or potential related court or other proceedings, unless the Ombudsman considers the investigation is likely to adversely affect those proceedings. This item addresses recommendation 17 of the Family is Culture report.

It is important that any investigations of complaints about child protection casework do not impinge on any parallel judicial proceedings, such as criminal investigations. However, in many cases investigations can properly occur alongside such parallel proceedings, and this change will assist the public and the sector to understand the Ombudsman's ability to investigate, leading to increased public confidence in the Ombudsman's oversight of the child protection system.

In addition to the amendments embedding the new Aboriginal and Torres Strait Islander Children and Young Person Principle, which will contribute to better child protection decision-making, two additional amendments will improve casework practice specifically for Aboriginal children. Item [23] of schedule 1 to the bill provides a power to make regulations about identifying children and young people as Aboriginal or Torres Strait Islander. This amendment is connected to recommendation 76 of the Family is Culture report, which recommended that regulations be developed, in partnership with relevant Aboriginal community groups and members, about identifying and de-identifying children in contact with the child protection system as Aboriginal. We recognise the complexity of this issue and acknowledge the advice received from our stakeholders that further consultation and co-design with Aboriginal individuals, communities and organisations is required in developing these regulations.

Schedule 2.2 to the bill amends the Children (Protection and Parental Responsibility) Act 1997 to allow a court exercising criminal jurisdiction to require the Minister or the secretary, or their representative, to attend criminal court proceedings involving a child in statutory out-of-home care. Such a representative is likely to be the caseworker for the child. This amendment implements recommendation 65 of the Family is Culture report. It recognises the importance of having an individual who knows the child and their current circumstances to support the child and assist the court by providing relevant information and advocating in the interests of the child. This may reduce avoidable remand of Aboriginal young people.

Importantly, in item [24] of schedule 1 the Government commits to reviewing the reforms contained in this bill within 12 months of operation. This review will consider whether these amendments have achieved the intent of the Family is Culture report recommendations and what more may be needed to be done to achieve the reform objectives. Our Coalition of Aboriginal Peak Organisations partners, AbSec, the Aboriginal Legal Service and other stakeholders will be consulted during the review. This safeguard can give confidence that the Government will be actively engaged in monitoring the implementation and progress of these reforms, which will be an ongoing process.

This bill represents the first legislative changes to give effect to the Family is Culture report. This is only the beginning of the reform process. The department will continue to engage with the Aboriginal community and other stakeholders to progress the remaining recommendations that are more complex and require more detailed consideration. These consultations will have a focus on Aboriginal peoples' right to self-determination and the exercise of authority within the child protection system. The Government has committed to genuine partnership with Aboriginal communities and organisations on these significant changes in 2022-23. This work has begun and will continue over the coming months.

The reforms in this bill will help keep families safe together. These amendments are aimed at creating legislative obligations that are clear and understandable and operable within the current framework of the Act. The New South Wales Government is working towards reducing the number of Aboriginal children in the child protection system by implementing the Family is Culture report recommendations, increasing the supports provided to Aboriginal families and strengthening accountability of our practice with Aboriginal families. Importantly, Aboriginal people will have much greater involvement in decision-making.

These legislative changes will also contribute to our commitments under national agreements to improve outcomes for Aboriginal children and families. This bill will support the Government to meet the target under the National Agreement on Closing the Gap to reduce the rate of Aboriginal children in out-of-home care by 45 per cent by 2031 and ensure that children and young people in New South Wales have the right to grow up safe and supported in nurturing and culturally appropriate environments. The bill also supports the Government's commitments under Safe and Supported: the National Framework for Protecting Australia's Children 2021-2031 to embed the Aboriginal and Torres Strait Islander Child Placement Principle into New South Wales' child protection legislation and support self-determination.

These are reforms Aboriginal people, grandmothers, members of the Stolen Generations, communities and organisations have been calling for. They are grounded in the extensive consultations, the yarning circles, the

district forums and meetings, the public submissions received by the Family is Culture review and the examination of the case files of Aboriginal children. We heard during the consultations this year the broad and deep community support for the progression of these reforms to adopt the principle of active efforts, to incorporate the SNAICC principle and to remove the presumption that impacts on removals at birth. Aboriginal families should not have to wait any longer for these reforms to progress. I commend the bill to the House.

**Debate adjourned.**

## **ROYAL BOTANIC GARDENS AND DOMAIN TRUST AMENDMENT (FACILITATION OF SYDNEY METRO WEST) BILL 2022**

### **Second Reading Speech**

**The Hon. SHAYNE MALLARD (11:51):** On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Royal Botanic Gardens and Domain Trust Amendment (Facilitation of Sydney Metro West) Bill 2022. The bill amends the Royal Botanic Gardens and Domain Trust Act 1980 to allow for the acquisition of substratum, which is the underlying land beneath the surface of the ground, under The Domain along the alignment of Sydney Metro West by Sydney Metro for the construction of the Sydney Metro West project. Delaying that process may impact on the delivery of Sydney Metro West. The tunnels are planned to be approximately 29 metres to 39 metres underneath The Domain. I assure the community and my parliamentary colleagues that there is no intention to impact on the surface of The Domain. There are many examples of tunnels for trains, metros or motor vehicles that run underneath parklands with no impact to the surface land—for example, the St James tunnels that run underneath Hyde Park.

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

### **Leave granted.**

It is important to prioritise the enactment of the specific provisions in the bill to make the necessary amendments as soon as possible to ensure that the Sydney Metro West project can be delivered. As members would be aware, the Sydney Metro West project will support a growing city and deliver world-class metro services to many communities. It will provide great access to job opportunities in the Eastern Harbour City for people in the west of the city, and allow people in the Eastern Harbour City to access jobs and opportunities in the west. The Sydney Metro West project will connect our city together, tying the eastern city to the central and western cities.

Sydney Metro is Australia's biggest public transport project. By 2030, Sydney will have a network of four metro lines, 46 stations and 113 kilometres of new metro rail. Sydney Metro is revolutionising how Australia's biggest city travels, connecting Sydney's north-west, west, south-west and greater west to fast, reliable, turn-up-and-go metro services with fully accessible stations. The Sydney Metro West project is a once-in-a-century infrastructure investment that will transform Sydney for generations to come. It will double rail capacity between the two CBDs, link new communities to rail services and support employment growth and housing supply.

Stations have been confirmed at Westmead, Parramatta, Sydney Olympic Park, North Strathfield, Burwood North, Five Dock, The Bays, Pyrmont and Hunter Street in the Sydney CBD. Sydney Metro West will more than double rail capacity from Parramatta to the Sydney CBD with the delivery of a new high-capacity rail connection. At ultimate capacity, Sydney Metro West will be able to move more than 40,000 people an hour in each direction and will complement the suburban and intercity services between Parramatta and the Sydney CBD. Existing suburban train lines can reliably move up to about 20,000 people per hour in one direction. The target travel time for Parramatta to the city is about 20 minutes—about 10 minutes faster than the fastest current rail journey. The project means faster travel time and providing new connections, such as Five Dock to the city in less than 10 minutes—35 minutes faster than the current public transport journey. To get to Sydney Olympic Park will take only five minutes from Parramatta and 15 minutes from Hunter Street.

Major centres will also be serviced by significantly more trains. Parramatta currently has 56 trains an hour, but with Sydney Metro that will more than double to 116. This means that rail capacity at Parramatta will go from 65,440 customers an hour to 157,600 people. The project will also cut crowding by about 30 per cent at each of North Strathfield, Strathfield, Redfern and Burwood railway stations. This means less waiting time for customers at these existing stations and improved performance of the Sydney Trains system, with dwell times reduced and suburban trains waiting less time at stations due to crowding. Sydney Metro West also has benefits for Sydney roads and is expected to take tens of thousands of cars off the roads every day, with 83,000 fewer car trips every weekday by 2036 and about 110,000 by 2056. The project will also cut bus congestion on Parramatta Road and Victoria Road, improving the reliability of bus services.

Sydney Metro West is about delivering much more than just railway stations. New stations will improve the surrounding precincts and build on the local character of each area. They will promote walking, cycling and connections with other public transport. Stations will be destinations in their own right, creating world-class precincts with new public spaces, retail, commercial and community uses. Our goal is to make these precincts welcoming hubs for everyone to enjoy, with new places for people to live, work and play. We have been working with the community, stakeholders and across government to minimise disruption through construction and ensure our plans enhance the surrounding precincts to become a feature of the community. We will continue to work with stakeholders as we plan and deliver this great project.

I will outline the provisions of the bill in more detail. The provisions of the bill are proposed to commence once they are passed and enacted on the date on which they are assented to. Schedule 1 to the Royal Botanic Gardens and Domain Trust Amendment (Facilitation of Sydney Metro West) Bill 2022 bill inserts a new section 19A entitled "Facilitation of Sydney Metro West into the

Royal Botanic Gardens and Domain Trust Act 1980". This section will enable the acquisition by Sydney Metro of the substratum under Royal Botanic Gardens and Domain Trust lands, or a part of the substratum, for underground rail facilities in relation to the Sydney Metro West, despite the provisions of the Royal Botanic Gardens and Domain Trust Act 1980. "Underground rail facilities" has the same meaning given it in schedule 6B to the Transport Administration Act. Again, it is important to note that the substratum under the Royal Botanic Gardens and Domain Trust lands can only be acquired by Sydney Metro for the Sydney Metro West.

In conclusion, the bill prioritises the enactment of necessary amendments to the Royal Botanic Gardens and Domain Trust Act 1980 to ensure the timely delivery of the Sydney Metro West. As we focus on economic recovery after the pandemic, it is essential for our State that we continue delivering the Sydney Metro West. The bill will enable us to do that without further disruption. I understand that the Opposition does not oppose the bill. I am grateful for its cooperation on this important piece of infrastructure which will benefit communities across Sydney and New South Wales. I commend the bill to the House.

### Second Reading Debate

**The Hon. PENNY SHARPE (11:52):** On behalf of the Opposition, I indicate we do not oppose the Royal Botanic Gardens and Domain Trust Amendment (Facilitation of Sydney Metro West) Bill 2022. It is straightforward. We need to build the metro tunnel. It needs to go somewhere. It must go under The Domain. It will not affect The Domain. Therefore, we are not opposed to it.

**The Hon. SHAYNE MALLARD (11:52):** On behalf of the Hon. Natalie Ward: In reply: I thank the Leader of the Opposition for her contribution and the Opposition's support for this practical bill. 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.**

### Third Reading

**The Hon. SHAYNE MALLARD:** On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a third time.

**Motion agreed to.**

### Visitors

#### VISITORS

**The ASSISTANT PRESIDENT (The Hon. Rod Roberts):** I welcome our visitors in the public gallery today. They are student leaders of primary schools in the Hornsby electorate, the electorate of the Treasurer, Mr Matt Kean. Welcome. Enjoy your time in the Legislative Council.

### Business of the House

#### POSTPONEMENT OF BUSINESS

**The Hon. SHAYNE MALLARD:** I move:

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

**Motion agreed to.**

### Bills

#### CRIMINAL PROCEDURE LEGISLATION AMENDMENT (PROSECUTION OF INDICTABLE OFFENCES) BILL 2022

#### Second Reading Speech

**The Hon. SHAYNE MALLARD (11:55):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Criminal Procedure Legislation Amendment (Prosecution of Indictable Offences) Bill 2022. The bill seeks to amend the Criminal Procedure Act 1986 and the Director of Public Prosecutions Act 1986 and associated regulations. It will ensure that the Criminal Procedure Act and associated legislation provide an appropriate framework for the prosecution of indictable offences under regulatory legislation.

In New South Wales it is a well-established practice that certain offences must be prosecuted on indictment in the Supreme Court or the District Court on behalf of the Crown or in the name of the Attorney General or the Director of Public Prosecutions. This reflects the seriousness of those crimes, which are known as "indictable



offences". An example of an indictable offence prosecuted by a regulatory body is the category 1 offence under the Work Health and Safety Act 2011, which carries a maximum jail sentence of five years.

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

### **Leave granted.**

The Criminal Procedure Act sets out the procedure for prosecuting indictable offences. The procedure involves committal proceedings in the Local Court, which may result in the offence being committed for trial or sentence in a higher court. While indictable offences must be prosecuted in the name of the Attorney General or the Director of Public Prosecutions, these amendments to criminal procedure legislation will enable other prosecutors, such as regulatory agencies, to undertake functions that support the prosecution of indictable offences.

At present the criminal procedure law does not provide an adequate framework for the prosecution of indictable offences by regulatory bodies. The bill clarifies the process by which regulators or the Director of Public Prosecutions prosecute offences under regulatory legislation on indictment. These amendments will enable regulators to undertake key prosecutorial functions. They will also make clear that equivalent disclosure obligations exist for investigators and prosecutors, whether an offence is investigated by a regulatory investigator or a law enforcement officer, and whether it is prosecuted by a regulator or the Director of Public Prosecutions. The amendments will remove the procedural bar to these prosecutions established by criminal procedure legislation, and ensure that regulators, such as SafeWork NSW and the NSW Resources Regulator, can prosecute indictable regulatory offences and the Director of Public Prosecutions can also prosecute such offences, regardless of whether a law enforcement officer or another investigator conducted the investigation of the offence.

This recognises that, in line with intended practice, in some cases it is best for regulators with specialised expertise to prosecute serious offences against regulatory legislation, whereas in other cases it will be appropriate for the Director of Public Prosecutions to conduct the prosecution. I now turn to the provisions of the bill. Schedule 1.1 to the bill makes a number of amendments to the Criminal Procedure Act. Schedule 1.1 [1] introduces a definition of a "law enforcement or investigating officer" to include:

... a police officer, or another officer or a member of staff of an agency created by or under an Act, who is responsible for an investigation into a matter involving the suspected commission of an offence.

This definition is used throughout the bill to make clear that criminal procedure for indictable matters applies to offences investigated by regulatory agencies. Schedules 1.3 and 1.4 amend the Director of Public Prosecutions Act 1986 and the Director of Public Prosecutions Regulation 2020 to reflect the new definition. Schedule 1.1 [2] introduces new section 36B to the Criminal Procedure Act. This section sets out disclosure obligations for law enforcement or investigating officers in cases where the offence is prosecuted by an agency other than the Office of the Director of Public Prosecutions. Legislating disclosure obligations ensures that the prosecution and defence have timely access to all material that is relevant to a case. This is critical to conducting fair, transparent and effective prosecutions, and supporting integrity and public confidence in the criminal justice system.

The disclosure obligations set out in new section 36B reflect those contained under section 15A of the Director of Public Prosecutions Act, which currently applies to law enforcement officers in cases where the offence is being prosecuted by the Director of Public Prosecutions. The bill would amend that provision so that it applies to law enforcement or other investigating officers in all matters being prosecuted by the Director of Public Prosecutions. Schedule 1.1 [2] establishes a power to make regulations about the required form of disclosures under section 36B to increase uniformity in disclosure procedures. This reflects the current operation of section 15A of the Director of Public Prosecutions Act, under which the regulations prescribe the required form for disclosure certificates.

Following on from investigators' duty of disclosure, prosecutors have a range of disclosure obligations. Currently, under section 66 of the Criminal Procedure Act, those prosecuting indictable offences must sign a document known as a charge certificate, which includes certification that the evidence is capable of establishing the offences and that unless a Commonwealth offence is being prosecuted, the prosecutor has received and considered a disclosure certificate from a law enforcement officer. For prosecutors in the Office of the Director of Public Prosecutions, that means certifying that they have received and considered a certificate under section 15A of the Director of Public Prosecutions Act relating to the offence.

Schedule 1.1 [3] amends section 66 (2) of the Criminal Procedure Act to require all prosecutors to certify in a charge certificate that they have received and considered verification of the law enforcement or investigating officers' compliance with duties of disclosure. For Office of the Director of Public Prosecutions prosecutors, the relevant disclosure obligations remain in section 15A of the Director of Public Prosecutions Act and the verification of compliance remains the disclosure certificate prescribed by the regulation. For other prosecutors, the relevant disclosure obligations for law enforcement or investigating officers set out in new section 36B will apply. The verification of compliance is not prescribed by the bill. It will be a form of verification that is considered appropriate by regulators. As I noted earlier, regulations may later prescribe a particular form of verification, if needed.

Schedule 1.1 [4] is a consequential amendment, as the changes proposed mean that a definition of "Commonwealth prosecutor" is no longer required. Items [5] and [6] of schedule 1.1 amend section 113 of the Criminal Procedure Act to ensure that trial papers are provided to the prosecutor who has carriage of a case after committal. Currently, section 113 only refers to the Director of Public Prosecutions, which incorrectly assumes that all matters committed for trial will be prosecuted by that office. Items [7] and [8] of schedule 1.2 make clear that the prosecutor's disclosure obligations under section 142 of the Criminal Procedure Act cover material provided to the prosecutor by a law enforcement or investigating officer.

I will now outline the related amendments that the bill would make to the Director of Public Prosecutions Act, the Director of Public Prosecutions Regulation and the Criminal Procedure Regulation. Items [1] to [5] of schedule 1.3 introduce discrete changes to the terminology of the Director of Public Prosecutions Act to reflect the new definition of "law enforcement or investigating officer". Items [1] to [7] of schedule 1.4 make consequential amendments to the Director of Public Prosecutions Regulation to incorporate the term "law enforcement or investigating officer", reflecting the changes to the Criminal Procedure Act and Director of Public Prosecutions Act that I have previously outlined. Items [1] to [4] of schedule 1.2 amend the Criminal Procedure Regulation 2017 to complement the proposed amendments to criminal procedure legislation. Items [1] and [2] of schedule 1.2 replace references to "prosecuting authority" and "Director of Public Prosecutions" in the regulation with "prosecutor". This makes clear that the provisions of the regulation refer to the prosecutor in committal proceedings, who may be the Director of Public Prosecutions or another person empowered to bring prosecutions.

Item 1.2 [3] of schedule 1 ensures that all relevant prosecutors in committal matters can undertake the functions required to have the matter committed for trial. These functions include charge certification and mandatory case conferencing. Charge certification requires senior prosecutors to determine the charges against an accused and file with the court a certificate that formally sets out those charges and how they will proceed. A case conference must also be held before a matter can be committed. This involves a conference between the prosecution and the defence practitioner, where the principal objective is to determine whether there are any offences to which the accused is willing to plead guilty.

Case conferences also provide an opportunity to facilitate providing additional material and resolve other issues relating to the proceedings, including identifying key issues for trial. Importantly, the amendments mean that, in addition to prosecutors from the NSW Office of the Director of Public Prosecutions and Commonwealth Director of Public Prosecutions, charge certificate and case conference functions can be performed by any prosecutor in committal proceedings for an indictable offence who, if the offence is committed for trial, would be prosecuting the offence in the name of the Attorney General.

Item 1.2 [4] amends the prescribed form of a charge certificate to reflect the proposed amendments to section 66 of the Criminal Procedure Act in schedule 1.1 [3], namely, that all prosecutors are required to certify that they have received and considered verification of compliance with the law enforcement or investigating officers' duty of disclosure. In conclusion, the bill would make significant improvements in criminal procedure for offences under regulatory legislation prosecuted in New South Wales. The amendments in the bill will ensure criminal procedure adequately covers all potential investigators and prosecutors of indictable regulatory offences, supporting regulators in the great work that they do and the important work that they continue to undertake. I commend the bill to the House.

### Second Reading Debate

**The Hon. PENNY SHARPE (11:57):** On behalf of the Opposition, I indicate that we do not oppose the Criminal Procedure Legislation Amendment (Prosecution of Indictable Offences) Bill 2022. The bill makes amendments that seek to remove the unintended procedural bar to prosecuting regulatory offences on indictment, rectifying an error that has been in place for four years. This is a very straightforward bill. It makes sure that agencies able to bring prosecutions in relation to indictable offences can bring them to the Director of Public Prosecutions without having to go through the police or the Law Enforcement Conduct Commission. This area should have been tidied up years ago. Labor does not oppose the bill.

**The Hon. SHAYNE MALLARD (11:57):** On behalf of the Hon. Damien Tudehope: In reply: I thank the Opposition and the crossbenches for supporting the bill, and I commend it to the House.

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

**Motion agreed to.**

### Third Reading

**The Hon. SHAYNE MALLARD:** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

**Motion agreed to.**

### Visitors

#### VISITORS

**The PRESIDENT:** I welcome to the gallery Bella McGrath, guest of the Hon. Bronnie Taylor. Bella is Minister Taylor's niece and is currently studying nursing at the University of Sydney.

### Members

#### REPRESENTATION OF MINISTERS ABSENT DURING QUESTIONS

**The Hon. DAMIEN TUDEHOPE:** I advise honourable members I will be taking questions on behalf of the Minister for Education and Early Learning, who is absent from the Chamber today.

### Business of the House

#### PARLIAMENT HOUSE MUSICAL EVENT

**The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (11:59):** I wish to take a point of order in relation to a festival of music event on Tuesday night and the level of noise emanating from the Speaker's Garden to my office.

**The Hon. Mick Veitch:** You were singing along, I bet.

**The Hon. DAMIEN TUDEHOPE:** No, but the Hon. John Graham should be called to order, and the Hon. Shayne Mallard, for that matter. Ms Cate Faehrmann was also involved, and the Hon. Ben Franklin was out there, rocking along. Some members created an undue disturbance.

**The Hon. Shayne Mallard:** I thought I saw you there.

**The Hon. DAMIEN TUDEHOPE:** I made a momentary appearance. I withdraw the point of order.

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

*Questions Without Notice*

**AMBULANCE SERVICES**

**The Hon. PENNY SHARPE (12:00):** My question without notice is directed to the Minister for Regional Health. Given the ambulance ramping inquiry found that some patients are waiting up to 36 hours to be admitted to emergency departments due to overcrowding and some are leaving without receiving any treatment at all, does the Minister stand by her comments in September when she said, "If someone in New South Wales needs care from the State's health system, they will get it"?

**The Hon. BRONNIE TAYLOR (Minister for Women, Minister for Regional Health, and Minister for Mental Health) (12:01):** Thank you, Mr President, for welcoming my niece. She is a very precious and special person to me, and I am so proud that she has chosen to do nursing. I am embarrassing her. She is a great person. I thank the honourable member very much for her question and note that she quoted me from a date in September that I cannot now recall. I do not say that I did not say it; I just cannot remember the date that the honourable member said.

**The Hon. Penny Sharpe:** Trust us.

**The Hon. BRONNIE TAYLOR:** I trust the honourable member absolutely. When people present to the New South Wales health system—and I speak particularly on behalf of my portfolio of Regional Health—we will absolutely care for them. We will see them and make sure that they get the care that they need and deserve. There are certain times in our New South Wales health system—and I speak on behalf of the rural and regional health system—when places are extremely busy. People will have to wait for longer periods of time in getting triage. But we triage people on their acuity, on how they need to be seen and on the time frame in which they need to be seen.

The New South Wales health system performs extremely well. We have had challenges, including workforce challenges, but despite these unprecedented challenges and the natural disasters that we have seen, the New South Wales health system continues to perform very well. But, despite our efforts under difficult circumstances, sometimes those waiting times are longer than we would like. However, I stand by my comments. We have an international, world-class health system in New South Wales. Recently, other States from across the country have come here to speak with NSW Health about our system of moving people through our emergency departments. Australia-wide, our percentages and numbers for that are extremely good.

**REGIONAL HEALTH PRACTITIONERS**

**The Hon. WES FANG (12:03):** My question is addressed to the Minister for Women, Minister for Regional Health, and Minister for Mental Health. Will the Minister please update the House on the recruitment of specialised health professionals in regional New South Wales?

**The Hon. BRONNIE TAYLOR (Minister for Women, Minister for Regional Health, and Minister for Mental Health) (12:04):** I thank the honourable member very much for his question. I will start by acknowledging that yesterday was Emergency Nurses Day, a day on which we recognise the skilled and dedicated nurses who work in emergency departments across New South Wales. It is celebrated globally on the second Wednesday of October every year. I place on the record our thanks and deep appreciation for all emergency nurses. They are the backbone of all health services but play an especially important role in regional and rural hospitals.

In the New South Wales healthcare system, there is a terrific position in our hospitals called a nurse practitioner or, as I like to call them, super nurses. Nurse practitioners are registered nurses with the experience, expertise and authority to diagnose and treat patients, including people of all ages and those with a variety of acute or chronic health conditions. They are the most senior and independent clinical nurses in our health system. Something I love about the structure in nursing is that we like to see people taking clinical leads and extending their scope of practice. We know how important that is.

Nurse practitioners are simply incredible. Over the past few weeks we have seen new nurse practitioners in hospitals from the north of our State right down to the mighty south. In the New England region, we have successfully recruited three nurse practitioners and one transitional nurse practitioner, who have already started and are working in the communities of Gunnedah, Glen Innes and Bingara. They are a welcome addition to these communities, with the skills and authority to request diagnostic investigations, prescribe medicines and receive

referrals. Their ability to order diagnostic tests and prescribe certain medicines differentiates them from a registered nurse. They are a vital backup in communities where it is a challenge to attract doctors.

Employing nurse practitioners in regional New South Wales is an emerging model that is showing great results. Across New South Wales, we already employ more than 280 nurse practitioners. Recently, the Government announced we will add another 200 nurse practitioners to our ranks, with all 200 positions to be in regional New South Wales. That means an extra 200 Tim Keuns, who is one of our super nurses working at Queanbeyan hospital in Monaro.

Tim completed the Master of Nurse Practitioner last year and has started the next stage in his career as a nurse practitioner in the Queanbeyan hospital emergency department. I know, Mr President, you would be particularly interested because that is where you are from. You and the Hon. Tara Moriarty might come across Tim. By specialising his work in the emergency department in Queanbeyan, Tim is in fact the very first emergency nurse practitioner at Queanbeyan hospital. I look forward to updating the House on Tim's progress. If anyone were to see Tim in the emergency department, he can write scripts, order diagnostic tests and do detailed, comprehensive assessments. He describes the role as looking at a situation or patient from a nurse's lens. [*Time expired.*]

### NURSE STAFFING

**The Hon. JOHN GRAHAM (12:07):** My question without notice is directed to the Minister for Regional Health. Give her previous answer, and given that evidence in the ambulance ramping inquiry shows that NSW Health is rapidly losing senior nurses, will the Government match Labor's commitment to employ an additional 1,200 nurses in the next term of Parliament?

**The Hon. BRONNIE TAYLOR (Minister for Women, Minister for Regional Health, and Minister for Mental Health) (12:07):** I thank the honourable member for his question. As the honourable member knows, this Government recently made a commitment to employ over 10,000 health professionals, and we are well on track. About 2,900 of those people are employed already. This Government stands by its transparency in talking about our health workforce and what we are doing. I am the Minister responsible for regional and rural health in New South Wales and can speak extensively on our employment program. I spoke about nurse practitioners and the first-ever emergency department nurse practitioner in Queanbeyan hospital. In the New England area, there is a new one at Gunnedah and also at Bingara. We are doing this because we know we have to extend the scope of practice of good practitioners to get results, and we know that many nurse-led models of care are making huge differences in our communities. That is why we said we are going to employ more nurses, and that is exactly what we are doing. That is why we have the biggest incentive package a New South Wales Government has ever brought in a budget.

**The Hon. John Graham:** Point of order: My point of order is direct relevance. I am aware of the Minister's previous answer and I specifically referenced it. My question is will she match the commitment, on top of the numbers she is talking about, of an additional 1,200 nurses?

**The PRESIDENT:** The comments that the Minister is making are largely directly relevant. They offer some context, but I encourage her to come directly to the question.

**The Hon. BRONNIE TAYLOR:** Mr President, I cannot be any more directly relevant. I also cannot keep up with what Labor does, because one minute it wants nurse ratios; the next minute it does not want nurse ratios. It goes to an election saying, "We are going to have nurse ratios." Then, it no longer says that. I understand that there will be a heap of motions about nurse ratios at Labor's conference this weekend. That should be really interesting. All I can say is that when the Government stands up and says it is going to do something, it gets on with the job of doing it. We are honest and transparent. We have talked about that. We did not go to the election talking about nurse ratios. That is what the Labor Party did. It has let down all of those nurses. It told them, "We stand by you. Vote for Labor. Vote for nurse ratios," and it walked away. How can it be trusted? I look forward to hearing about the debate on the motions at the conference and what the Labor Party will say to its members, because it says one thing and does another.

### INDIGENOUS EDUCATION SCHOLARSHIPS

**The Hon. MARK LATHAM (12:10):** In the absence of the education Minister, my question is directed to the Minister for Aboriginal Affairs. The Hon. Damien Tudehope, you've had a tough enough time, old fella. I will save you for another day.

**The Hon. Damien Tudehope:** Point of order: The Hon. Mark Latham just referred to me as an "old fella". Mr President, I request that you ask him to withdraw that.

**The Hon. MARK LATHAM:** To the point of order: The honourable member needs a mirror. It is a term of endearment, Mr President. I am heading in that direction myself, so there was no malice intended at all.

**The PRESIDENT:** I did take it as a term of endearment.

**The Hon. MARK LATHAM:** So settle down, young fella. You're not a Broderick guy, are you, taking offence about everything?

**The PRESIDENT:** I note that the Hon. Mark Latham's time is quickly expiring.

**The Hon. MARK LATHAM:** Is the Minister for Aboriginal Affairs supportive of the University of Sydney's recent initiative to ensure that those applying for Aboriginal scholarships do more than self-identify and that, to be eligible, they must be accepted and certified by relevant Indigenous organisations that they are, in fact, Aboriginal? Outside the provisions of the New South Wales land rights statute, will the Minister apply this certification system to Aboriginal programs and entitlements across the New South Wales Government so that those receiving support are known to be genuinely Indigenous and not simply applying and self-identifying for financial reasons?

**The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:11):** I genuinely thank the member for his question. It is an important question and often a contested area, so I will pull back and make a few comments in principle to start with. Aboriginality and Aboriginal identity are personal and community matters. Appropriately, it is for Aboriginal individuals, groups and communities to self-determine. I understand and appreciate that the burden of proof to determine Aboriginality is a complex and deeply sensitive issue for individuals and for Aboriginal communities. Appropriately, the Government has no role in the process to determine or to confirm the Aboriginality of, or for, individuals. That is the first point.

My second point is this: My understanding is that the University of Sydney wants to ensure that people who are receiving support and scholarships that are slated specifically for Aboriginal people are Aboriginal people. The university has done so by applying the three-part test that we have also legislated in the Aboriginal Land Rights Act, which is that somebody is of Aboriginal descent, that they identify as being an Aboriginal person and that they are accepted by the community as being an Aboriginal person. To me, that seems an utterly reasonable set of parameters. So, in answer to the member's first question about whether I, as the Aboriginal affairs Minister in this State, support the University of Sydney, I would say that if it is trying to ensure that scholarships and support go into the hands of individuals who are confirmed as Aboriginal people, then the answer is yes.

In terms of the second part of his question, which is support for governmental programs, I have a passionate view that any funding for individuals, for communities or for programs in this State that is allocated and put aside for Aboriginal people and organisations should go, obviously, to organisations that are genuinely reflective of Aboriginal people and Aboriginal communities. That is certainly what we have done with the significant amount of money that we have invested in the recent budget, including in the Community and Place Grants Program, which I referred to yesterday. We have ensured that it only goes through the hands of Aboriginal community controlled organisations. That is appropriate. It is appropriate that we focus on supporting Aboriginal communities and Aboriginal individuals. But when we do give them support, it should go to those people who need it most.

#### **PAID DOMESTIC AND FAMILY VIOLENCE LEAVE**

**The Hon. AILEEN MacDONALD (12:15):** My question is addressed to the Minister for Women's Safety and the Prevention of Domestic and Sexual Violence. Will the Minister update the House on the Government's ongoing support for employees affected by domestic and family violence?

**The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (12:15):** I thank the Hon. Aileen MacDonald for her interest in this area. It is a joy to have her in this Chamber. Women's safety and the prevention of domestic and sexual violence is a key priority for the Perrottet Government. As the largest employer in New South Wales, the Government is leading the nation in providing comprehensive paid leave for employees affected by domestic and family violence across the public sector. That is why on 23 August it announced that it is doubling paid domestic and family violence leave provisions for New South Wales government employees, with staff now able to access 20 days of paid domestic violence leave per calendar year from 1 January 2023. This includes all ongoing, temporary and casual employees. It is absolutely comprehensive.

New South Wales was the first jurisdiction to include specific provisions for domestic and family violence leave in enterprise agreements and awards for its public sector employees. The Government understands that the impact of domestic violence can extend to all of our workforce. That is why this support will be available for all New South Wales public sector employees, including casuals. It is important that everyone is recognised and

everyone has the opportunity to be supported at that critical time. This increased support for victim-survivors of domestic and family violence who are employed by the New South Wales Government builds on its record \$687 million investment in 2021-22 in a range of women's safety initiatives as well as the further \$100 million in the 2022-23 budget.

That is why we have a dedicated Minister for Women's Safety and the Prevention of Domestic and Sexual Violence, and it is my priority to continue advocating for victim-survivors to receive the support that they require. The Perrottet Government is committed to keeping victim-survivors, women and children safe in New South Wales. Doubling domestic and family violence leave is just one important aspect of the Liberal-Nationals Government's strong record on women's safety. We are delivering on our commitment to criminalise coercive control in intimate partner relationships. We have passed nation-leading affirmative consent reform in this State. That law commenced on 1 June this year.

We have introduced five new jury directions to address common misconceptions about consent. They are supported by a positive public awareness campaign targeted at young people called Make No Doubt, which I launched this year with the Attorney General, who, as my predecessor, has been such a strong advocate and has achieved so much. I thank him for his advocacy. Finally, we have banned self-represented people accused of domestic violence in criminal and related proceedings from directly cross-examining domestic violence complainants. That means the alleged perpetrator cannot directly examine the victim-survivor. That is a good step. Our work is not done. I hope that one day we do not have to have a Minister for Women's Safety and the Prevention of Domestic and Sexual Violence. But until then, we remain committed to protecting women and children across New South Wales.

### TAXI INDUSTRY COMPENSATION PAYMENTS

**Reverend the Hon. FRED NILE (12:19):** My question is directed to the Leader of the Government in the Legislative Council, representing the Treasurer. What methodology did the Government use to calculate the value of taxi numberplates in various regional areas? Does the Government believe that a return on investment of 25 cents in the dollar is an equitable outcome for taxi plate holders who will be burdened with outstanding debts and no assets?

**The Hon. Damien Tudehope:** It is an interesting question, and I invite the Minister for Regional Transport to answer that question.

**The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (12:19):** I thank Reverend the Hon. Fred Nile for the question. As one of the transport Ministers responsible for the taxi package, I am more than happy to explain that there is a methodology to how taxi plate values are calculated according to which zones they may fall in.

**The Hon. Mick Veitch:** You said that yesterday.

**The Hon. SAM FARRAWAY:** I will say it again, because that is the methodology and that is the way it is being calculated, Mr Veitch. I am happy to answer this time and again; just keep asking. The way it works is that Transport for NSW consulted with the industry. We looked at actual plate sale values between 2010 and 2015 in every local government area [LGA] across the State. Where there were no plate sales between 2010 and 2015, we went back a bit further to 2008. We looked at all plate sales to work out an average and then put those LGAs into four different regional zones.

Across regional New South Wales, there is obviously a fluctuation based on plate sales. They are not all the same, whereas in Sydney the average plate sale data that was collected pre-reform—before Uber and other disruptors in and around the point to point industry arrived—was much flatter and much easier to calculate. That is why there are four different zones. The zones are not based on geography, which is why there may be instances where neighbouring LGAs are in different zones. That reflects plate sales pre-reform, between 2008 and 2015. There is a methodology behind why particular LGAs and particular towns are in certain regions, which is how we get to a benchmark value for each zone.

The New South Wales Government has now put an additional half a billion dollars on the table for the New South Wales taxi industry, which is the most generous package in the country—\$200 million more than Victoria. It is far more than the almost nothing that has been offered to Queensland taxi owners. South Australia collects a passenger service levy and still has no package. The New South Wales package is the most generous in the country. It is particularly important for regional New South Wales plate owners that there is no cap, because one person might own multiple plates in the same community. It was important to me, representing those plate owners, that every single one of them got a transitional payment so they can reinvest in their taxis in the future and continue to offer that service. [*Time expired.*]

**THE NATIONALS AND REGIONAL HEALTH CARE**

**The Hon. TARA MORIARTY (12:22):** My question without notice is directed to the Minister for Regional Health. How does the Minister respond to senior Nationals MPs who have expressed fears that The Nationals will lose several seats because of the lack of work ethic among Nationals MLCs and "the dire state of regional health care"?

**The PRESIDENT:** Order! Members on my left will come to order and give the Minister an opportunity to respond. I am sure the Minister is very keen to respond to such an open question. The Minister has the call.

**The Hon. Damien Tudehope:** They are all excited about Saturday.

**The Hon. John Graham:** The Everest!

**The Hon. Damien Tudehope:** Courtney wants to go to The Everest.

**The PRESIDENT:** Order! The Leader of the Government will also give the Minister a chance to respond.

**The Hon. BRONNIE TAYLOR (Minister for Women, Minister for Regional Health, and Minister for Mental Health) (12:24):** I thank the honourable member very much for her question.

**The Hon. John Graham:** Do you really?

**The Hon. BRONNIE TAYLOR:** I actually do thank the honourable member very much for her question. The honourable member would know very well just how hard National Party members work, because every time those opposite try to win the seat of Monaro, they cannot. I am very careful not to scream or howl as I say this: The Hon. Chris Minns, the Leader of the Opposition, has been going around Monaro introducing the Hon. Tara Moriarty and saying, "This is our Bronnie Taylor". I just cannot believe it, but the fact that I obviously work so very hard in the electorate of Monaro—

**The Hon. Courtney Houssos:** Point of order: My point of order relates to direct relevance and misleading the House. The Minister is required to specifically answer the question that was asked of her and to not mislead the House as part of that answer. I ask that you bring her back to the important question about rural and regional New South Wales.

**The Hon. Scott Farlow:** To the point of order: The question was very broad. It outlined a whole range of issues and asked, "How does the Minister respond?" The Minister is responding and is being directly relevant.

**The PRESIDENT:** It is a very open question, and I have given some guidance in relation to direct relevance and the need to be very specific about how members frame questions. This is a very open question, so the Minister is being directly relevant.

**The Hon. BRONNIE TAYLOR:** And let us talk about the last member for Monaro, Mr Steve Whan, whom we also beat. Those opposite cannot say that the Government is not working hard.

**The Hon. John Graham:** Actually, the last member for Monaro was the Deputy Premier.

**The Hon. BRONNIE TAYLOR:** It is pronounced "Mon-AIR-o", not "Mon-AH-ro". Those opposite have to know what their electorates stand for if they want to win them. Let's talk about regional health. The Nationals in Government have delivered the first ever regional health Minister—and don't I love my job! Unlike those opposite, I have actually come from a job outside of politics, being a staffer or working for a union. I was a registered nurse in the Monaro, and we will continue to work very hard to hold all of those seats. Here is the New South Wales Labor Party talking about—

**The Hon. Greg Donnelly:** Spell "Bega"!

**The Hon. BRONNIE TAYLOR:** I can spell being a—but I am not even going to worry about you. It is just absolutely fascinating that the great and mighty Labor Party talks about Country Labor, but it is trying to get rid of the only bloke that understands rural and regional New South Wales this weekend. The Isolated Children's Parents' Association met with members, and all they could do was rave about the Hon. Mick Veitch—

**The Hon. Penny Sharpe:** Point of order—

**The Hon. BRONNIE TAYLOR:** —and the Labor Party will absolutely bin him.

**The PRESIDENT:** Order! I will hear the point of order.

**The Hon. Penny Sharpe:** I understand your previous ruling, Mr President, but I believe that the Minister has well and truly strayed from direct relevance to the question.

**The PRESIDENT:** The Minister has canvassed a range of issues and perhaps was starting to stray. I draw the Minister back to the question for the last seven seconds.

**The Hon. BRONNIE TAYLOR:** The only person who has been lazy is the Leader of the Opposition, Chris Minns, with those videos—One-Minute Minns. [*Time expired.*]

### HOUSING SUPPLY AND AFFORDABILITY

**The Hon. SCOTT FARLOW (12:28):** My question is addressed to the Minister for Finance, and Minister for Employee Relations, and Leader of the Government. How is the New South Wales Government improving housing supply and affordability for the people of New South Wales?

**The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:28):** In the other House yesterday, the Premier told the House that his favourite newspaper was *The Guardian*. It surprised me that he reached for *The Guardian* with his marmalade and cup of tea every morning. In my case, I always reach for *The Sydney Morning Herald*. Although I like to read the Hon. Daniel Mookhey, I reach first for Alex Smith's articles. She made an assessment of relative abilities in terms of who is selling the policy best to look after first home purchasers in this State. Alex Smith, impartial as she is, got it right and said that Perrottet is winning this argument hands down. Why? Because Dom Perrottet does not need a PhD to use a calculator. But I stray. There is a significant amount of—

**The Hon. Daniel Mookhey:** Come on, I wanted more.

**The PRESIDENT:** Order! Members will not encourage the Minister. The Minister has the call.

**The Hon. DAMIEN TUDEHOPE:** Let me focus. Yesterday the Government announced an \$11.5 million package for the Unblocking Homes Program to help fast-track the delivery of tens of thousands of homes. That is what we should be focused on. We had a very constructive debate in this House last night, led by the Hon. Rod Roberts. Every member who contributed to that debate put forward significant proposals to address housing supply. All sides of politics acknowledge the difficulties with housing supply. The program the Government identified yesterday is a serious approach to ensure that it unblocks the roadblocks in delivering housing policy.

There is a fantastic commitment to an additional \$728 million to reduce up-front costs for eligible first home buyers by introducing an option to pay annual property payments rather than the current up-front stamp duty. I am sure that is exactly what those opposite will welcome to take pressure off first home buyers. Why is the New South Wales Government offering this vital support for aspirational workers and families, which comes on top of the offer to be a co-purchaser with those families seeking to get into the market? It is because we want them to be able to say sooner than they otherwise would, like Madness, "Our house is our castle and our keep." I seek an extension of time.

**Leave granted.**

**The Hon. DAMIEN TUDEHOPE:** Whether it is "our house in the middle of our street" in the booming suburbs of western Sydney or in a regional town anywhere in this State, we support the aspiration of workers and families to own, as Crosby, Stills & Nash put it:

... a very, very, very fine house—

including, for animal lovers like the Hon. Emma Hurst—

with two cats in the yard—

and to say, with no thanks to the no-deal, no-policy Labor Party but with gratitude to the Liberal-Nationals Government's First Home Buyer Choice—

life used to be so hard  
now everything is easy  
'cause of you.

That is because of you, Dom, by the way.

### LAND CLEARING AND KOALA HABITAT

**The Hon. MARK PEARSON (12:33):** My question without notice is directed to the Minister for Aboriginal Affairs, representing the Minister for Environment and Heritage. Koalas in New South Wales are endangered. Thousands of hectares of mature trees are being logged and cleared, authorised by this Government. The Minister has announced that private landholders are being supported to restore 200 hectares of koala habitat in the Northern Rivers through planting 250,000 tree seedlings. The seedlings will not become koala habitat for 30 years. Would it not make more sense to use the money to pay the landholders to not cut down the existing mature koala food trees?



**The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:33):** Isn't it wonderful that the Government is working with private landholders to ensure that land can be regenerated for koala populations? I would have thought that the honourable member would applaud this, rather than saying it should not happen. Is he seriously so focused on the here and now, and not on the future, that he does not want to protect koalas in 30 years' time? It is insane.

If the honourable member had been in the Chamber when we had an extremely important discussion on the State of the Environment report and about biodiversity, moved by Ms Sue Higginson, he would have heard me outline the very substantial range of things that the Government is doing to ensure that biodiversity is protected in this State, particularly in terms of working with private landholders. If the honourable member would like further information, I suggest that he read my speech from earlier today.

#### **TAXI INDUSTRY COMPENSATION PAYMENTS**

**The Hon. WALT SECORD (12:34):** My question without notice is directed to the Minister for Regional Transport and Roads. What is the Government's response to community concerns that taxi operators in Byron will receive \$25,000 under its compensation plan, while a taxi operator in Ballina will get \$130,000? How does the Government explain this?

**The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (12:35):** I thank the honourable member for another question. Obviously, members opposite need to clean their ears out. I have answered this. This will be the third time, but I am happy to make it clear. As I said in a previous answer to Reverend the Hon. Fred Nile, when Transport for NSW looked at these reforms, it looked at actual plate sales between 2010 and 2015 in each particular local government area, region and town. Where there were no actual plate sales or not enough information, the search went back further. We went back to 2008 to ensure that we had enough data to work out what the average plate sale would be in Ballina or in Byron, as the example suggested. The reason for the difference is that their actual plate sales and history would be different. Ballina and Byron are different places. They are not the same.

**The Hon. John Graham:** Point of order: My point of order is direct relevance. The Minister has given some good, detailed answers about the Government policy, but the member has heard that and is now asking about a particular example from a particular region with a stark difference. I ask that you draw the Minister back to that.

**The PRESIDENT:** The Minister was being directly relevant in addressing the issues in Ballina and Byron and why different amounts are allocated to those areas. The Minister has the call.

**The Hon. SAM FARRAWAY:** I do not think I could have been any more relevant to the question from the Hon. Walt Secord. The point is that we have the actual plate sales data between 2010 and 2015. Where there was not enough data to support an average plate sale, we went back further to 2008. As I highlighted earlier, it was important to look at the actual plate sales data pre-reform, prior to disruptors like Uber entering the marketplace and prior to it being deregulated. My point is that Byron and Ballina might be next door to each other, but they are different places. One has a major airport. One does not. One obviously has a far bigger tourism element than the other.

There is a reason why they would be in different zones, and that is because they are different places with a different track record of actual plate sales data. That is why they are in different regions. There is a methodology. The taxi industry is being updated on this through webinars last week and this week. I have updated this very information. This very information has been given to the shadow Minister for Regional Transport and Roads, Jenny Aitchison, in the other place. I have had a good working relationship with Jenny. We have sat down. I have given her information that is not necessarily publicly available so as to ensure that the Opposition can understand how we got to where we are, how we got to an additional half a billion dollars, how it is calculated, how it is to be disbursed and how many plate owners there are.

Jenny has been good to work with. Opposition members have this information, yet they come into this Chamber to politicise an issue rather than work with the industry and work with the Government. Maybe they need to talk to the shadow Minister for Regional Transport and Roads. No, the Hon. Walt Secord is shaking his head. Members opposite talk about division in the Government over here; that is nothing to the division they have over there.

**The Hon. WALT SECORD (12:39):** I ask a supplementary question. The Minister spoke about calculations and methodology. Will the Minister release and make public the calculations and methodology?

**The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (12:39):** I thank the Hon. Walt Secord for his supplementary question. The data has been used to formulate Government policy. This information has been shared with members of the Opposition to help them formulate their position—because they

do not have one. It is a common theme. They do not have a policy. To help them, the Government gives them enough information so that they do not need to copy our stuff. Hopefully, the Opposition can form its own view and position.

This is commercial-in-confidence information. It is sensitive information, but the Government uses it to support a position. Where possible, it is shared with industry to the furthest extent possible. The Government has even shared some information with members of the Opposition to support them in their policy position, but they still do not have one. They look to criticise the Government, but they do not have their own. It is lazy policy, and it comes from the leader down. Members opposite talk about division, but all we hear from them comes from lazy Minns, the lazy Opposition leader. Lazy, lazy, lazy. It is again on display in this Chamber today.

The Hon. Walt Secord has turned up and is asking lazy questions because the Opposition does not have a policy. The Hon. Walt Secord has not spoken to the shadow Minister for Regional Transport and Roads, whom this Government has briefed. Lazy, lazy, lazy. If those opposite are not prepared to talk to each other, they should not come into this Chamber and talk about division. We can see what is happening on the other side of the Chamber. We can see that Opposition members over there want to get rid of this one over here. Let's face it, we want this one to stay. The Hon. Mick Veitch is a good guy who understands the regions. Regional New South Wales will be a far lesser place without the Hon. Mick Veitch. [*Time expired.*]

### SOCIAL FUTURES AND FLOOD RECOVERY ASSISTANCE

**The Hon. LOU AMATO (12:41):** Save Mick. My question is addressed to the Minister for Families and Communities, and Minister for Disability Services. Will the Minister update the House on the recent measures taken to support those affected by the floods?

**The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:42):** I thank the honourable member for his question. This will not be as lively as previous answers. I highlight a fantastic non-government organisation in Lismore. Last week I had the opportunity to visit the new premises of Social Futures. Since the floods occurred seven months ago, I have visited the Northern Rivers on multiple occasions to meet with a number of stakeholders and hold roundtable meetings with non-government organisations. I have also met with individuals who have been impacted. Last week's opening of the new Social Futures office was fantastic because it was a chance for the community to come together and celebrate a milestone.

Unfortunately, Social Futures had four of its properties damaged during the floods, which meant that staff worked from home, regardless of the impact that some of them experienced personally. They still ran recovery centres and spoke with people individually about the traumas they had experienced. To have all of the staff—over 100 of them—come together under one roof was fantastic. It was great to see the smiles on their faces and hear about the work that they have been doing over the past seven months to support the community. Social Futures has not only been providing support during the floods in recent years. It has been working for the past 46 years to provide support and assistance to not just the Northern Rivers but also Broken Hill in the Far West and Gosford on the Central Coast. Social Futures also does work in Queensland. It has been doing an amazing job in supporting communities and individuals. As I said, the staff at Social Futures were severely impacted during the devastating floods, but they went out day after day to help, like all of the non-government organisations in the area.

I also give a shout-out to all government agencies. It is not only the Department of Communities and Justice but also a number of government agencies supporting the community on the ground. The Department of Communities and Justice funded the Family Connect and Support program, which is run by Social Futures. It was quickly able to respond to the needs of the community during the floods, visiting evacuation centres, recovery hubs and accommodation centres. Social Futures staff were also there listening and talking directly to individuals, providing opportunities for them to talk about their trauma and a pathway to healing, and providing practical support. They collected necessities that people needed to recover and helped them with financial assistance. They also spent time with children so that parents could seek the services they need. During the floods, Social Futures received \$500,000 to support its recovery efforts, which is in addition to the \$13.3 million that the New South Wales Government gave to non-government organisations.

### RENEWABLE ENERGY AND ELECTRICITY COSTS

**The Hon. MARK LATHAM (12:45):** My question is directed to the Leader of the Government, representing the Minister for Energy. Is the Leader of the Government aware of comments made by the head of Alinta Energy at the Australian Financial Review Energy & Climate Summit on Tuesday that the company is having to replace 1,000 megawatts of electricity generation under the old system of coal-fired power, which is valued at \$1 billion, with renewables and firming capacity, which will cost \$8 billion? That is a cost mark-up of 800 per cent being passed on directly to consumers. Is this not the reason for the forecasted 35 per cent increase

in electricity prices next year? Under Matt Kean's road map, rebuilding the electricity grid is eight times more expensive than the existing generators, with households and businesses paying for this massive cost increase.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:46):** I am trying to think of how I am going to answer this.

**The Hon. Rose Jackson:** With direct relevance.

**The Hon. DAMIEN TUDEHOPE:** I am always directly relevant. We are all anxious to hear from those opposite about their energy policy on the weekend. Saturday is going to be a great day. Do you want to go to the races?

**The Hon. Walt Secord:** I can. I'll come.

**The Hon. DAMIEN TUDEHOPE:** You would rather go.

**The Hon. Walt Secord:** I know a couple of other people who might want to come.

**The PRESIDENT:** Order! The House will come to order.

**The Hon. Mark Latham:** Point of order: Pensioners are worried that they cannot turn on their air-conditioning or get warmth next winter. This is a very serious issue being trivialised by a Minister who should answer the question directly.

**The PRESIDENT:** I ask the Minister to answer directly.

**The Hon. DAMIEN TUDEHOPE:** Since it is a question addressed to a Minister in the other place, I will take it on notice and have him provide the appropriate answer.

#### HOUSING SUPPLY AND AFFORDABILITY

**The Hon. ROSE JACKSON (12:47):** My question is directed to the Minister for Families and Communities, and Minister for Disability Services. Did the Minister watch the recent *Four Corners* program, "No Place to Call Home", which highlighted community concerns about the desperate housing crisis in regional New South Wales? How does the Minister respond to the stories of people like Kaila, Jessica and Stacey which demonstrate that the Government has failed to deliver affordable housing in regional New South Wales?

**The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:47):** I thank the honourable member for her question. She obviously did not listen to what I said last night when I outlined that the New South Wales Government has invested over \$9.1 billion over the past 10 years to address social and affordable housing. That is right across New South Wales. This Government is leading the country in providing social housing, with over 154,000 properties. The next best State is Victoria, with 76,000 properties. The New South Wales Government, through its partnerships and working with community housing providers and local government, is investing in delivering social and affordable housing across the State, including in the regions.

**The Hon. Penny Sharpe:** The list is longer. People can't find anywhere to rent.

**The Hon. NATASHA MACLAREN-JONES:** The Government is also providing rental assistance and support. As I said, the New South Wales Government has been delivering and providing support to people, whether it is for homelessness or social housing. I outline some of the work that has been done to support people who are homeless, particularly through the Together Home program initiative that our Government implemented, which is a \$177 million program that has been extended in the recent budget to ensure that people who are at risk of homelessness or are sleeping rough are able to transition to permanent, safe and stable accommodation. It has been rolled out across Sydney first, but it is being rolled out across the regions, including on the mid North Coast. I had an opportunity only a few months ago to go up there to meet with Mission Australia, one of the great providers that has been working on the ground with individuals who are experiencing or who are at risk of homelessness to provide them with the wraparound support they need to ensure that they have safe, stable accommodation for the long term.

In addition to the huge investment our Government is providing in social and affordable housing across our regions—only a month or two ago the Deputy Premier, Paul Toole, and I visited Orange and Bathurst to announce more affordable housing—most recently we rolled out affordable housing in Potts Point as well. So right across New South Wales, our Government is delivering for the people of New South Wales, investing with our partners to ensure that people have not only the social housing they need but also affordable housing.

**The Hon. ROSE JACKSON (12:50):** I ask a supplementary question. Will the Minister elucidate that part of her answer where she described what she claimed to be the Government's "massive" investment in social

housing in regional New South Wales? Will the Minister also elucidate whether she thinks nine additional properties in the Argyll Estate redevelopment in Coffs Harbour is a "massive" increase?

**The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:50):** I thank the member for her question about our investment. As I said before, right across New South Wales, \$9.1 billion has been invested over the past 10 years to ensure that we have had an increase in social housing. In relation to affordable housing, our Government continues to invest. In this budget alone, a \$2.8 billion housing package—

**The Hon. Penny Sharpe:** Point of order—

**The Hon. Rose Jackson:** What are you talking about? Affordable housing? It's a social housing estate. Do you even know what I'm talking about?

**The PRESIDENT:** Order! The Hon. Rose Jackson will come to order. The Leader of the Opposition has taken a point of order.

**The Hon. Penny Sharpe:** My point of order is direct relevance under Standing Order 129. The supplementary question was about the Argyll Estate in Coffs Harbour, a social housing estate. The Minister is giving a general answer. She is repeating an answer she gave earlier. I would ask her to be directly relevant in answering the supplementary question.

**The PRESIDENT:** The question asked in the context of investment across New South Wales and then went to the specific. The Minister was responding in relation to the general investment in affordable housing across the regions. The Minister was being directly relevant. But, obviously, in the context of her answer, the Minister may wish to address the issue in that specific area as well.

**The Hon. NATASHA MACLAREN-JONES:** As I said, we have 154,000 properties that our Government has been supporting across social housing and that investment is part of the \$9.1 billion that has gone into social housing as well. In addition, in my portfolio specifically, we have invested over \$1.1 billion through the Social and Affordable Housing Fund, which has been building and developing properties all across New South Wales. As I said in my original comments to the first question, that includes areas like Mudgee, Dubbo, the South Coast, the mid North Coast—I was up in Tweed the other day. Right across New South Wales, in our regional areas, we are investing in social housing.

**The PRESIDENT:** When members are seeking the call, I ask that they do so verbally.

#### LIVE TRAFFIC NSW APP

**The Hon. SCOTT BARRETT (12:53):** My question is addressed to the Minister for Regional Transport and Roads. Will the Minister inform the House about how the Government is securing a brighter future by delivering better services to New South Wales families with the expansion of the Live Traffic NSW app in regional New South Wales?

**The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (12:53):** I thank the member for his question; it is a really good one. We have some fantastic news in this space. The New South Wales Liberal-Nationals Government wants the Live Traffic NSW app to be a one-stop shop, and we are going to make sure it is exactly that. This month we have 22 regional councils being onboarded to the Live Traffic NSW app. The way it works is that local councils will have an agreement with Transport for NSW. They will resource, from their end, all the road data around closures, diversions and changes to the road network. The councils will feed that data directly, via the OneRoad platform, into the Transport Management Centre and from there it will feed into the Live Traffic NSW app, the transportnsw.info website, Google Maps and Apple Maps. It is an absolute game changer, to be frank, for our regional network. It not only helps locals but also tourists coming out of Sydney who want to holiday in their own backyard, in regional New South Wales. The first 20—

**The Hon. Walt Secord:** Point of order: My point of order goes to community safety. I hope that the Minister is not advocating that people use electronic devices and the internet while they are driving. That would be an offence.

**The PRESIDENT:** There is no point of order. The Hon. Walt Secord will resume his seat. The Minister has the call.

**The Hon. SAM FARRAWAY:** On this side of the House, the Liberal Party and The Nationals have policies. We have delivery. We are delivering better services for the people of New South Wales. Instead, over there, this division—

**The Hon. Walt Secord:** That would be a criminal offence. You want us to break the law. The Minister wants us to break the law.

**The Hon. SAM FARRAWAY:** Just because you are on the way out the door, Walt, does not mean that we cannot still deliver fantastic policy. Twenty-two regional councils are being onboarded this month. Among those 22 councils, it was really important that we got a good cross-section. We worked with the SES, the RFS and the NSW Police Force. Organisations like the NSW Farmers Association have wanted this sort of innovation around the traffic app and around how councils work with the Government to deliver a one-stop shop, such as councils in and around the Bega electorate that were impacted by bushfires and Lismore which faced flooding events earlier this year. Lismore City Council will be onboarded. Obviously, Lismore faced those flooding events earlier this year. Councils like Central Darling Shire Council, in the Far West of New South Wales are on board. It has the largest unsealed road network of any council in the State.

We are making sure we have a good cross-section of 22 local councils from regional New South Wales being onboarded this month. My aim is to have another 20 or 30 councils in regional New South Wales onboarded in the next three months, with the aim that the Liberal Party and The Nationals in government, delivering for the people of New South Wales, will have every single local government area onboarded to the Live Traffic NSW app by 2024. We are a far cry from the policy-light Labor Party and its members sitting opposite in this Chamber, who do not have anything to talk about, who copy our ideas, and when they do not copy, they just criticise—Labor-light, absolute laziness.

#### TAXI INDUSTRY COMPENSATION PAYMENTS

**The Hon. MARK BANASIAK (12:56):** My question is directed to the Minister for Metropolitan Roads, representing the Minister for Transport. In 2015 the New South Wales Government, when taking hire care licences, back paid those licence holders in full, untaxed, and, in the end, they maintained their licences. Now, when the Government is doing the same to taxi licences under the widely rejected Sue Baker-Finch report, it is paying less than 30 cents in the dollar, with it being taxed, and plans to lease them back. Will the Minister explain the disparity and inequitable treatment?

**The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (12:57):** Given the specificity of the question, I think the honourable member is entitled to a detailed answer. In that vein, I will take the question to the Minister for Transport for a thorough and detailed answer to the question in relation to taking hire car licences back and the comparison between that and the taxi licences, and specifically in relation to the Sue Baker-Finch report. I will have him provide the honourable member with a detailed answer in a timely way.

#### HOMELESSNESS

**The Hon. COURTNEY HOUSSOS (12:58):** My question without notice is directed to the Minister for Families and Communities, and the Minister for Disability Services. Will the Minister respond to community concerns that due to the Government's failure to properly deliver affordable housing, homelessness has risen by 10 per cent in the past two years alone, leading to thousands of people living in tents, cars and couch surfing, and will the Minister admit that the New South Wales Government is not nearly on track to meet the Premier's Priority of halving street homelessness by 2025?

**The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:59):** I thank the honourable member for her question. As we know, homelessness and housing are Australia-wide issues. I welcome the fact that the Federal Government has reconvened the housing Ministers' meeting and, more importantly, that it is committing \$10 billion to looking at housing. As I said, basically that is the same amount that our Government has been investing—and it is in social housing. That is on top of what we have been delivering and supporting across the homelessness sector. It was our Government that implemented the Together Home program. That is just one program that works with people who are sleeping rough to help them transition from homelessness into being provided with wraparound support. In this budget we have extended the Together Home program for those who need that extra support beyond the two-year period. The aim of that program is that people will transition into their own accommodation. It might be social housing or a private rental with the provision of other assistance. It may be that they need additional support. We are also funding a number of other organisations on top of the Together Home program.

Recently I was with Bridge Housing to announce an additional \$20 million for its fantastic Supported Transition and Engagement Program. It works with Neami National to provide wraparound support. They do the head leasing, identify properties in the private market and provide assistance with rental support to ensure that people are looking at the long term. That is what it is about: not just providing immediate support to someone who might be sleeping rough in the community but providing long-term accommodation and wraparound support so

that they can stay in stable housing long term. Not everyone will need social housing. Some people are able to find work. The wraparound support is fantastic because it ensures that they get assistance to be able to work independently if they need it, whether through education or training and development. Otherwise, there is rental assistance that is provided and supported by the New South Wales Government.

As I have said multiple times, addressing homelessness across New South Wales and Australia—because it is in Australia-wide issue—requires a whole-of-government and whole-of-community approach. What is fantastic about the initiatives we have in New South Wales is that we like to work in partnership. We work in partnership with community sectors.

**The Hon. Rose Jackson:** You fine the homeless providers with parking fines in Martin Place!

**The PRESIDENT:** Order! The Minister has the call, not the Hon. Rose Jackson.

**The Hon. NATASHA MACLAREN-JONES:** We know being in opposition is tough, and you're having a hard time, going room to room and drinking cold tea at night.

**The Hon. Courtney Houssos:** Point of order: My point of order is direct relevance. The Minister has provided a long, generally relevant answer. But in the final 20 seconds I would ask that she be drawn to the question itself, which asks whether the Minister will admit to the Government being not nearly on track to meet the Premier's Priority of halving street homelessness by 2025.

**The PRESIDENT:** The Minister was being directly relevant until perhaps she was taken off course in the final moment by an interjection from one of the honourable member's colleagues.

**The Hon. NATASHA MACLAREN-JONES:** In the City of Sydney, or the Sydney area, we have brought homelessness numbers down by 48 per cent since 2017. Yes, there is more to do. We will continue to work with the sector to deliver more housing and more support.

**The Hon. DAMIEN TUDEHOPE:** The time for questions has expired. If members have further questions, I suggest they place them on notice.

#### *Announcements*

### **DOWN SYNDROME AWARENESS MONTH**

**The PRESIDENT (13:02):** I remind members that October is Down Syndrome Awareness Month. Today about 100 members of that community are having afternoon tea in the Fountain Court prior to observing question time in the other place. Unfortunately, I could not arrange for them to visit this Chamber early enough for our question time. They would have enjoyed that a lot more. If members are able to say hello to a few of those wonderful people on the way past, I think they would appreciate that.

#### *Supplementary Questions for Written Answers*

### **HOMELESSNESS**

**The Hon. COURTNEY HOUSSOS (13:03):** My supplementary question for written answer is directed to the Minister for Families and Communities, and Minister for Disability Services. Will the Minister elucidate her answer by providing what initiatives are in place? Will they deliver the Premier's Priority of halving street homelessness by 2025?

#### *Questions Without Notice: Take Note*

### **TAKE NOTE OF ANSWERS TO QUESTIONS**

**The Hon. ROSE JACKSON:** I move:

That the House take note of answers to questions.

### **HOMELESSNESS**

**The Hon. ROSE JACKSON (13:04):** I take note of answers given by the Minister for Families and Communities, and Minister for Disability Services to questions asked by me and my colleague the Hon. Courtney Houssos. I can only assume from the Minister's responses that she has not watched the recent *Four Corners* program, which provided a deep-dive exposé into the regional housing crisis in New South Wales focusing on Coffs Harbour. I can only assume that she has not read the newspaper because *The Daily Telegraph* has been running a series of exposés about the dire state of homelessness in New South Wales. If she had done either of those things, if she had been paying any attention to the consistent, loud and growing public commentary on this crisis in New South Wales, she would not have responded with the hubris that she did, not even acknowledging the problem and making political quips across the Chamber.

Yes, being in opposition is hard. The hardest thing about being in opposition is seeing all of the things that are wrong but not having the opportunity to fix them. It is so hard to sit in opposition with no resources, no staff and no capacity to make decisions, knowing that people are hurting, talking to people like Stacey, Jessica and Kaila on the phone, as I have done—the women who live in Coffs Harbour who were featured in that story—knowing that we could help them. We could fix tenancy laws, we could invest in social housing and fix the homelessness crisis in this State. The Government has the resources and the power to do that, but we do not. It is so hard to be in opposition talking to people as they cry about the housing crisis and ask, "Where are my kids going to sleep tonight?" and not be able to do anything about it.

The one thing we can do is ask questions during question time in this Chamber—and we do. We ask questions about housing and homelessness. But that is the response we get. We do not even get an acknowledgement of the problem: "Yes, things are bad, people are hurting. We acknowledge that, and we're trying to work on it." Rather, the Minister responds dismissively, "No, we're doing so much. It's going so well." If that is what the Minister thinks, I am genuinely shocked. I call on the Minister and those opposite who genuinely cannot even acknowledge the problem to watch the news in regional New South Wales. On any night of the week they will see stories on the housing crisis. If they look at any regional New South Wales local buy, swap and sell group on Facebook, they will see people who are desperately crying out, "Does anyone have a tent for my kids and me to sleep in tonight?" Yes, being in opposition is hard, but we will not stop asking the questions and fighting to get the capacity to do something to help these people, because those opposite simply will not do it.

### THE NATIONALS AND REGIONAL HEALTH CARE

**The Hon. GREG DONNELLY (13:07):** I participate in this take-note debate to comment on the answer given to a question without notice by the regional health Minister, the Hon. Bronnie Taylor. She was very keen to talk about being lazy and to appropriate that behaviour to the Opposition. I think it is worth her getting in front of a mirror and asking the same question of herself because she was totally wrong in a number of things she said. In fact, she should return to the Chamber to apologise.

Specifically, I deal with the issue of the promise made regarding the employment next year of extra nurses and allied health staff. The Minister has failed to read—this is where the laziness is so utterly terrible. In the inquiry undertaken by Portfolio Committee No. 2 – Health into ambulance ramping and access block on the operation of hospital emergency departments in New South Wales, witness after witness, particularly on 5 October, described the absolute shedding of nurses in droves in a range of hospital departments, particularly in emergency departments.

The Minister speaks about a promise of extra numbers. But it is a promise on top of what? At the moment these people are resigning in droves. In particular, I draw the Minister's attention to the evidence provided on 5 October 2022 by the general secretary of the NSW Nurses and Midwives' Association, Ms Shaye Candish, and registered nurse Ms Kelly Falconer. From one registered nurse to another registered nurse, she would find out exactly what is going on with emergency nurses in hospitals outside of Sydney, Wollongong and Newcastle. There is also the evidence of Ms Suzanne Melchior, a senior registered nurse from an emergency department. The Minister should find the time to take her role seriously and read the transcripts from inquiries putting a very sharp focus on the state of affairs in New South Wales instead of talking about going around the State, cutting ribbons and giving rah-rah speeches. The fact of the matter is that the game is up for her. The National Party members in this House and the other are on borrowed time.

### EXTREMIST ACTIVITY

**The Hon. WALT SECORD (13:10):** As the deputy chair of the NSW Parliamentary Friends of Israel, I comment on the answer to written question No. 7511, which relates to extremist activity in New South Wales. The answer revealed that in 2021 a total of 137 people were employed in the Department of Communities and Justice in the area of counterterrorism. This was a slight increase, from 125 people in 2020. In light of the recent increase in far-right-wing activity in the past three years, I urge the Perrottet Government to step up its response to the intolerant cancer of the far right in our community. I urge the Perrottet Government to also increase monitoring and investigation of these groups.

Members would know that, when I was shadow Minister for Police and Counter Terrorism, I asked many questions about far-right activity in New South Wales and started the debate that has led earlier this year to the banning of Nazi symbols in New South Wales. In response to my inquiries in September 2021, the then police commissioner, Mick Fuller, reported that 20 per cent of NSW Police Force's counterterrorism activity was on monitoring and policing far-right-wing groups. In 2020 NSW Police Force reported that 31 incidents of displays of Nazi flags were reported to it, including outside a Newtown synagogue and at a Wagga Wagga water tower. In April 2022 the Executive Council of Australian Jewry, which documents antisemitism, reported through its

research director, Julie Nathan, that in the 12 months to 30 September 2021, there were 447 incidents of antisemitism nationally. This was an increase of 35 per cent.

Unfortunately, we hear reports of extremist activity on a regular basis. This week it was reported that a group has been putting flyers for white extremists in Bondi mailboxes. I have seen the flyers, which are clearly produced by far-right-wing extremists. The language and symbols are classic white extremist. Unfortunately, over the past 34 years, in various capacities, I have become all too familiar with the material produced by these disgusting groups. The flyers say "blood and honour" and that prospective followers should "be prepared to train, to get outdoors and sacrifice some of your personal time for a higher purpose".

The flyers are strangely primitive and sophisticated at the same time—sophisticated in that they are accompanied by a QR code, which readers are urged to scan if they are white. The code leads one to the website of the National Socialist Network, which is Australia's largest white supremacist group. I thank the House for its consideration and hope that the Government takes this matter seriously.

## REGIONAL HEALTH PRACTITIONERS

### SOCIAL FUTURES AND FLOOD RELIEF ASSISTANCE

**The Hon. SCOTT BARRETT (13:12:51):** A lot of members enjoy talking down our regional and rural health systems. I get why they do that, but I think it is a little bit unjust. Today we heard one of the reasons why from the Minister for Regional Health, who once again gave an impassioned speech about really good stuff going on for regional health care. We heard of the budget of a major regional health workforce initiative, a scheme that will be delivered alongside new training and recruitment pathways to build a sustainable pipeline of regionally based health workers. Some \$883 million is to be spent over the next four years to attract and retain workers in rural and regional areas by transforming the way clinicians are incentivised. The retaining part is critical there as well. The people already in our system need to continue to be rewarded. The package will strengthen the regional health workforce, ensuring that the more than three million people who live, work and play in rural and regional New South Wales continue to have access to high-quality health care well into the future.

We are talking about initiatives to attract new healthcare workers. Someone I know you, Mr Deputy President, to be familiar with is the mayor of Temora, Rick Firman. The residents of Temora had an issue with attracting a doctor and took an innovative approach: They had Temora's great quack quest. It involved a film clip and local singers and dancers showing off the Temora community. Eventually this worked. They secured a doctor, Dr Sheraz Mumtaz, who has spent time in Pakistan, England and Perth but was attracted by this program and moved across to Temora. Since he has been there, the town has got behind him and made him and his family feel very welcome. That is a key part of what we need to do when attracting health workers and other key workers to our regional areas because, after all, regional New South Wales is by far the best place to live, work and raise a family.

We also heard about some of the support delivered to those affected by the floods. We cannot forget how tragic that was and that the people who went through them are still hurting a lot. I will touch on Givit, an organisation I used to work for, which is doing great work in donation management. The generosity of Australians has seen \$17 million go to Givit to be distributed to those affected. Some \$5.5 million has already been spent on buying needed things from the flood-affected local shops. We know they are needed because they have been requested by 150 different local organisations working with these people. With money donated by generous Australians, Givit is buying the items genuinely needed from the shops and in the communities that also need that assistance.

## TAXI INDUSTRY COMPENSATION PAYMENTS

**The Hon. MARK BANASIAK (13:15):** I will speak on some of today's answers about taxis and provide a bit of balance to the Minister for Regional Transport's chest beating. He spoke a lot about how Transport has been using data on plate sales. But he forgot to mention that thousands of plate owners paid upwards of \$210,000, \$300,000 or \$400,000 for licences in the years of 2010 to 2012 and that now they are being offered something like \$25,000, \$50,000 or \$75,000. Where is the sales data there? The Minister is ignoring that Transport for NSW data tells him and the Minister for Transport—all of the half a dozen transport Ministers—that the capital loss caused by their decision to allow Uber to operate illegally is \$1.59 billion.

The Minister for Regional Transport says that it is the most generous package. It should be pretty generous because it is the Government's fault. It should be generous because we have the most taxis in the country. But saying the Government is being generous when the Government is offering less than a third of the capital loss that taxis incurred because of his Government's policy is misleading the House. He comes in here and beats his chest and says, "I am supporting the regional plate owners." How many of them has he taken phone calls from in the middle of the night, talking them off the ledge, in the past three years? How many funerals has he attended because



they have committed suicide? There are at least a dozen documented suicides of taxi owners in this State because of his Government's poor decisions since 2015.

**The Hon. Scott Barrett:** Come on.

**The Hon. MARK BANASIAK:** The member can say, "Come on." It is true. There are at least a dozen. The Minister says, "This is the most generous package. They should be thankful." The industry of taxi owners is not thankful. They have rejected the Government's package. They are saying, "Go back and try again." That is what this House should be saying when he brings the Government's despicable bill up next week.

### HOUSING SUPPLY AND AFFORDABILITY

**The Hon. TAYLOR MARTIN (13:18):** I take note of the answer given by the Minister for Finance, Minister for Employee Relations and Leader of the Government to the question on how the New South Wales Government is improving housing supply and affordability for the people of New South Wales. The Minister referred to a housing package totalling \$2.8 billion over the next four years, a package with several interlocking components designed to improve the supply of housing and its affordability. As well as investment in social housing and housing for Aboriginal people, other targeted cohorts include key workers such as police, teachers and nurses, especially in regional New South Wales.

On the point of social and affordable housing, while no-one doubts the enthusiasm of the Hon. Rose Jackson for this area of policy—as demonstrated in her take-note speech—for the Australian Labor Party more broadly, and Chris Minns especially, it is questionable. The Leader of the Opposition did not mention housing or homelessness once in his recent budget reply speech. Our First Home Buyer Choice package, costed at \$728.6 million over the next four years, provides a significant tax break for workers and families looking to get their keys to their first home sooner rather than later. However, the shadow Treasurer is standing on the doorstep of that first home with his arms crossed saying "no deal" to those first home buyers.

Why are those opposite against choice for first home buyers? Why are they disparaging, patronising and very elitist, it must be said, against aspiring workers and families, insinuating that they are not capable of making the best choice about how they finance their first home? The Labor Party wants to restrict the choice of aspiring first home owners across Sydney and New South Wales. It is interesting that the Sapphire Coast Branch of the Labor Party is sensibly calling on the party to abandon this foolish position. But Labor's economic future policy committee is insisting that the party avoid any pre-election commitments on stamp duty or other tax reform in favour of a post-election, broad-based review of State taxes. I guess we will wait and see what happens over the weekend at the ALP's conference, as they get their riding orders about how they shape their policy for next year.

### PAID DOMESTIC AND FAMILY VIOLENCE LEAVE

**The Hon. AILEEN MacDONALD (13:21):** I take note of the answer Minister Ward provided during question time. The Perrottet Government has announced that it is doubling domestic and family violence leave provisions for New South Wales government employees, with staff now able to access 20 days of paid domestic violence leave per calendar year from 1 January 2023. As the largest employer in New South Wales, the Government is responsible for providing workers with the support and security to take time away from work to take the necessary steps to find safety for themselves and their families.

This Government took the time to consult with unions, employers and policy experts. It understands that the impact of domestic violence can extend to all of our workforce. Hence, the support will be available for all New South Wales public sector employees, including casuals. New South Wales is the first jurisdiction in Australia to include specific provisions for domestic and family violence leave into enterprise agreements and awards for its public sector employees. The Government is setting the standard of care for the private sector and other jurisdictions to follow. It is committed to women's safety, and our record proves that. That is why we have a dedicated Minister.

It is my priority to advocate for support for family and domestic violence victim-survivors to get through what is often a traumatic situation so they can be safe and secure and take the time they need to recover. The increased support for victim-survivors of domestic and family violence employed by the New South Wales Government builds upon its record \$687 million investment in 2021-22 in a range of women's safety initiatives, as well as a further \$100 million in the 2022-23 budget. The Perrottet Government is absolutely committed to ensuring that the women of New South Wales have the right to live a life free from violence.

### TAKE NOTE OF ANSWERS TO QUESTIONS

**The Hon. LOU AMATO (13:23):** Today we heard the Minister for Regional Health update the House on the super nurses of our State's health care system and the important role they play in regional health care. It is incredible to hear of the great work that is undertaken by nurse practitioners, who are worth their weight in gold.

We know there are GP shortages in regional New South Wales, and while the New South Wales Government is doing what it can to help with what is a Federal Government responsibility, it is also thinking outside the box. The Minister provided us with an insight into the life of a nurse practitioner and their ability to diagnose and treat a variety of health conditions. They really are super nurses.

It was great to hear of the recruitment of more nurse practitioners in regional New South Wales, adding to the already 280-plus nurse practitioners in the State. It is incredible that many new nurse practitioners have chosen to upskill. This includes Sue Mack, a longstanding nurse in Bingara who has undertaken extra training and is now performing high-level patient-related functions that could previously only have been done by a doctor. The New South Wales Government is putting more funding and support behind increasing nurse practitioners in regional New South Wales, with 200 more to join the ranks. I congratulate the New South Wales Government on this initiative. But, most importantly, we thank nurses across regional New South Wales, whether they be nurse practitioners, emergency nurses or even emergency nurse practitioners like Tim Keun in Queanbeyan.

I take note of Minister Maclaren-Jones' answer regarding the reopening of Social Futures in Lismore after the town was left devastated by the floods. I also note the significant work the New South Wales Government has been doing in the area to help get NGOs back on their feet. The New South Wales Government has committed \$13.3 million over two years to the New South Wales NGO Flood Support program to provide funding to support critical service delivery and local community-led social recovery programs. The investment will help those NGOs meet the increased need for a range of community services, including family and youth support; domestic violence and homelessness support services; and supports for people with disability, for seniors and supports for local Aboriginal communities. The program will assist communities in the seven highly impacted Northern Rivers local government areas of Richmond Valley, Clarence Valley, Kyogle, Lismore, Tweed, Ballina and Byron. The flexibility of the program will facilitate social cohesion by responding to community feedback, supporting local decision-making and supporting immediate and medium-term recovery efforts.

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** The question is that the motion be agreed to.

**Motion agreed to.**

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** I will now leave the chair. The House will resume at 3.00 p.m.

#### *Documents*

### **PARLIAMENTARY ETHICS ADVISER**

#### **Reports**

**The DEPUTY PRESIDENT (The Hon. Chris Rath):** According to the terms of the agreement made with the Clerk of the Parliaments and the Clerk of the Legislative Assembly, I table the annual report of the Parliamentary Ethics Adviser for the year ended 30 June 2022.

#### *Bills*

### **SECURITY INDUSTRY AMENDMENT BILL 2022**

#### **Second Reading Speech**

**The Hon. TAYLOR MARTIN (15:01):** On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

The Security Industry Amendment Bill 2022 amends the Security Industry Act 1997, the Security Industry Regulation 2016 and the Tattoo Parlours Act 2012. This amendment bill will strengthen the licensing regime for the security industry, modernise the Act in line with current security activities and make clarifications to remove ambiguities.

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

**Leave granted.**

The bill has been developed through consultation with industry and government to ensure that regulation is fit for purpose and tailored to the evolving practices and demands upon the industry. Moreover, this bill continues to support and strengthen the industry's resistance to organised crime infiltration, a key driver for the creation of the Act.

The security industry plays a vital role in a wide range of businesses and government agencies throughout New South Wales. There are currently over 55,000 security licence holders and over 6,000 master licence holders in New South Wales, operating security businesses of various sizes across different sectors and occupations. Master licensees range from large multinational companies, such as Chubb Security, to sole traders providing a limited range of services.

This industry operates in a high-risk environment, where licensed persons are, in some circumstances, given access to firearms and large quantities of cash. They often have access to sensitive information, protect critical infrastructure and maintain order in public areas.

The proposed reforms include a suite of amendments to address regulatory gaps and emerging issues identified following a review of the Act in 2020 by the regulator, the NSW Police Force. The Police are committed to ensuring regulation is tailored to the current landscape in which the industry operates in, and is effective at mitigating the risks of infiltration by the criminal element.

To that end, this bill makes seven significant amendments to the security industry licensing scheme in New South Wales.

Firstly, the bill makes a number of amendments focused on clarifying provisions in the Act, streamlining processes, and making the Act future ready and "fit for purpose".

Secondly, this bill introduces a tiered penalty system for breaches of licence conditions, with penalty increases for more serious offences. This will apply to both individuals and corporations. The security industry has raised concerns about the blanket application of the current "one size fits all" approach to penalties under the Act, especially when the risk to public safety is not the same in all cases.

Thirdly, this bill will expand the definition of "crowd controller" to include locations where unlicensed and untrained crowd controller activities are being performed. These locations will include public places and premises such as hospitals, quarantine facilities and retail premises. These locations are referred to as "relevant places" for the purposes of the bill.

The fourth significant amendment in this bill combines the current class 1A (unarmed guard) and 1C (crowd controller) to be a new "security officer" class 1A licence. This amendment will not change the authority or any requirement for any of the functions of those licence classes. The bill also introduces a new class of security licence for "cash in transit" tailored to those who patrol, protect or guard cash-in-transit.

The fifth major amendment in the bill will strengthen the regulatory framework by allowing the Commissioner of Police to prohibit a person from reapplying for a security licence for two years if the Commissioner refused their initial application on specific grounds. A similar provision in the bill will prohibit certain ineligible persons from working in higher-risk areas of the security industry.

The sixth significant amendment moves and expands offences of obstruction or failing to comply with requirements of enforcement officers into a new Part 30. The current penalty for obstruction is not a significant enough deterrent to stop criminal activity. The bill increases the penalty from 100 penalty units to 500 penalty units or 2 years imprisonment, or both.

The seventh major amendment in this bill will enable the Commissioner of Police to make information publicly available about significant offences committed under the principal Act or the revocation of a licence.

I now turn to the details of the bill.

To ensure the Act remains fit for purpose and that appropriate exemptions in the future can be made quickly, the bill authorises the Commissioner of Police, under new section 6AA, to exempt persons, or a class of persons, from the requirement to hold a licence or to provide persons to carry on a security activity. This will ensure that if unforeseen situations arise again, such as the COVID-19 pandemic, and it is in the public interest to exempt persons from the need to obtain a security licence, that this pathway is readily available for the Commissioner.

The bill amends the definition of "crowd controller" in section 4 to expand the locations where someone must require a licence to perform crowd controller activities. Currently, crowd controller functions are only captured under the Act if performed in a licensed premises, a public entertainment venue, or a public or private event. Someone employed as a crowd controller is generally responsible for monitoring behaviour in groups of people, screening persons seeking entry and removing persons from premises.

A review of the definition for "crowd controller" in section 4 drew out two issues. Firstly, people are employed to undertake crowd controller-like functions outside licensed premises, such as hospitals, quarantine facilities and retail premises. Secondly, crowd controller-like functions are being performed in public places, such as taxi ranks, parks, streets surrounding licensed premises and the Sydney harbour foreshore. These people currently fall outside the definition in the Act and therefore do not require a security licence however pose the same risk as those who are captured by the Act. Persons who fall outside the Act's ambit, currently do not have to pass a "fit and proper person" test, a criminal history check and are not required to complete the necessary training. These persons can be in positions of power in the community and are open to exert control over vulnerable persons, particularly in regional communities. Having unlicensed and unqualified persons undertaking crowd controller functions poses a risk to the community.

Accordingly, the bill expands the locations listed in the "crowd controller" definition in section 4 to include public places and premises such as hospitals, quarantine facilities and retail premises. The bill also clarifies that the "controlling or monitoring the behaviour of persons" must be "to maintain order". This will ensure that those who may be employed, to some extent, to control or monitor behaviour but there is no intent for them to maintain order are not captured by this amendment.

To ensure this amendment is appropriately targeted, the new section 6AA of the bill will enable the Regulations to prescribe activities that are not security activities. This bill accordingly amends the Regulation to prescribe that the conduct of health screening is not a security activity for the purposes of the Act.

Existing New South Wales licence classes do not correlate with new national security industry training package competency requirements. The bill addresses this anomaly and will combine class 1A and 10 security activities to be within class 1A. Importantly, this amendment will not affect the authority linked to these classes and is consistent with the current security industry training package.

This section will also create a new "cash-in-transit" licence class. With the class 1C title of licence no longer in use, the cash-in-transit officer will be known as a class 10. This will ensure the specialised training for guarding cash is reflected in the licence classes.

Historically, security licences were limited to Australian citizens, permanent residents and relevant visa holders. Amendments in 2013 excluded student and working holiday visas to reduce risks as the NSW Police Force is unable to conduct thorough background checks and assessments for these visa holders. There are now approximately 70 different visa categories, many presenting the same risks as student and working holiday visas.

The bill proposes an amendment to section 15(1)(d) to provide that an applicant who is not an Australian citizen, or permanent resident, must hold a visa that has been sponsored by the holder of a master licence; or for a skilled occupation to which the activities under the proposed licence relate. This amendment will allow the legislation to be flexible and not dependent on the name or number of a particular visa assigned by the Commonwealth. A grandfathering provision will cover current licensees with visas that do not meet the new criteria. These security licences will remain in force, including upon renewal, until the licence is surrendered or revoked or ceases to be in force.

The bill extends the definition of "providing persons" in section 3 to capture someone who acts through another person to provide persons to carry out security activities. This amendment will ensure people are not circumventing the intent of the legislation by indirectly providing persons to carry on a security activity.

The bill also expands the definition of "sell" in section 4 of the Act to include to hire, lease and offer to sell, hire or lease.

The bill updates the definition of master licence in section 10 to clarify that a MA licence holder must be a self-employed individual, not a single operator in a company structure.

The bill also amends section 10 to confirm that the number of employees on a master licence is "no more than" the upper limit. This will ensure master licensees continue to comply with their licence conditions even if the number of security guards on any given day is below that stipulated by the licence.

Under the existing regulatory framework, a master licence holder cannot tender for work or enter into contracts without also holding a class 2B licence. This requirement is an unnecessary impost, as the probity requirements for a class 2B licence is the same as that for a master licence. The bill will provide that an individual master licence holder can carry on the sales-related activities authorised by a class 2B licence without needing to hold that licence.

Section 38A is amended to require that a client must expressly agree in writing to a master licensee engaging a sub-contractor to provide persons to carry out security activities. However, this does not need to be in the original contract between the master licensee and the client. The written agreement can now be in a separate document.

This amendment responds to concerns raised by industry stakeholders that the term "in contract" is often burdensome as clients have their security contracts drafted prior to entering into discussions with security providers.

The bill inserts section 23 to provide that it is a requirement on the holder of a master licence to ensure that when entering an arrangement with another person for the provision of persons to carry on security activities, the other person has an appropriate licence or permit.

The bill makes machinery amendments to sections 18, 24 and 25 to reflect changes in Service NSW operations by providing that photo licences are no longer collected in person and clarifying that class 1 and class 2 licences, other than renewed licences, come into force on the day the photograph is taken. This amendment also clarifies that failure to provide the required information in an application renders an application as "withdrawn" rather than "refused".

The bill amends section 32 to clarify that an electronic advertisement for a security activity carried on by a licensee is not required to contain the licence number of the licensee if the number is readily and freely able to be accessed from the advertisement by direct electronic link.

The bill makes a number of amendments focused on stamping out misconduct and improving the integrity of the security industry.

This bill introduces a tiered penalty system for breaches of licence conditions. Currently, under the Act, section 30 provides a single penalty for contravention of licence conditions for individuals and corporations. For example, the maximum penalty for a master licensee not displaying their certificate at their place of business accrues the same penalty as a master licensee employing someone with a disqualifying criminal history for cash-in-transit work. Industry and Police have raised concerns about the blanket application of a single penalty when the risk to public safety is not the same in all cases.

Rather than a "one size fits all" approach, the bill will specify a tiered approach to each breach of a licence condition, providing a more balanced approach to penalties. Some penalties for offences under the Act or Regulation are increased as the current penalty provisions for some offences are no longer sufficient to deter criminal activity.

Importantly, penalties relating to small businesses, specifically MA and MB master licence holders, which can provide up to three persons, will be capped at 25 per cent of the maximum penalty. This is to ensure that small businesses are not disproportionately penalised for non-compliance and are afforded an opportunity to financially recover should they breach the Act. This reduction in penalty will not apply to the offence in section 7(1)(b), which is an offence under the Act for providing persons in excess of their master licence category.

As a high-risk licensing scheme focused on ensuring public safety, a fundamental requirement is that a licence holder be a fit and proper person. The bill inserts section 16B into the Act to enable the Commissioner of Police, after refusing an application for a security licence because the applicant is not a fit and proper person, or on public interest grounds, to determine that the applicant is not entitled to reapply for a security licence for a period of two years.

The determination about the fit and proper status is discretionary and may be appealed to a Court or Tribunal. If the Commissioner's decision to refuse the licence is appealed and the Court or Tribunal, and the original refusal is upheld, the two years will commence from the court or tribunal decision date.

The bill also replaces section 23 with section 22A and now provides that a master licence must not provide persons to carry on "prescribed work" if the provided person has had their licence refused or revoked in the past five years because of:

- criminal or related history, or
- because the person has had a licence refused or revoked on the grounds of public interest or the person not being a fit or proper person.

The bill defines "prescribed work" in this context as:

- any work in the cash in transit sector,
- any role involving access to operational information relating to the security business,
- the rostering or scheduling of security activity, and
- the monitoring of the performance of class 1 or class 2 licence holders.

These provisions are designed to protect the industry against infiltration by the criminal element and ensure that sensitive information which may assist in the planning of armed robberies does not fall into the wrong hands.

The bill creates a defence if the master licensee, after having made thorough inquiries, did not know and could not reasonably have been expected to know that the person was an ineligible person.

This prohibition does not apply if the Commissioner's decision to refuse or revoke the licence is subsequently overturned or a licence is later granted to the person.

These amendments will assist both the industry to be clear about the restrictions on whom they may employ, and the regulator so that enforcement is more definitive.

The current "obstruction" offence in section 39L only covers a physical obstruction to an enforcement officer. It does not include the obstruction of "investigations" to determine if compliance or contravention of the Act and Regulation is occurring. Such hindrance can be by providing false documents, destroying evidence or colluding with witnesses.

Accordingly, the bill moves offences of obstruction or failing to comply with requirements of enforcement officers, currently in section 39L, into a new Part 3C, and introduces offences of altering, damaging or destroying records, providing false or misleading information, conspiracy and inducing the commission of certain offences.

The bill will substantially increase the penalty for these offences to be 500 penalty units, two years imprisonment or both—rather than the current penalty of 100 penalty units. The bill also applies similar amendments to the Tattoo Parlours Act 2012 so that there is consistency in enforcing high-risk regulated industries by the NSW Police Force.

Security licence holders are in positions of trust, especially around children. The bill amends section 15(1)(b) so that the Commissioner of Police must refuse to issue a licence to a registrable person or corresponding registrable person who has reporting obligations under the Child Protection (Offenders Registration) Act 2000.

An important amendment, the bill introduces Part 3B which will allow the Commissioner of Police to publish examples and cases of confirmed breaches of the Act and revocation action to ensure that the community is aware of inappropriate security industry personnel and providers. Publication of this information supports the integrity of the industry and encourages industry compliance.

Currently the Act restricts licence applicants to be Australian citizens, permanent residents, holders of certain visa types. This limits the industry and government agencies from seeking global experts in the industry, especially in counter-terrorism.

The bill amends the Security Industry Regulation 2016 clause 7 to enable the Commissioner of Police to exempt a person who is not an Australian citizen or a permanent Australian resident from the requirement to hold a class 2A security licence (Security Consultant) if the Commissioner is satisfied the person has specialised skills or experience not readily available in Australia.

An exemption fee of \$1000 is imposed, which is sufficiently above the licence fee to ensure that local security providers are not disadvantaged.

The Commissioner must also be satisfied that the applicant would otherwise be ineligible for a licence. This will ensure the exemption is not sought in place of a licence and that the pool of prospective candidates in New South Wales or Australia are not overlooked.

I will now turn to the savings, transitional and consequential amendments in the bill.

Part 11 of the bill provides consequential amendments for existing licence applicants. Specifically, item 43 provides that all current class 1C licences will become a class 1A on the commencement of the bill. Class 1C licence holders that currently perform cash-in-transit functions will have up to 6 months to apply for a new 1C licence. No application fee will be payable.

The bill makes appropriate amendments to ensure that the Security Industry Act 1997 remains fit for purpose.

I'm pleased that the measures included in this bill will reduce red tape for small businesses engaged in the industry and that the Police are provided with the powers necessary to regulate effectively.

I commend the bill to the House.

### Second Reading Debate

**The Hon. TARA MORIARTY (15:02):** I lead for the Opposition in debate on the Security Industry Amendment Bill 2022. Labor will not oppose the bill. I acknowledge the work of my colleague the member for Wollongong, and shadow Minister for Police, Paul Scully, on this matter. The security industry plays an important role in New South Wales as part of the suite of organisations and agencies that contribute to keeping communities safe. The more than 55,000 security licence holders and more than 6,000 master licence holders range from sole traders through to multinational organisations. The industry includes people with access to firearms, sensitive information and sensitive locations and those who are required to maintain order in public places. The organisations and individuals who are involved in the security industry are given considerable access. Accordingly, it is important that suitable and current regulatory arrangements are in place to maintain trust and confidence in the industry and its participants within the wider community. Just as the requirements of security change and adapt to contemporary circumstances, so too must oversight of the industry.

The bill is the result of a review of the current Act by the Security Licensing & Enforcement Directorate and the NSW Police Force. The directorate administers and enforces the Security Industry Act and associated regulation. It is involved in education, probity assessments and security training. It is supported by an advisory council, which provides a forum for exchanging information and ideas between industry practitioners and the police. I am advised that the work of the advisory council, along with recommendations from the NSW Police Force, have formed part of the bill that we are considering today.

The bill makes several amendments to the security industry licensing scheme in New South Wales. These include amendments clarifying provisions of the Act and streamlining processes. It introduces a new penalty regime that has increased penalties for more serious offences. This change, I am advised, follows concerns expressed by the industry that there are no graduated penalties despite the varying impacts that breaches of the Act can have. The bill expands the definition of "crowd controller" to include a broader range of locations where crowd controller activities are being performed. The bill also clarifies that controlling or monitoring the behaviour of persons must be to maintain order. This means that those who may be employed to some extent to control or monitor behaviour with no intent to maintain order are not captured by the amendment.

The bill contains a range of other amendments, which have been dealt with in detail in the other place. I refer members to my colleague Mr Scully's comments on those in the Legislative Assembly. Further amendments relate to the citizenship status of applicants. Currently the Act restricts licence applicants to Australian citizens, permanent residents or holders of certain visa types. This limits the industry and government agencies from seeking global experts in the industry, especially in counterterrorism. The bill amends clause 7 of the Security Industry Regulation 2016 to enable the Commissioner of Police to exempt a person who is not an Australian citizen or a permanent Australian resident from the requirement to hold a class 2A security consultant licence if the commissioner is satisfied the person has specialised skills or experience not readily available in Australia.

The bill also makes amendments to the Tattoo Parlours Act 2012. I am advised that the Opposition has engaged with parts of the industry and that the bill is broadly supported by the legitimate operators in the industry. The amendments in the bill introduce offences relating to altering, damaging or destroying records; providing false or misleading information; conspiracy; and inducing the commission of certain offences. There are still, of course, some concerns from proper operators in this space that more onerous conditions on them, which they are happy to comply with, will not deal with the issue of backyard operators. Nonetheless, as I said, I am advised that the Opposition has engaged with them and people are broadly supportive. On that basis the Opposition does not oppose the bill.

**The Hon. TAYLOR MARTIN (15:07):** On behalf of the Hon. Sarah Mitchell: In reply: I thank the Hon. Tara Moriarty for her contribution. I also note the support of the shadow Minister in the other place. This bill ensures that the Commissioner of Police and her delegates, as industry regulator, are appropriately empowered to keep the industry honest and to make sure that the wrong people do not make their way into the important and critical security industry in New South Wales. These amendments are important in ensuring that the legislation remains effective in maintaining the high levels of probity and integrity across New South Wales. I commend the bill to the House.

**The DEPUTY PRESIDENT (The Hon. Chris Rath):** 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. Sarah Mitchell: I move:

That this bill be now read a third time.

**Motion agreed to.**

## **CRIMES AMENDMENT (MONEY LAUNDERING) BILL 2022**

## **DEDICATED ENCRYPTED CRIMINAL COMMUNICATION DEVICE PROHIBITION ORDERS BILL 2022**

## **LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AMENDMENT (DIGITAL EVIDENCE ACCESS ORDERS) BILL 2022**

### **Second Reading Speech**

**The Hon. TAYLOR MARTIN (15:09):** On behalf of the Hon. Sarah Mitchell: I move:

That these bills be now read a second time.

The Crimes Amendment (Money Laundering) Bill 2022, the Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022 and the Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022 make important amendments to ensure that our law enforcement agencies, the NSW Police Force and the New South Wales Crime Commission have the necessary tools to respond to serious and organised crime here in New South Wales.

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

### **Leave granted.**

These reforms, together with proposed amendments to our proceeds of crime and unexplained wealth laws that will be brought to Parliament in the next sittings, will ensure that New South Wales has some of the toughest and most comprehensive laws to tackle organised crime in the country. These reforms build on our commitment to keep the community safe and confirm we will do what is needed to dismantle organised crime.

The Australian Institute of Criminology has estimated that organised crime cost the Australian community between \$24.8 billion and \$60.1 billion in 2020-21 alone, with prevention and response costs estimated up to \$16.4 billion over the same period. Recent public shootings highlight the need to confront those organised crime syndicates head on. The bills being introduced today target essential enablers of organised crime. They target money laundering operations, improve law enforcement access to digital devices in investigations, and target the use of dedicated encrypted criminal communication devices in connection with serious crime. I now turn my attention to each of the bills.

First, the Crimes Amendment (Money Laundering) Bill 2022 amends the Crimes Act 1900 and introduces some of the most comprehensive anti-money laundering laws in the country. Money laundering allows organised criminals to profit from and spend their ill-gotten gains. Money laundering is not a victimless crime. It is the enabler and lifeblood of organised crime. I am told that serious organised criminal groups are increasingly engaging professional money launderers, who remain at arm's length from the direct criminal activity that generates the criminal proceeds being laundered. That enables money launderers to practise what can only be referred to as a strategic ignorance about the criminal source of the funds, making it very challenging to be successfully prosecuted under the primary money laundering offences in New South Wales.

To shut that down, our offences and penalties are being bolstered to deter would-be launderers. The Crimes Amendment (Money Laundering) Bill 2022 addresses barriers to prosecuting money laundering offences by introducing new offences for dealing with proceeds of general crime. This is necessary following recent court decisions in *Chen v Director of Public Prosecutions (Cth)* [2011] and *R v McKellar (No. 3)* [2014], which have had a significant impact on how primary money laundering offences under section 193B of the Crimes Act are interpreted. Those decisions mean that in order to prove an accused knowingly or even recklessly dealt with proceeds of crime, the prosecution must prove that the accused had knowledge of the type of offence that generated the alleged proceeds of crime. That is despite the operation of section 193F of the Crimes Act, which states that in order to prove that property is proceeds of crime, it is not necessary to prove:

- (a) a particular offence was committed in relation to the property, or
- (b) a particular person committed an offence in relation to the property.

Those court decisions held that this provision only relieve the prosecution of the burden of proving the alleged proceeds of crime were derived from a particular criminal event. That makes successful prosecution very difficult where money launderers practise strategic ignorance to distance themselves from the offending that generates the proceeds of crime. To address this barrier to prosecution, the Crimes Amendment (Money Laundering) Bill 2022 will introduce two new offences for dealing in proceeds of general crime. This is based on recent amendments to Commonwealth money laundering provisions, which introduced proceeds of general crime offences into the Commonwealth Criminal Code.

The first offence in proposed section 193BA (1) in the bill deals with property being reckless as to whether it is proceeds of general crime and intending to conceal or disguise features of the property, carrying a maximum penalty of 15 years' imprisonment. The second offence in proposed section 193BA (3) in the bill deals with property being reckless as to whether it is proceeds of general crime and will carry a maximum penalty of 10 years' imprisonment. Both offences have a minimum \$100,000 threshold that applies to the alleged proceeds of general crime. This threshold is consistent with the financial threshold applicable for the Commonwealth proceeds of general crime offences and demonstrates that these laws are, by design, intended to target serious criminal offending. That is a critical feature of these bills. They are not chasing people who might carry out the occasional cash job; they are clearly aimed at organised criminal syndicates.

The Crimes Amendment (Money Laundering) Bill 2022 defines proceeds of general crime to mean money or other property that is wholly or partly derived or realised, directly or indirectly, by a person from the commission of an offence against a law of any Australian jurisdiction or another country. To provide clarity, proposed section 193BA (2) in the bill provides a non-exhaustive list of factors that may be relevant to whether a person intended to conceal or disguise features of the property. One such factor concerns the identity of a person who has effective control of the money or other property set out in proposed section 193BA (2) (i). It is intended that when determining whether a person has effective control of the money or other property, regard may be given to shareholdings in or directorships of a company that has an interest in the money or property; a trust that has a relationship to the money or property; and family, domestic and business relationships between the persons having an interest in the money or property, or companies or trusts in kind, and other persons. Family relationships are taken to include, for example, relationships between de facto partners.

To be clear, more than one person may have effective control over money or other property. A person may have effective control over money or other property whether or not the person has a legal or equitable estate or interest in that money or property or a right, power or privilege in connection with it. Each case will ultimately be required to be assessed on its facts to determine whether a person had effective control. Section 193F of the Crimes Act will be amended to clarify that in order to prove property is proceeds of general crime, it is not necessary to establish an offence or type of offence was committed in relation to the property. The intention is that property will be considered to be proceeds of general crime if evidence about the property gives rise to the clear inference that it is derived wholly or partly by any person, directly or indirectly, from crime generally. This, coupled with the mental element of

recklessness in the new proceeds of general crime offences, is intended to overcome the difficulties with prosecuting an offence against section 193B of the Crimes Act, arising from the decisions in Chen and McKellar.

The Crimes Amendment (Money Laundering) Bill 2022 will also expand penalties for the offence of dealing with suspected proceeds of crime in section 193C by providing a maximum penalty of eight years' imprisonment for dealing with suspected proceeds of crime valued at \$5 million or more. Proposed section 193C (1AB) provides that where a circumstance of aggravation is present, a person who commits this offence will be liable to a maximum of 10 years' imprisonment. These circumstances of aggravation are a new inclusion in our anti-money laundering legislative framework and have been developed by our law enforcement experts on money laundering offences in the NSW Police Force and the NSW Crime Commission. These circumstances in proposed section 193C (5) in the bill include:

- (a) the person used a position of professional trust or fiduciary duty to commit the offence, or
- (b) the offence was committed in the context of a criminal group, serious crime organisation or serious criminal activity, or
- (c) ... to fund ... terrorism, or
- (d) the person provided finance to enable the dealings ... or
- (e) the offence was committed for the purposes of transferring the value ... out of New South Wales.

In the context of money laundering, these factors signal a higher degree of seriousness and, consequentially, a higher penalty should apply. With regard to professional trust, the intent is to capture those professions that may not necessarily attract a fiduciary duty but, by their very nature, evoke a community expectation or obligation upon the individual to act ethically and do the right thing. The bill will also expand the circumstances that give rise to reasonable grounds to suspect that property is proceeds of crime for the purposes of establishing an offence in section 193C. The NSW Police Force and the NSW Crime Commission have provided advice that the expanded list of circumstances reflects the emerging methods being exploited by criminals and keeps pace with indicators of proceeds of crime. The bill will also make a range of necessary amendments for clarity and operational certainty. It amends section 193A to extend the definition of "deal with" to capture sending or causing to be sent out of New South Wales, including transferring or causing to be transferred by electronic communication. The bill will also update the alternative verdict provision in section 193E to account for the new offences.

The bill also makes amendments in new section 193CB to assist controlled operations where an undercover operative may use police property and represent it to be proceeds of crime to a suspect. Section 193CB of the bill will provide that for the purpose of the money laundering offences where property is represented to be proceeds of crime or proceeds of general crime in the course of a controlled operation under the Law Enforcement (Controlled Operations) Act 1997, that property will be taken to be proceeds of crime or proceeds of general crime irrespective of whether it is or not. This amendment ensures that those who act in bad faith and wilfully do the wrong thing cannot escape legal action based on a mere technicality.

I now move to the Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022. The bill will introduce a new tool for our NSW Police Force and NSW Crime Commission officers that will increase their ability to access digital evidence in connection with search warrants and crime scene warrants in New South Wales. It is a reality of modern criminal investigations that our law enforcement will encounter digital devices of interest when they are conducting searches as part of investigating suspected criminal activity. Unlike hard-copy documents, like a journal or handwritten letters, when such a device is detected, it is not uncommon for these devices to be protected by a password, an access key, Face ID or some other protection.

Currently there are limited options available for NSW Police Force officers to require an owner or person with knowledge of an electronic device to disclose passwords or codes to enable access to that device. Recent legislative amendments at the Commonwealth level that allow New South Wales police to direct a person to provide access to a device apply to New South Wales offences with a Federal aspect but do not apply to purely New South Wales State offences.

To address this, the bill introduces digital evidence access orders. When issued by an authorised officer under the Law Enforcement (Powers and Responsibilities) Act 2002, these orders will authorise certain law enforcement officers to issue directions requiring a person to assist the officer to access the device, such as by providing passwords or other access codes. An offence will apply if a person does not comply with such a direction. The rationale for this is simple. When a warrant has been issued to search a person's premises, our current legal framework already authorises a search of relevant material on a premises, including digital devices. These searches can be frustrated by password-protected devices or other measures that in practice hinder the searches authorised by the warrant. Digital evidence access orders will provide a mechanism for law enforcement to access password-protected or encrypted data located on these devices.

I now turn to the details of this bill. A digital evidence access order application may be made by a New South Wales police officer or an executive officer of the NSW Crime Commission in connection with a search warrant or a crime scene warrant. They are to be made to an "eligible issuing officer" as defined in the proposed amendments to section 46. The type of search warrants where a digital evidence access order can be applied for are outlined in section 76AA. They include all search warrants issued under the Law Enforcement (Powers and Responsibilities) Act 2002 as well as additional search warrants issued under legislation that have relevance to serious and organised crime, including the Confiscation of Proceeds of Crime Act 1989, the Prevention of Cruelty to Animals Act 1979 and the Tattoo Parlours Act 2012.

An application for a digital evidence access order is made in connection with a search warrant or crime scene warrant application as per the requirements outlined in new section 76AB. It is intended that police will have the option of applying for a digital evidence access order for all relevant computers found in a search and can also return to make an application for an order after they have executed a search. Provided the order sought is sufficiently connected with a warrant, they will have an opportunity to make an application to an authorised officer. The order applies to a "computer" defined as "an electronic device for storing, processing or transferring information" under new section 76AA. This definition adopts the same definition as is already applied in the Surveillance Devices Act 2007.

The bill sets out application requirements that are similar to existing processes for obtaining a search warrant. Critically, only an eligible issuing officer has the power to authorise the digital evidence access order. To be clear, it is intended that authorised officers will consider digital evidence access order applications under similar arrangements as they currently consider search warrants. This



means applications will be considered ex parte and are not required to be heard in a court room. In the case of authorised officers who are judicial officers, they will be heard in the personal capacity of the magistrate or judge. There is no age restriction for the issuance of a digital evidence access order. However, section 76AF (2) provides that when the subject of a proposed digital evidence access order is under the age of 18 years old, the application must be accompanied by a document signed by a police officer of the rank of inspector or above authorising the applicant to make the application. This is an appropriate safeguard to ensure additional oversight when dealing with young people. New section 76AM sets out the effect of a digital evidence access order. An order will authorise an executing officer to direct a specified person to:

- (a) give the officer any information or assistance reasonable and necessary to enable the officer to access data held in or accessible from a computer specified in, or within the scope of, the order, or
- (b) give the officer any information or assistance reasonable and necessary to allow the officer to—

copy or convert data to another computer. In general terms, this direction will require persons to assist the law enforcement officer to open a device or to access data on it. In most circumstances, this direction can be simply complied with by providing a password or a PIN code to the officer or otherwise assisting the officer to access the data that is on the device or that is accessible via the device. An offence will apply for a person who does not comply with the order. The penalty associated for noncompliance with the orders is commensurate with the severity of the offence. New Section 76AO outlines that failure to comply with a direction given in accordance with the order will result in a penalty of up to five years' imprisonment. This is consistent with penalties under comparable orders in the Commonwealth, Victorian and Queensland jurisdictions. The penalty also reflects the severity of refusing to comply with a direction issued by an order authorised by an eligible issuing officer.

Section 76AO (2) ensures the risk of self-incrimination will not be a lawful reason to fail to comply with a digital evidence access order. This makes clear that criminals who know they have incriminating material on their device are not given a potential legal avenue to refuse to comply with a direction. We do not abrogate this privilege lightly and it is essential to ensure these orders operate as intended. The bill does not abrogate legal professional privilege. The focus of these provisions is to require a person to give information or assistance to allow a law enforcement officer to access a computer. That information—such as a PIN or fingerprint—is highly unlikely in itself to be subject to a claim of legal professional privilege.

If access is provided to the device, existing protections in relation to legal professional privilege apply to data on the device. The requirements of part 3.10, division 1 of the Evidence Act 1995, as well as existing protocols between the NSW Police Force and the Law Society of New South Wales concerning the application of legal professional privilege claims, will continue to apply to data on these devices in the same way it applies now when police examine computers and other devices under search warrant. Confidential communications between a client and a lawyer that are properly subject to client legal privilege will not be admissible in criminal proceedings unless the privilege has been waived or otherwise lost. There is nothing in the amendments in this bill that intends to affect the existing law in this regard. As is currently the case, the sanctions that apply to the improper use of communications that are subject to legitimate claims of legal professional privilege will continue to apply. These amendments follow suit with numerous Australian jurisdictions and have equivalent powers. A review of relevant provisions under the Act must be conducted by a Minister two years after the commencement date, as per section 237A. This will ensure the policy objectives remain valid and the terms of the relevant provisions remain appropriate for securing the objectives.

I now move to the Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022. Each of the elements in this bill focus on dedicated encrypted criminal communication devices, or DECCDs, which are devices that are specifically developed for use by organised crime groups. These devices are an attractive form of communication to criminals because they utilise high-level encryption and closed-network features and are marketed within criminal networks as being devices that law enforcement cannot monitor using standard surveillance techniques.

Given the role of these devices in facilitating criminal activity, this bill introduces world-leading reforms to deter the use of dedicated encrypted criminal communication devices and give our law enforcement officers the tools to take action when they identify them. This includes a new offence targeting possession of these devices when there are reasonable grounds to suspect the possession of the dedicated encrypted criminal communication device was to commit or facilitate serious criminal activity. It also includes a prohibition order scheme that gives police powerful tools to search certain people for these devices. Both elements rely on a definition of "dedicated encrypted criminal communication device". This is proposed to be introduced into section 192O of the Crimes Act 1900.

Great care has been taken in developing this definition to focus on devices that are developed for and used exclusively by criminal groups. The definition has also been developed with the intent of ensuring that digital devices that make use of standard or industry-specific privacy or security features will not result in criminal sanctions. The New South Wales Government consulted stakeholders on these reforms to ensure that our proposed approach does not unreasonably capture lawful activities by businesses or private citizens and we are grateful for the input of representatives from industries such as the telecommunications industry and the energy industry. Their feedback has been taken on board and considered in the draft bill. Importantly, we are not talking about widely available encryption apps, such as WhatsApp or Signal, that are legally used by many of us on a regular basis.

I turn to the detail of the bill. Schedule 2 to the bill includes the definition of a DECCD and an offence focusing on possession of DECCDs in certain circumstances. Section 192O sets out the definition for a DECCD. First, they must be mobile electronic devices. Second, they must be specifically designed or equipped for use to facilitate communication between persons reasonably suspected of being involved in serious criminal activity to defeat law enforcement detection. Third, they must have hardware modifications or software deployed on the device that modifies the device's factory operating system, whether temporarily or permanently, to block or replace key features usually available on the device's operating system and enables encryption of communication between users. Finally, these devices must be configured in a way that specifically impedes law enforcement access to information on that device.

This definition emphasises the key differentiating features of DECCDs compared to standard devices. These devices have high-level specific features that effectively prevent these devices from operating as a standard phone and have been specifically designed to facilitate serious criminals communicating outside of the standard telecommunications network that is used by all of us every single day. However, to put beyond doubt that this definition does not apply to standard devices, the bill includes an exclusionary clause at section 192O (3) (a). This provides that if a device has certain software or security features and a reasonable person would consider that these features have been applied for a primary purpose other than facilitating communication between persons involved in criminal activity to defeat law enforcement detection then that device is not a DECCD. The intent of this clause is to make clear that persons applying privacy or security settings for legitimate activities, such as genuine business activity, will not be captured by these reforms.

The bill also provides for regulations that can ensure that certain devices can be prescribed as DECCDs and, alternatively, that certain devices are not. Section 192P creates an offence for possession of a dedicated encrypted criminal communication device. A person will commit an offence if the person possesses a dedicated encrypted criminal communication device and there are reasonable grounds to suspect the possession of the device was to commit or facilitate serious criminal activity. A maximum penalty of three years imprisonment will apply for this offence. This new offence will provide law enforcement officers with a new tool to take swift action against criminal groups using these devices in connection with serious criminal activity, which is defined in section 192N as covering committing or obtaining material benefits from a range of offences punishable by imprisonment for five years or more.

There are also a range of features built into section 192P to ensure clarity for police, the courts and the general community. For example, section 192P (2) provides a list of matters that provide guidance as to what may be considered in determining whether there are reasonable grounds to suspect that the possession of the dedicated encrypted criminal communication device was to commit or facilitate a serious criminal activity. These factors have been informed by advice from law enforcement officers and are intended as a non-exhaustive list of the types of matters that may be considered.

The bill also includes amendments to the Law Enforcement (Powers and Responsibilities) Act 2002 to provide a specific access order that can be issued by a magistrate in respect of investigations into suspected DECCD possession offences. This regime is set out in schedule 3 and will form a new part 5A of the Law Enforcement (Powers and Responsibilities) Act 2002. The provisions of the DECCD access order have been developed to ensure that these can be applied for by police officers for the purpose of confirming whether a suspected DECCD device is in fact a device that meets the definition set out in the legislation—something that is not always evident from an external inspection of the device.

The DECCD access order will operate similarly to the digital evidence access order regime. However, there are some specific features for DECCD access orders that are important to point out. First, DECCD access orders can only be determined and made by magistrates. It is intended that this be managed in the same way as a search warrant, and digital evidence access orders are determined by magistrates in their personal capacity. Another key feature is that DECCD access order applications will not need to be in connection with a search warrant. However, they can only be made in respect of a specified person where a police officer has reasonable grounds to suspect that they are in possession of a device suspected to be a DECCD and that the person is committing a DECCD offence and that the making of the order will assist law enforcement in determining whether the device is a dedicated criminal communication device. This is set out in proposed section 80J.

This will focus these orders on situations where a person is suspected of committing a DECCD offence but police require access to the device to determine its status as a DECCD. Section 80M sets out the effect of a DECCD access order. The DECCD access order will authorise a police officer to examine the device to which the order applies and any data accessible from the device to determine whether the device is a dedicated encrypted criminal communication device. The officer will also be authorised to direct the relevant person to give the officer any information or assistance that is reasonable and necessary to enable the officer to access data held or accessible from the device. Again, these powers are expressly focused on determining whether the device is a DECCD or not. They are not intended to provide for broader powers of search of content on the device beyond confirming its status as a DECCD. Should access to the device for other purposes be required by the police officer, the police officer will need to rely on another lawful authority.

The final element of the approach in the bill is the dedicated encrypted criminal communication device prohibition order scheme itself. This scheme is a new order-based scheme that provides police with specific search powers. It will be used in respect of higher risk individuals who should be specifically restricted from accessing these devices. These orders will complement the proposed offence of possession of a dedicated encrypted criminal communication device by providing police with fit-for-purpose search powers without having to return to court for a warrant or a DECCD digital access order. The features of this aspect of the bill are largely modelled on the similar Drug Supply Prohibition Order Pilot Scheme Act 2020.

The DECCD prohibition order scheme will be available for police to apply for in respect of eligible persons. Eligible persons are defined in the dictionary in schedule 1 as adult persons who have been convicted of a serious criminal offence. The serious criminal offences are also defined and include a range of offences that indicate a connection to serious or organised criminal activity. Under the bill, a police officer can make an application for a DECCD prohibition order if they reasonably believe the eligible person is likely to use a DECCD to avoid law enforcement detection of criminal activity. Under new section 12 (1) (b) the authorised magistrate must have regard to the same considerations when determining the application. This will ensure that a DECCD prohibition order is appropriately focused on serious or organised crime activity by capturing individuals with a likely risk of using a DECCD to avoid law enforcement.

If a DECCD prohibition order is issued, police will be provided with specific powers to search a person, their premises, and their vehicle to ensure or determine whether the person is in possession of a dedicated encrypted criminal communication device. These powers are set out in clause 5 of the bill. They are modelled on the types of powers authorised by the similar Drug Supply Prohibition Order Pilot Scheme, but, in this case, they are focused on whether a person possesses a dedicated encrypted criminal communication device. It does not prevent the subject of an order possessing a lawful communication device; for example, a smartphone. The DECCD prohibition order scheme also provides that, when executing a search under the scheme, police officers will have digital access direction powers for the purposes of determining whether a device found in the search is a DECCD. These are set out in clause 6 and are intended to provide a means for the police to determine whether a device identified in a DECCD prohibition order search is in fact a DECCD. Clause 6 (2) provides that that is an offence, with maximum penalty of three years in prison, for failing to comply with a direction under clause 6.

The bill also balances transparency in the application process with operational needs for orders of this kind. Similar to the Drug Supply Prohibition Order Pilot Scheme, these orders can be granted only by an authorised magistrate and last for a maximum duration of two years. Additionally, a police officer of the rank of superintendent or above will have to approve an application being made. This will provide a degree of scrutiny and oversight by a commissioned officer to ensure that the application contains sufficient grounds before they are put to the authorised magistrate for determination. The bill also provides that the subject of an order may apply to the Local Court to have the order revoked. Similar arrangements for revocation of these orders apply as to those which apply in the Drug Supply Prohibition Order Pilot Scheme Act. The Commissioner of Police and the oversight commissioner also may apply to revoke an order.

The powers and offences provided in this bill are innovative world-leading reforms focusing on emerging technology used exclusively by law enforcement. We expect them to send a strong message to organised crime that these dedicated criminal devices are not welcome in this State. One of the aims of these reforms is to stamp out the use of these devices. When police find them, they will

have legislative tools at their disposal to take appropriate action. It will also be a good outcome if these laws disrupt the operations of organised crime and the sorts of devices they use. An opportunity to assess the extent to which the laws achieve these goals—and any other consequences they might have—will arise in the statutory review that is provided for the DECCD reforms after two years of operation. At that time, the Government will be provided a comprehensive review of the impact of the laws on the use of this technology and can consider any necessary updates. I look forward to reading that review and acting on any improvements that we need to make.

This suite of legislative reform is an important step in combatting organised crime in New South Wales. Criminals are constantly adapting and they go to great lengths to hide their crimes. As they adapt, so too must our response. In some aspects, this legislation is a world-leading response and the proposed laws will continue this Government's determination to give our law enforcement officers the tools they need to smash organised crime in this State. I commend the bills to the House.

### Second Reading Debate

**The Hon. TARA MORIARTY (15:09):** I lead for the Opposition in debate on the Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022, the Crimes Amendment (Money Laundering) Bill 2022 and the Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022. I represent the member for Wollongong, and shadow Minister for Police, on two of the bills and the shadow Attorney General, Michael Daley, on the other bill. I appreciate their information and advice to me in dealing with the bills. At the outset, I indicate that the Opposition will support the bills. I am also advised that both the shadow Attorney General and the shadow Minister for Police have been briefed by senior officers of the NSW Police Force and the New South Wales Crime Commission, so I rely on their advice to me.

Over the past couple of years, organised crime has taken a greater hold of Sydney's streets, and even more broadly outside of Sydney. Regular daily media reporting and front-page headlines inform us that gang violence and activity are quite out of control on the streets of Sydney. We have seen that activity manifest itself in a range of areas—including drug supply, fraud, cybercrime and money laundering—and spill over into violence and murder on our streets. Like many other things in modern society, organised crime—which used to take place behind closed doors and in secrecy—now also takes place on digital platforms.

The Australian Institute of Criminology estimated that the cost of serious and organised crime in Australia in 2020-21 was between \$24.8 billion and \$60.1 billion. That is a huge cost in anyone's language and is primarily borne by governments, businesses and individuals. The institute breaks those figures down further into direct serious and organised crimes, which were estimated to cost up to \$37.3 billion, defining those crimes as those that have a clear and direct link with serious and organised crime. Consequential serious and organised crimes were estimated to cost up to \$6.4 billion. The institute noted:

Interestingly, the upper estimate of total direct costs, including consequential costs, of serious and organised crime in 2020-21 (\$43.7b) was only slightly less than the total recurrent expenditure of all government agencies with some responsibility for serious and organised crime control in Australia in the same year (\$45.1b).

That certainly gives some insight into the size of this problem, which has really grown in New South Wales. Police are absolutely doing their best, and we rely on them being able to do the job that we need them to do. But they certainly need more powers, and they have sought the powers in the bills. That is why the Opposition will not oppose them.

I will deal first with the provisions of the Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022. So many other parts of our lives have moved online, and so too has a great deal of organised crime activity. As such, policing and criminal investigations also need to have the tools at their disposal adjusted. An example of the extent and reach of criminal syndicates was the ANOM sting operation. ANOM gave law enforcement agencies and the general public an insight into the size and sophistication of organised criminal activities. Those organisations are no longer local operations; nor are they constrained by borders. They are very large multinational criminal ventures. This bill establishes a legal framework around the devices that people engaging in serious organised crime are using. It seeks to establish and outlaw dedicated devices used by criminals that have been specifically developed to use high levels of encryption and closed networks to avoid detection activities by law enforcement.

Naturally, people's first reaction is to wonder whether that captures their own personal use of encrypted apps on their smartphones, and we are advised and assured that it does not. The bill amends the Crimes Act 1900 to add a definition of a dedicated encrypted criminal communication device, setting a high bar for the types of devices captured by the legislation and, accordingly, by the prohibition orders. A dedicated encrypted criminal communication device needs to be a device that is designed to facilitate communication between people suspected of being involved in serious criminal activity. It is important to note that that test alone means that the provisions of the bill only apply to a well-defined but very small group of people. It needs to have been devised to defeat detection by law enforcement. It needs to use hardware modifications or software on the device that modifies the factory operating system in a way that enables encrypted communication between users. It also needs to be configured in a way that impedes law enforcement.

The proposed meaning also defines what is not captured among those devices. I am advised that considerable care and consideration have been taken to limit the definition to communication devices that are developed for and used exclusively by criminal groups. In addition to a range of matters relevant to the making, use and revocation of prohibition orders, the definition of the devices in question has been crafted so as to clearly not capture the lawful activities of individuals and businesses that are using legal and widely available encryption apps. Along with limits on the nature of the devices, the bill proposes a review of the Act two years after its commencement should it pass both Houses. That is very important because these are new powers.

The bill also establishes the dedicated encrypted criminal communication device prohibition order scheme. That scheme, modelled on the Drug Supply Prohibition Order Pilot Scheme, provides police with search powers intended to be used against individuals who should be restricted from accessing those devices. The prohibition orders will be available for police to apply for against those who have been convicted of a serious criminal offence, which includes serious offences under the Crimes Act, money laundering offences, serious drug offences and offences under the Firearms Act, to name just a few. A police officer will be able to apply for an order if they reasonably believe the eligible person is likely to use a dedicated encrypted criminal communication device to avoid detection of criminal activity by law enforcement. In determining an application, the authorised magistrate must have regard to the same considerations. That is aimed at making sure that a prohibition order is focused on serious or organised crime activity by capturing individuals with a likely risk of using a dedicated encrypted criminal communication device to avoid law enforcement.

If a prohibition order is issued, the police will be provided with specific powers to search a person, their premises and their vehicle to determine whether the person is in possession of a dedicated encrypted criminal communication device. It does not prevent the subject of an order possessing a lawful communication device. With provisions similar to the Drug Supply Prohibition Order Pilot Scheme, orders can be granted only by an authorised magistrate and can last for a maximum duration of two years. It is very important to note that a police officer of the rank of superintendent or above will have to approve the application being made so that there is proper scrutiny at senior levels by commissioned officers to make sure that the powers are being exercised in an appropriate way. The Commissioner of Police and the oversight commissioner may also apply to revoke an order.

I am advised that this bill is targeted at those people who are engaging in the sort of organised criminal activity that is increasingly played out in the suburbs and streets of Sydney and elsewhere, as I have talked about before. Police have a tough job in this space, and we support them. They are seeking more powers to deal with very significant, sophisticated organisations that are able to use those devices to get around current police capabilities and evade capture. We support increasing police powers to deal with those issues, to track that kind of communication and to stop those organisations from operating in the way that they have been. We are happy to support the police with those additional powers.

I turn to the provisions of the Crimes Amendment (Money Laundering) Bill 2022. Money laundering is not a victimless crime. Those who commit these offences need to be stopped. They are serious criminals, sometimes in bikie gangs or other organised crime gangs, and they are involved in drug running, drug peddling, drug cultivation and other serious crimes. They are becoming increasingly sophisticated, and so the law and the methods that are employed must be increasingly sophisticated to match them and, in fact, to better them. It is right that the Government introduces legislation to continue to react to the changing circumstances and environments of crime in New South Wales. Currently, money laundering is dealt with under the Crimes Act in section 193B. The bill introduces a new section to strengthen existing legislation in a way that is long overdue. The Opposition does not oppose the proposed amendment.

Finally, I turn to the Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022. Currently, police in New South Wales have the power to direct a person to provide access to an electronic device when it is discovered in the course of the execution of a search warrant and when New South Wales offences with a Commonwealth aspect are being investigated. Otherwise, the police powers to investigate the contents of encrypted devices in relation to New South Wales offences only are limited. Briefly, the regime proposed under the bill will allow a law enforcement officer to apply to a judge or other authorised person for a digital evidence access order at the same time that they apply for a search warrant.

The effect of the access order will be to require the person on whom the order is served to do all things necessary to allow the officer to gain access to information on the computer, as it is defined in the Act, or, generally, electronic devices that contain information. That will be a legislative mechanism by which law enforcement officers will be able to access password-protected or encrypted data contained on a phone, laptop, computer, iPad or the like. Failure to comply with such a direction would be an offence.

This is an important step forward again in enhancing the tools that the police have in their kit to be able to keep in front of very sophisticated, very dangerous, very organised and very well-resourced criminal organisations. The Opposition is pleased to support their call for additional powers in this regard. We need to

make sure that the police are fully equipped to be able to keep up with this kind of work and to do what we require them to do. I am advised that the Opposition has had detailed discussions with the NSW Police Force and the Crime Commission, as well as the Police Association, and that all of those organisations are supportive. Modern policing needs modern tools to beat sophisticated criminals and their organisations. The Opposition supports the reforms.

**Ms SUE HIGGINSON (15:22):** The Greens oppose the Crimes Amendment (Money Laundering) Bill 2022 and cognate Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022 and Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022. These bills are far-reaching and have the potential to impinge on the legitimate civil rights of residents of New South Wales. The unintended consequences that could arise as a result of these bills are quite extreme.

The Greens were hopeful that the bills could be sent for an inquiry but, unfortunately, many members in this place are perhaps much more concerned with their re-election than with protecting New South Wales residents from unjust legislation that has not been taken for consultation with professional stakeholders external to government. I briefly outline some of the specific concerns that have been identified during our consultation on these bills—consultation that should have been undertaken by the Government.

The Crimes Amendment (Money Laundering) Bill 2022 will provide, amongst other things, a non-exhaustive list of factors that may be relevant to whether a person intended to conceal or disguise features of the proceeds of crime. The Minister identified a few of these in his second reading speech, but I particularly note that regard may be given to shareholdings in or directorships of a company that has an interest in the money or property; a trust that has a relationship to the money or property; and family, domestic and business relationships between the persons having an interest in the money or property or companies or trusts in kind.

The proposed new laws, which carry very heavy penalties, have been written in such a poorly defined way that completely innocent and unaware people could be caught up in and punished for crimes that they had no part in whatsoever. I take the point that the bill is attempting to specifically target organised criminal syndicates. But it seems that the Government has not fully considered the unintended consequences of this approach. If it had, there would have been clear defences or appeal mechanisms in place for innocent persons inferred to have been in possession of the proceeds of crime. But, on these issues, the bill is silent.

The use of amorphous wording in some of the new proposed sections also rings alarm bells for me as a lawyer. Imprecise definitions such as "grossly out of proportion" and "reasonable period" in proposed section 193CA are completely open to discretion and interpretation, and should be fixed so that the true targets of the bill are identified, instead of handing huge discretionary definitions to investigators. I suspect that this section will lead to many arguments being made by lawyers on behalf of both innocent and guilty clients.

I turn to some of the details contained in the Law Enforcement (Powers and Responsibilities) Amendment (Digital Evidence Access Orders) Bill 2022. From a civil rights point of view, access to computers and electronic devices should be a special case requiring a greater level of scrutiny and privacy safeguards than other search warrants. The Minister has described these digital device searches as akin to a safe being opened on a premises that is subject to a warrant. This is manifestly ludicrous. The electronic devices that all of us are carrying on our person right now contain almost every piece of information that there is to be had about us, and everybody else we know—not just ourselves, but our close family and far-flung associates, colleagues and acquaintances.

At the absolute bare minimum, a proportionality requirement should be built into the law so that police can only seek the warrant if they are able to demonstrate that it is necessary to gather evidence that cannot be gathered in some other way, and that the gathering of such evidence is proportionate to the mischief that is being alleged and investigated. Without any protection added to the bill, there is risk of inadvertent discovery of matters not subject to investigation, self-incrimination and the exposure of privileged information—all things that we should be very protective of in this place. Police having ultimate authority over these searches includes the potential for manipulation, blackmail and fraud perpetrated against innocent third parties.

Additionally, the review provisions for this bill under proposed section 237A are far too restrictive considering the radical changes—and overreach—that are proposed. The review will only examine the policy objectives while ignoring the significant potential for wideranging impacts on all kinds of people who may only be casually connected to a person subject to a warrant. I have great respect for the work of the Law Enforcement Conduct Commission, but I am acutely aware of the limitations it faces when investigating police misconduct. If even a small proportion of the potential unintended consequences are realised, then the Law Enforcement Conduct Commission could be swamped and the limited resources it has would become even more inadequate for the vital role it is supposed to fulfil.

Finally, I turn to the Dedicated Encrypted Criminal Communication Device Prohibition Orders Bill 2022. This bill includes a new offence targeting the possession of dedicated encrypted criminal communication devices. However, whether a device is suspected of (a) being a dedicated encrypted criminal communication device or (b) being used for a serious criminal activity is deeply problematic. The variety of crimes that fall under the heading of "serious criminal offence" was the subject of previous complaints by civil liberties groups for casting an unacceptably wide net. The targeting of those who have previously committed offences and have served their sentences is concerning from a human rights and common law perspective, and it has the unintended impact of interfering with all measures and rehabilitation efforts.

The bill also has the potential to be used against activists and protestors. This is deeply concerning under our current law, and there have been recent crackdowns on their activities. We have seen the escalation of criminalising people who are out seeking a better world, and the ambit of "serious criminal offence" would encompass some of the offences that they have been charged with. Today we have seen the commencement of proceedings in the Supreme Court of New South Wales against the rushed, poorly written criminal laws of this Government. There is a constitutional case being taken today by two knitting nannas who were wrongly subjected to ridiculously harsh law and order rules imposed by the Government. These bills are a significant impost on the civil liberties of the residents of New South Wales and are part of the law and order agenda of this dying Government that is in its final throes. The Greens do not support these bills.

**The Hon. TAYLOR MARTIN (15:31):** On behalf of the Hon. Sarah Mitchell: In reply: I thank the Hon. Tara Moriarty as well as the shadow Attorney General and the shadow Minister for Police in the other place for their involvement in, consultation on, agreement with and support for these cognate bills. I thank Ms Sue Higginson for representing the views of The Greens on these bills. I will respond to some of the issues raised. Organised crime poses some of the most serious crime threats to the communities of New South Wales, the effects of which are pervasive and far-reaching. The Australian Institute of Criminology has estimated that organised crime cost Australia between \$24.8 billion and \$60.1 billion in 2020-21 alone, with estimated prevention and response costs of up to \$16.4 billion in the same period. We have also witnessed the effects of serious and organised crime through the brazen violence on our streets, which the Hon. Tara Moriarty mentioned earlier, and farmgongering in our community.

Criminals have adapted to the evolving threat environment and have become more sophisticated in how they undertake crimes. As the threat environment evolves, so too do our law enforcement powers to be able to tackle the crimes. The bills being introduced today target essential enablers of organised crime and ensure that police powers are fit for purpose to tackle the evolving organised crime threat environment. The existing money laundering offence under section 193B of the Crimes Act 1900, which has a maximum penalty of 20 years' imprisonment, requires that the accused knowingly dealt with proceeds of crime or was reckless as to whether they were dealing with proceeds of crime.

An issue with the current primary money laundering offences in section 193B was identified in the decisions of *Chen v Director of Public Prosecutions* and *R v McKellar*. In those two cases, the court found that the prosecution must prove that the accused knew or was reckless towards the type of offence from which the proceeds of crime were derived, meaning that the prosecution must prove that the accused knew that the money was gained through, for example, an armed robbery as opposed to dealing in prohibited drugs or receiving stolen motor vehicles. Powerful circumstantial evidence that the cash was derived from some form of serious criminality was not enough to prove the offence. Money launderers have cottoned on to this and now engage in the practice of "strategic ignorance" to create distance from the type of offence from which the proceeds of crime were derived. Consequently, too many criminal transactions are going unpunished. This has resulted in a situation where the lesser offence is often pursued in court, carrying a much lower maximum penalty of five years' imprisonment. The new offences relating to proceeds of general crime will overcome this barrier to prosecution. The Commonwealth Government introduced similar amendments to the criminal code in 2020-21.

I turn to the part of the cognate bills dealing with dedicated encrypted criminal communication devices. These reforms have been developed in direct response to the level of harm that is being caused in our community by organised crime. It is appropriate that these threats are responded to and that our community feels safe and supported. The aim of the reforms is to address specific enablers that criminals have exploited to facilitate their criminal ventures and to stop them in their tracks. Various aspects of the reforms are modelled on legislation that already exists in other jurisdictions. While the new dedicated encrypted criminal communication devices offence will be the first of its kind in Australia, it has been developed to target a range of serious crimes that are being undertaken through those devices, including drug importation and supply, illegal weapons and even murder. Therefore, it is an appropriate response. It is important to note that the reforms have undergone consultation and have been developed with appropriate safeguards and protections for lawful community members.

This offence is not targeting end-to-end encryption or social media apps that use encryption, as many do. It is targeting dedicated encrypted criminal communication devices that are specifically designed or equipped to facilitate communications between persons suspected of being involved in serious criminal activity. A dedicated encrypted criminal communication device is not the same as common messaging applications that use end-to-end encryption, like WhatsApp and Facebook Messenger. These devices have specific high-level features that effectively prevent them from operating as a standard phone, and they have been specifically designed to facilitate serious criminals communicating outside of the standard telecommunications network.

A dedicated encrypted criminal communication device must be specifically designed or equipped for use to facilitate communication between persons reasonably suspected of being involved in serious criminal activity to avoid law enforcement detection. They must have hardware modifications or software deployed on them that modifies the device's factory operating system, whether temporarily or permanently, to block or replace key features that are usually available on the device's operating system and enable the encryption of communications between users. These devices must be configured in a way that specifically impedes law enforcement access to information on that device, such as having a duress password that wipes the data on the device.

Furthermore, the bill provides that if a device has certain software or security features, and a reasonable person would consider that these features have been applied for a primary purpose other than for facilitating communication between persons involved in criminal activity to defeat law enforcement detection, then that device is not a dedicated encrypted criminal communication device. The intent of this clause is to make clear that for persons applying privacy or security settings for legitimate activities, such as genuine business activity, their device will not be captured by these reforms. I commend the bills to the House.

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** The question is that these bills be now read a second time.

**Motion agreed to.**

### **Third Reading**

**The Hon. TAYLOR MARTIN:** On behalf of the Hon. Sarah Mitchell: I move:

That these bills be now read a third time.

**Motion agreed to.**

### **ANIMAL RESEARCH AMENDMENT (RIGHT TO RELEASE) BILL 2022**

#### **Returned**

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** I report receipt of a message from the Legislative Assembly returning the bill with amendments.

**The Hon. EMMA HURST:** I move:

That consideration in Committee be set down as an order of the day for the next sitting day.

**Motion agreed to.**

### *Committees*

#### **MODERN SLAVERY COMMITTEE**

##### **Chair and Deputy Chair**

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** I inform the House that at a meeting held on 13 October 2022, the Hon. Greg Donnelly was elected Chair and Dr Joe McGirr was elected Deputy Chair of the Modern Slavery Committee.

### *Bills*

#### **CRIMES (ADMINISTRATION OF SENTENCES) AMENDMENT (NO BODY, NO PAROLE) BILL 2022**

##### **Second Reading Speech**

**The Hon. PETER POULOS (15:40):** On behalf of the Hon. Natasha Maclaren-Jones: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. The New South Wales Government is committed to upholding strong parole laws so that the

families and communities of New South Wales are kept safe. This involves listening to the people of New South Wales and meeting their expectations when it comes to releasing offenders on parole. Whether or not an offender convicted of a homicide offence has disclosed the location of their victim's remains is already one of the considerations that the State Parole Authority [SPA] must take into account when determining whether it is in the interests of community safety to make a parole order directing the release of an offender on parole.

However, this provision can be tougher. While this provision, contained in section 135 (3) (e) of the Crimes (Administration of Sentences) Act 1999, or CAS Act, already provides a framework for considering the degree of an offender's cooperation in locating remains, it ultimately leaves open the possibility that an offender may still be released on parole even though they have refused to disclose the location of their victim. The bill will introduce stronger "No body, no parole" laws in New South Wales, similar to those already found in a number of other Australian jurisdictions. This will be achieved by removing the SPA's discretion to grant parole unless the relevant offender has cooperated satisfactorily with authorities to identify the location of their victim's remains.

The bill recognises the pain and ongoing suffering experienced by victims' families and friends who have not only lost a loved one but are unable to locate their remains and put them to rest. The uncertainty of not knowing the location of a loved one's body is extremely distressing and creates ongoing trauma for victims' families and friends. The intention of the bill is to incentivise offenders convicted of a homicide offence to disclose the location of their victim. By incentivising cooperation, the bill aims to increase the likelihood of finding remains in the hope that this may offer some degree of finality or closure to those close to the victim. The bill will help the families and friends of victims get the closure that they deserve.

I turn to the detail of the bill. The bill will amend the CAS Act by repealing section 135 (3) (e) and introducing new section 135A. This provision will apply to an offender who is serving a period of imprisonment for a homicide offence and when some or all of the remains of the victim or victims have not been located. For the purposes of the section, "homicide offence" is defined to capture serious offences which may involve missing remains—that is, murder, manslaughter, infanticide, assault causing death, conspiring to commit murder, and accessories after the fact to murder. Under the new section 135A, a parole order must not be made unless the SPA is satisfied that the offender has cooperated satisfactorily in investigations or other actions to identify the victim's location. This cooperation may occur either before or after the offender was sentenced to imprisonment for the offence.

New section 135A (4) requires that the Commissioner of Police provide the SPA with a written report which states whether the offender has cooperated and an evaluation of that cooperation, including the nature, extent, timeliness, truthfulness and usefulness. The Commissioner of Police must provide the SPA with the report at least 28 days before the SPA proposes to make a decision about parole. New section 135A (5) provides that, in making a decision regarding an offender's release on parole, the SPA must consider the report from the Commissioner of Police and any information available about the offender's capacity to cooperate and may also consider other relevant information. New section 135A (7) ensures that the provisions extend to offenders who are serving sentences in New South Wales but who committed their offences interstate.

The bill also amends section 160 of the CAS Act to make clear that the requirements in new section 135A—that is, for an offender to satisfactorily cooperate in attempts to locate a victim's remains—also apply where the making of a parole order is being considered by the SPA due to exceptional circumstances, such as where the offender is dying or for other exceptional extenuating circumstances. I note, for completeness, that new section 135A applies to parole decisions made by the SPA for offenders serving prison sentences of more than three years, and not statutory parole—being parole ordered by a court. In cases of statutory parole, the offender's total sentence is three years or less and release on parole is typically automatic when the non-parole period finishes. When an offender's total sentence is more than three years, the offender can only be released on parole if the SPA approves their release on the basis that it would be in the interests of community safety to do so, having regard to a number of mandatory considerations. It would rarely, if ever, be the case that an offender convicted of a homicide offence where remains remain undiscovered would receive a sentence of less than three years.

The bill will also insert savings provisions with the introduction of a new part 28 into schedule 5 to the CAS Act. New part 28 of the Act will make clear that new section 135A will also apply to offenders convicted or sentenced before or after section 135A commences, and to parole matters currently being considered by the SPA. This is to ensure that offenders in prison who may soon be eligible for parole but have refused to cooperate in locating their victim's remains are captured by the new provision. Finally, I note that the remaining considerations in section 135 of the CAS Act will continue to apply. This means that cooperation in locating remains is required, but is not, of itself, sufficient for a grant of parole to be made by the SPA.

Section 135 contains a range of mandatory considerations to be taken into account by the SPA when determining whether it is in the interest of community safety to grant parole to an offender, even when that offender has cooperated to locate a victim's remains. For example, before granting parole, the State Parole



Authority must also consider the risk to the community, the impact on victims and victims' families, the offender's criminal history, any reports in relation to the granting of parole and any other relevant matters. These strict "no body, no parole" reforms will strengthen our current legislative framework in relation to parole and send a clear message to offenders that, in order to be released into the community on parole, they must cooperate in assisting to locate their victims' remains.

This bill has been carefully drafted to strike the right balance between the rights of offenders to parole and the rights of victims and their families to recover the remains of their loved ones and receive the closure that they deserve. It provides offenders who are approaching eligibility for parole with the opportunity to be released into the community provided they have cooperated satisfactorily. However, the law will allow no leniency where an offender does not cooperate satisfactorily. The bill reflects that protecting the families and friends of victims from further trauma is the paramount concern.

As I have outlined, the bill incentivises offenders to disclose the location of the remains or body of the victim. The bill gives victims dignity and respect. The bill helps families and those close to the victim get the closure that they deserve. The bill reflects community sentiment and meets the expectations of the community. I commend the bill to the House.

### Second Reading Debate

**The Hon. TARA MORIARTY (15:51):** I lead for the Opposition in debate on the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. The Opposition does not oppose the bill. Certainly we support the intent of the bill to provide a stronger incentive to offenders to disclose the location of a victim's remains and further assist families of homicide victims to get closure by giving them every opportunity to lay their loved one to rest. This bill will bring New South Wales into line with other States and Territories in Australia. Stronger laws to incentivise those convicted of homicide offences to comply with the law and identify the location of their victims, if they have not done so already, is an overdue change.

It is important to understand the bill in the context of our parole system. "Parole" refers to the conditional release of an offender from custody to serve the balance of their sentence in the community after serving the minimum term of their sentence. Parole is a privilege not afforded to all. If an offender is on parole, they may be required to meet conditions to ensure the safety of the community. Breach of those conditions could result in an offender being returned to custody. In New South Wales an offender can be released on parole in two ways. The first, for sentences under three years, is under a statutory order. The second, for sentences of more than three years, is by order of the State Parole Authority. Offences involving the death of a victim whose remains are not recovered due to a lack of cooperation by the offender will most likely involve a sentence of more than three years and, therefore, require a State Parole Authority decision for parole to be granted. The bill deals specifically with the latter of those orders—an order of the State Parole Authority.

The objective of the State Parole Authority is to act in the interests of the wider community and to keep us safe. It is an independent body governed by the Crimes (Administration of Sentences) Act 1999. Under section 135 of that Act, the authority cannot decide to release an offender on parole unless it is satisfied that it is in the interests of community safety. Section 135 stipulates several mandatory considerations that the State Parole Authority must consider when determining parole. One of those, specified in section 135 (3) (e), is the failure of the offender to disclose the location of the remains of a victim. While that is a consideration, it is still within the State Parole Authority's discretion to grant parole, irrespective of whether the offender assists in locating or reveals information about the location of a victim's remains. The bill seeks to amend that section.

While section 135 (3) (e) of the Act provides a framework for considering the degree of an offender's cooperation in locating remains, it leaves open the possibility that the offender may be released on parole even if they do not disclose their victim's location. The Opposition does not oppose the new provision that seeks to make it tougher for an offender to gain parole under these conditions and circumstances. The bill replaces section 135 (3) (e) with new section 135A, which removes the discretion currently given to the State Parole Authority to grant parole to an offender convicted of homicide in circumstances where the remains of the victim have not been found unless the relevant offender has cooperated satisfactorily with authorities to identify the location of the victim's body.

For the purposes of the new section, the definition of "homicide" will capture all serious offences which may involve missing remains: murder, manslaughter, infanticide, assault causing death, conspiracy to commit murder and being an accessory after the fact to murder. New section 135A will apply to an offender who is serving a period of imprisonment for any of those homicide offences in which some or all of the remains of the victim or victims have not been located. New section 135A (7) will ensure that the provision extends to offenders serving sentences in New South Wales who committed their offence interstate.

In deciding whether an offender has satisfactorily cooperated, new section 135A (5) requires that the State Parole Authority consider a written report provided by the Commissioner of Police under new section 135A (4) as to whether such cooperation has occurred and to what extent. The bill also amends section 160 of the Act to make it clear that requirements in new section 135A—that is, for an offender to satisfactorily cooperate in attempts to locate a victim's remains—also apply when the State Parole Authority is considering making a parole order in exceptional circumstances, such as when the offender is dying or in other exceptional, extenuating circumstances.

It is important to note that all remaining considerations in section 135 of the Act will continue to apply, which means that cooperation in locating remains is required but is not of itself sufficient for a parole authority to grant parole. Section 135 contains a range of mandatory considerations to be taken into account by the State Parole Authority when determining whether it is in the interests of community safety to grant parole, even when that offender has cooperated to locate a victim's remains. An offender's criminal history, risk to the community and impact on victims are all considered holistically by the State Parole Authority when determining the granting of parole.

When the bill was introduced, the Opposition publicly stated that we support its intent in principle but that we would need to consider the detail, which we are doing in the Chamber today. Since the introduction of the bill in the other place on 21 September, we have been able to examine the detail and engage with key legal bodies and other stakeholders across New South Wales, whose views I want to place on record. Pretty much all of the New South Wales key legal bodies are opposed to the bill. We have heard and acknowledge their concerns, particularly their concerns about the lack of consultation on the bill. The bill proposes significant changes to eligibility for parole under the Crimes (Administration of Sentences) Act.

Again, the intent of the bill is important. The Opposition is on the side of victims and will stand with victims and their families to make sure everything can be done to incentivise offenders to detail and disclose the location of their victims, if they have not already done so, so that loved ones can have peace of mind and lay their loved ones to rest. It is important that we work in a bipartisan way to ensure that everything is done to make that happen. I cannot imagine the torture that family and friends of loved ones who have lost their lives in this way would feel as a result of not having knowledge or even proper confirmation of the death of their loved one or the ability to lay them to rest. It is important, and we are happy to work in a bipartisan way to do everything we can to incentivise offenders to provide that information. However, it is a significant change to the Act. There have been 12 years of this Government, but this bill has been rushed through in the past couple of weeks, without consultation. I am not sure I understand why that is the case. This is a serious change. There should have been proper consultation.

I understand that sometimes these things need to be dealt with in quick time, but we do not want—by accident or because things were not worked through in the right way—the reverse of what we are seeking with the best of intentions to occur. We do not want a situation of false hope or for people whom we are trying to incentivise to provide information to instead provide false information or do the wrong thing to create further angst for their victims' loved ones. We would have preferred that this be dealt with in a different way, particularly with the time this Government has had to consider it. I note the concerns of legal organisations across New South Wales and am happy to continue to work with them on these issues. Nonetheless, the Opposition will not oppose the bill.

**The Hon. ROD ROBERTS (16:00):** On behalf of One Nation, I contribute to debate on the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. I congratulate the Government on bringing forward a bill of this nature. I believe that it is well intended and the motivation honourable. Any attempt to alleviate the suffering of loved ones grieving the loss of someone close to them should be applauded. To be able to lay the deceased to rest in an appropriate manner may help provide closure to the bereaved. One Nation will not oppose the bill, but I take this opportunity to place on record the concerns it has with this bill as it is today.

For me to stand here with my background, which I will not go over because everybody is well aware of it, and raise concerns about a law and order bill will tell you how poorly drafted this particular piece of legislation is. This bill is an example of a rushed, hastily prepared piece of legislation. This bill, if passed—and clearly it will pass—will have very serious implications on the sentencing and custodial arrangements of those convicted of certain prescribed offences. The purpose of parole is to release those who have done their terms of imprisonment back into the community in a supervised manner, and to promote community safety by supervising and supporting the conditional release and re-entry of prisoners into the community, thereby reducing the risk of reoffending.

Parole was never intended to be used as a carrot to coerce a convicted person to cooperate with authorities. It should be noted that there is already a provision in the Act that the State Parole Authority is required to take into account when considering parole. That is whether the offender has failed to disclose the location of the remains of a victim, if applicable. Of note is that legislation similar to this bill is in operation in other States. Unfortunately, it has been far from successful. A 2022 study on Queensland laws found that six of 10 applicants

for parole were found to have cooperated satisfactorily, but no bodies have ever been found in any of the cases. Our fear is that this will be replicated in New South Wales and lead only to false hope being held out to already grieving families and loved ones.

I go back to the carrot I mentioned. Who would ever think that I of all people would be sticking up for the rights of a murderer? But I must say this bill severely impacts upon the common law right to silence. This is one of the core principles or pillars of the criminal justice system. Any incriminating evidence an accused gives must be provided voluntarily. It must be free from any inducement, threat or promise. This bill severely breaches this tenet. To offer the opportunity for parole only if the prisoner cooperates is a clear breach of this common law right.

The course of justice is further muddled when the parole board takes into consideration any information that would lead to the discovery of the victim's body. This becomes clear when one looks into laws regulating the sentencing process. Leniency is already available to offenders under section 23 (1) of the Crimes (Sentencing Procedure) Act 1999. This could lead to imposing a sentence that would be less lengthy compared with a sentence imposed when the offender is uncooperative from the outset. If an offender does not provide assistance to prosecutorial authorities, he or she will not receive this leniency. The point here is a very simple one: This consideration has already been taken into account in the sentencing procedure.

I will turn it back into common man's terms and give an example. If I was to appear before a judge, having been convicted of murder, and having showed no contrition, no remorse or no cooperation whatsoever with any of the authorities, and having pleaded not guilty all the way through, the good chances are that I will receive an extremely heavy sentence, as compared to an offender being dealt with on similar facts who shows contrition and remorse and cooperates with authorities. He will receive for his contrition a lesser sentence to start with. So what we have here is a form of double dipping, where somebody will be punished twice under the system by having the opportunity of parole not offered. The judge has already taken this lack of contrition and remorse and assistance into account in the original head sentence. It is with the judge, when passing sentence, where the discretion for leniency is best placed and where it already exists under the existing legislative framework.

New section 135A effectively grants the parole board a power to additionally punish the offender for not cooperating at levels it believes to be satisfactory, which is a problematic term I will come to shortly. It must not grant parole if it is not satisfied of cooperation. Let us look at the extremely vague and ambiguous test of "cooperated satisfactorily". While new section 135A (4) outlines a list of factors that the Commissioner of Police must consider in the evaluation of the cooperation, which includes, inter alia, the nature, the extent and the timeliness of such cooperation, the bill fails to provide any definition whatsoever for "cooperated satisfactorily". Without more concrete guidelines, this will invariably result in a subjective, not objective, evaluation being made.

Again, let us go back to a common man example and explanation of this. Say that I commit a murder, take the body and dump it at sea. I do not know where. I just tip it overboard. Unlike Roger Rogerson, I am smart enough to weigh it down so that it does not float back up to the surface. It goes to the very bottom. My ruse comes undone, and I am caught by the police. I tell them, in an attempt to get parole at some stage, that I took the body and I dumped it out at sea. I do not know where. I did not take a GPS plotter with me. I went out through Sydney Heads for 10 minutes and tipped it overboard. What are the chances of that body ever being located? Have I cooperated satisfactorily? I suggest that I have, but there is no body. What does "cooperated satisfactorily" mean? Or let us say that I did in fact tip the body there, but I am just a crook. We must remember that we are not dealing with normal members of society; we are dealing with people who commit murders. They do not think like you and me.

We recently discussed a bill relating to organised crime and bkie gangs. We know about the shootings that take place in our streets. These are not normal people. So what if they try to game the system? When caught, they say, "Yeah, okay. I want to cooperate. I want to tell you where the body is. I want to gain parole." And they tell the same story, "I took it out to sea and dumped it out there." How would you prove otherwise? They have cooperated satisfactorily, they have said all they know. Are they going to be eligible for parole? Who knows? Because this legislation does not say what "cooperated satisfactorily" actually means. So anybody could say that. Let's have a look at another real-life example. I decide I want to become leader of One Nation. Some honourable members may suggest that it is only a matter of time. But I have the obstacle of my existing leader standing in my way. So I decide that the only way I am going to get leadership of the party is to get rid of Latham.

**The Hon. Shayne Mallard:** Make him run again.

**The Hon. ROD ROBERTS:** Rather than put him through that torture, I decide I will just have him knocked. So I engage a hitman, who goes under the pseudonym of Taylor Martin. I say to Taylor Martin, "Here's a photograph of Latham. Here's the registration number of the car he drives. Here's where Latham lives. Knock him. Here's 100 grand for your trouble. See you later. I don't want to know how you knock him. I don't care how

you knock him. Get rid of him. I never want his body found again. Do that." So Martin does it. Latham is murdered and disappears off the face of the earth, never to be seen again.

Unfortunately, our ruse comes undone, obviously due to Martin because I would not be silly enough to make any mistakes. Martin brings us all undone. Next thing, I am charged with murder. I get sentenced, I get convicted. Later, "Roberts, you're up for parole. Where is the body?" I say, "I don't know. I've cooperated. I've pleaded guilty. I've told you my co-offender was Taylor Martin. I've told you I paid 100 grand for it. In fact, if you have a look at my banking records, you can see the 100 grand go out. I told him where he lived, I told him the address, I told him everything. I'm cooperating, but, mate, I do not know where the body is. I have absolutely no idea. I told him, 'I don't even want to know how you killed him, let alone where you put him.'" I have cooperated satisfactorily, but I do not know where the body is. Should I be eligible for parole or not? I suggest I should. I have cooperated satisfactorily, but there is no body.

**The Hon. Shayne Mallard:** Where is Mark now?

**The Hon. ROD ROBERTS:** Where is Mark? You need to speak to Taylor Martin. Do members see where I am coming from? People who have had no real-life experience in dealing with crooks and crime try to write legislation without consulting others. These are my concerns. As I said, we will not oppose the bill because it is well intentioned. But, by God, there are a lot of mistakes in it. Let me give another example. Minister Lee and his team, in their haste to prepare this bill, have omitted a crime. In their list of crimes, they have omitted section 25C of the Crimes Act. I will explain section 25C and we will see how silly this bill is for leaving it out. Section 25C relates to the supply of drugs causing death. I know that section 25C makes an exemption by stating that section 18 does not apply. Section 18, for those who do not know, defines murder and manslaughter. But hear me out. Section 25C says:

- (1) A person is guilty of an offence under this section if—
  - (a) the person supplies a prohibited drug to another person for financial or material gain, and
  - (b) the drug is self-administered by another person (whether or not the person to whom the drug was supplied), and
  - (c) the self-administration of the drug causes or substantially causes the death of that other person.

The maximum penalty is imprisonment for 20 years. I will give another example, and I will pick on poor old Taylor Martin. I am an evil drug supplier, I supply heroin.

**Ms Sue Higginson:** Not me again!

**The Hon. ROD ROBERTS:** No, I am leaving you out. You are just a cannabis user, we know that. Taylor Martin is the heroin user; I am the baddie. I supply heroin to Taylor Martin. Taylor Martin takes the heroin, we happen to be sitting in my lounge room, and he dies from the use of heroin that I provided. I certainly now fall within section 25C, and I think, "Jesus, if I get caught here, I am liable for 20 years." So what do I do?

**The Hon. Shayne Mallard:** Dump the body.

**The Hon. ROD ROBERTS:** I take Taylor Martin somewhere and I dispose of him. I dispose of the body. If I get caught by the police, guess what? I do not fall under this section. They cannot hold me back from parole under this legislation because in the Government's haste to develop this legislation, it left this off the plate completely. We see that there are issues when it is done in haste. Bills that are prepared hastily always end up in trouble. I believe that every bill that leaves this Parliament should be perfect and in the best condition we can make it. One Nation will not oppose the bill. Clearly, the numbers are here to pass it. But we have placed on record our concerns. Ultimately, the proposed law moves dangerously down the path of punishment by Executive determination. This is not a trend in jurisprudence that we would encourage in a free society based on the rule of law.

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** I am pleased the Assistant President does not want the deputy presidency.

**The Hon. EMMA HURST (16:15):** On behalf of the Animal Justice Party, I speak in opposition to the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. I state at the outset that the Animal Justice Party acknowledges the extreme distress experienced by the families of homicide victims and the importance of alleviating their suffering and providing closure, wherever possible. However, we are deeply concerned that the bill in its current form will not achieve this outcome. There are several issues with the bill, which appears to have been rushed through with little consultation and is not supported by experts in criminology and law.

A major concern is that the bill would bear most harshly on people who are wrongfully convicted. Though our criminal justice system seeks to operate at the highest level, it is still inherently flawed. Evidence is often

found to be misleading, improper, incorrect, subject to coercion or simply false. As criminologists have pointed out, we have no idea how many people are wrongfully convicted in Australia each year. What is known, however, is that wrongfully convicted people, who are already subject to significant harm in the criminal system, would be further punished by the bill. The bill would provide no leniency for people who are unable to provide information about the location of a victim's body or remains. This presents an impossible situation for wrongfully convicted persons.

As for those who are responsible for their crimes, the bill bluntly presumes an ability to provide information and ignores the complicated reasons that could prevent someone from cooperating with police to a degree that is considered satisfactory. We heard many examples by the Hon. Rod Roberts. By way of further example, these reasons could arise from psychological or psychiatric conditions or with the ability to cooperate potentially affected by age, memory, social dynamics, coercion and fear. Further, the bill in its current form captures people who may not have direct knowledge of the location of a victim's body or remains, such as those offenders imprisoned for extended joint criminal enterprise or accessorial liability. The bill disregards these complexities and reduces the State Parole Authority's discretion in a significant way.

The Animal Justice Party also notes that existing legislation already provides a sufficient framework for considering an offender's cooperation in locating remains. Section 135 of the Act already provides that the State Parole Authority must not make a parole order unless it is satisfied that it is in the interests of the safety of the community. One of the factors it must consider is whether the offender has failed to disclose the location of the remains of a victim. There is no evidence to suggest that this current regime is not working. To the contrary, there is evidence that the measures proposed in the bill do not translate to increased cases where victim remains are found. Studies of "no body, no parole" laws in Queensland have shown that no victim remains have been found as a result of these laws. Instead, the laws have been described as offering false hope to the families of homicide victims.

"No body, no parole" laws have been found to undermine the purpose of parole and, as a result, increase the risk to community safety. Parole is designed to ensure community safety by reintegrating offenders into society under supervision. In this way, parole serves a vital function in providing supervised and supported opportunities for offenders to transition back into the community. Evidence shows that offenders who complete a period of parole are less likely to reoffend. These positions are supported by the New South Wales Bar Association, which concluded in a letter to the New South Wales Government:

... the Bill was introduced with unnecessary haste and without any apparent prior consultation with stakeholders with directly relevant legal expertise and experience. The Bill is another disturbing example of rushed legislative reform. As currently drafted, it represents a significant change to the role of the State Parole Authority in determining parole for homicide offenders and undermines the fundamental objective of parole to support community safety.

The Animal Justice Party agrees with this conclusion. I urge all honourable members to join the Animal Justice Party in opposing the bill.

**Ms SUE HIGGINSON (16:19):** I speak on behalf of The Greens in debate on the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. I, like other members, acknowledge deeply the suffering of families and loved ones of victims of homicide that is worsened by the inability to lay their loved ones to rest—that is, where there is no body. The pain would be unimaginable and the compounding trauma, unforgettable. However, The Greens cannot support this bill. Frankly, the way the Government has introduced the bill—under the guise that it will help those very people—is really galling, especially when clear evidence has been presented that the bill will not do what it seeks to do.

Members have heard it from the Hon. Rod Roberts and the Hon. Emma Hurst. They have heard it from the experts in the community who know what good and bad laws look like. And they will hear it from me. The bill is one in a series of rushed law and order measures that have been introduced without proper consultation with relevant legal experts or even with forensic psychiatrists. We need to talk to those experts when dealing with these sorts of people in these sorts of circumstances in relation to these sorts of crimes. We need to speak to them to understand whether legislation like this would have meaningful effect. If such input is sought, then it will be clear that this legislation will not work and will, in fact, have an array of unintended consequences.

The bill amends the Crimes (Administration of Sentences) Act to provide a presumption against the granting of parole to an offender serving a term of imprisonment for homicide where the victim's body or remains have not been located. The presumption may be displaced where the State Parole Authority is satisfied that the offender has satisfactorily cooperated in locating the victim's body or remains. As currently drafted, it represents a significant departure and change to the role of the State Parole Authority in determining parole for homicide offenders. In fact, it undermines the fundamental objective of parole to support community safety with a focus on the rehabilitation of the offender.

The evidence suggests that the bill in its current form will not increase the likelihood of locating the bodies of homicide victims and, therefore, will not provide closure to families and loved ones. The Minister pointed to the other jurisdictions that already have similar legislation in place in his second reading speech. As the Hon. Rod Roberts expressed, the experience and evidence of those jurisdictions do not indicate that the "no body, no parole" laws work. In fact, if the Government had consulted with key expert stakeholders, particularly the Bar Association, it would know that no further remains have been located as a result of these laws in other States. There is some loose anecdote about one possible circumstance, but it is uncorroborated and unsubstantiated. The overwhelming evidence is that similar laws have not worked in other States. It is galling the Government would go down this path in the face of that evidence without trying something better.

Families who have dealt with the pain and suffering of losing a loved one are now set to be delivered nothing but some false hope by way of this legislation. When my office asked the Minister's office if any consultation had been done with the families of victims in developing the legislation, the answer was that the only evidence it had that families were supportive was a media interview with the grieving family of Lynette Dawson, welcoming it after it was announced. While I extend my deepest sympathies to that family, I do not wish at all for a family that has already suffered so much for so long to be given any kind of false hope that this bill will increase the chances of them finally being able to lay their loved one to rest. It will not. That is also the fear of the Bar Association, which claims, based on the interjurisdictional experience, that the bill will hold out false hope to families and associates of victims.

The bill does not grapple with the matters it should, such as the reasons those offenders who do know the whereabouts of a body may not disclose that information. It is complex and includes considerations arising from psychological and psychiatric conditions. The broad definition of "homicide" also means that the provisions will apply to those imprisoned on the basis of extended joint criminal enterprise or accessorial liability. A blanket presumption against parole that fails to acknowledge these complexities may be entirely ineffective in prompting disclosure or be unable to result in any disclosure. The Government really needs to pull it back. It needs to stop rushing law and order bills that have real, negative impacts on our justice system as a way of capitalising on a media moment.

This tougher approach is brutal. The Government has to stop calling a couple of shock jock radio comments "community expectations". It is out of control. How does the Government know what the community expectations are if it has not consulted with relevant members of the community? In the absence of comprehensive, meaningful consultation, it is impossible to consider this legislation as strong or necessary reform. Should the bill pass, the law will still be around after the Coalition loses government at the next election, and the stakeholders who have not been included will still be dealing with the consequences. On those grounds, The Greens oppose the bill. However, in the Committee of the Whole we will move amendments to try to make it a little better than it currently is, because we do care, and we would like a better system and a law that actually works.

**The Hon. CHRIS RATH (16:26):** I welcome the opportunity to speak in debate on the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022, which strengthens and improves our parole laws in New South Wales. With the introduction of this bill, it will no longer be possible for an offender convicted of a homicide offence who does not assist efforts to locate the remains of their victim to be released on parole. Our parole laws in New South Wales already take into account the cooperation of offenders in locating their victims' remains. Section 135 of the existing Crimes (Administration of Sentences) Act 1999 requires the NSW State Parole Authority, when determining whether it is in the interest of community safety to release an offender on parole, to consider whether that offender has disclosed the location of their victim's remains. However, the current framework ultimately provides the State Parole Authority with the discretion to decide whether to release an offender on parole even if they have refused to disclose the location of their victim.

Other jurisdictions throughout Australia have adopted a tougher approach. In Victoria, Queensland, the Northern Territory, South Australia and Western Australia, stricter "no body, no parole" laws are in place, which prevent the release of an offender into the community unless they have assisted or cooperated to locate their victim's body. The amendments in this bill now set out a stronger approach for New South Wales. The bill draws upon the various "no body, no parole" frameworks across jurisdictions—the Queensland and Victorian models in particular—and establishes a comparable model that has been carefully refined to fit within the parole framework in New South Wales.

The bill introduces the following key changes to the Crimes (Administration of Sentences) Act 1999 to give effect to the "no body, no parole" policy in New South Wales. With the introduction of new section 135A of the bill, the State Parole Authority will no longer have the discretion to release an offender on parole unless it is satisfied that the offender has cooperated to a satisfactory extent with authorities in locating the body or remains of victims. Where the offender has not assisted satisfactorily in efforts to locate the remains, a parole order must not be made. New section 135A (4) states that prior to a parole decision being made, the Commissioner of Police

must provide the Parole Authority with a report outlining whether and to what extent an offender has cooperated in efforts to locate the victim's remains. New section 135A (5) provides that in making a decision about parole, the Parole Authority must consider that police report and the offender's capacity to cooperate, and may consider any other relevant information.

As well as capturing offenders who commit their crimes in New South Wales, the new provisions will also apply to offenders incarcerated in New South Wales who committed their offences interstate. Under section 160 of the Act, the Parole Authority has the power to make a parole order directing the release of an offender who would not otherwise be eligible for parole if the offender is dying or if other exceptional extenuating circumstances exist. The bill amends section 160 to make it clear that even in those situations, homicide offenders who have failed to cooperate in disclosing the locations of their victims will not be eligible for parole. By doing so, the bill provides the strongest possible incentive for offenders to disclose the remains of their victims.

Finally, part 28 of the bill will ensure that the new provisions will apply retrospectively to offenders sentenced before and after new section 135A commences, as well as to parole decisions that are currently on foot. That will ensure that offenders who have already refused to cooperate in locating their victims' remains are captured by the requirements of the bill. Alongside the amendments introduced by the bill, the Parole Authority will still be required to decide whether releasing an offender on parole would be in the interests of the safety of the community, having regard to the various mandatory considerations set out in existing section 135 of the Act. Those considerations include the nature of the offence, the offender's criminal history and the impact on any victim and their family. This welcome reform will strengthen our parole laws in New South Wales by appropriately dealing with offenders who refuse to disclose the location of their victims' remains. I commend the bill to the House.

**The Hon. TAYLOR MARTIN (16:32):** I speak in favour of the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. This very important bill will give effect to the policy that is colloquially known as "no body, no parole" here in New South Wales. It will no longer be possible for offenders convicted of homicide offences to be released into the community on parole unless they have cooperated satisfactorily in an investigation to locate the remains of their victim. If not, they will serve the remainder of their sentence in prison. This reform has been welcomed by the wider community, particularly the loved ones of victims of homicide.

The "no body, no parole" reform recognises and responds to the immense suffering experienced by the loved ones of homicide victims whose remains have not been located. Withholding the location of a victim's body or remains causes prolonged suffering for the families and friends of victims, who are unable to say goodbye, to put their loved ones to rest and to find closure. It is a final indignity for friends and family who have already experienced the trauma of losing a loved one as a result of violent crime. The purpose of the bill is to encourage offenders who have been convicted of a homicide offence to disclose the location of their victim and to assist authorities to recover them. The reforms will provide a strong incentive for offenders to cooperate, as it will be the only means by which they can then be released on parole. The bill is intended to assist in locating the remains of even more victims of homicide-related crimes and to bring some degree of comfort and closure to those families.

Victoria, Queensland, the Northern Territory, South Australia and Western Australia have all already adopted strict "no body, no parole" approaches, in recognition of the need to support victims and their families. It is time for New South Wales to also adopt a stronger approach, and that is what we are doing here today. I am very pleased to support the bill. I thank everyone involved in drafting the bill and enabling us to get it here today; I know a lot of work had to happen behind the scenes to get it before the House and make it a reality. The bill makes it clear that parole is not an entitlement for violent offenders who have not cooperated with attempts to locate the missing remains of their victims. I commend the bill to the House.

**Reverend the Hon. FRED NILE (16:34):** I support the passage of the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022 through all its remaining stages. I thank the various speakers who have spoken in support of the bill for their contributions, which have helped me to see the necessity of supporting the bill. I have followed very closely the Dawson murder and ensuing drama, and I believe the bill helps fill a gap in our law to make everybody who considers murdering someone also consider that they will never be allowed to have parole when they are caught. Therefore, I support the bill and hope that all the other members of the upper House will support it.

**The Hon. SHAYNE MALLARD (16:36):** I am pleased to speak in support of the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. As we have heard, the bill makes amendments to the Crimes (Administration of Sentences Act) 1999 to introduce a strict "no body, no parole" law in New South Wales. The bill has been carefully crafted to balance fairness to offenders approaching the end of their non-parole period

with the rights of victims' families to locate the remains of their loved ones. I will return to the second part of that purpose in a minute.

The bill strikes that balance by allowing parole in appropriate circumstances, but only where an offender has cooperated in efforts to locate the body or remains of their victim. The bill introduces new section 135A into the Act, which requires an offender convicted of a homicide offence to satisfactorily cooperate with authorities to locate the remains of their victim in order to be eligible for parole. That new mandatory requirement will apply even where the making of a parole order is being considered due to exceptional circumstances—for example, where the offender is sick or dying.

The bill responds to the need for stronger laws in New South Wales to incentivise offenders of violent crimes to assist authorities in locating the remains of their victims and, most importantly, in bringing some sense of finality to their families and loved ones, who continue to suffer immense uncertainty and grief. I illustrate that with a circumstance that I have been involved with. While the role of families has been touched on by other members, it has not really been the focus of a lot of the debate here today. While the circumstances I will talk about are slightly different in terms of legality, the principle of finding the body in order to find closure for the family and community are the same. The parents and community of this particular young man looked to the government, the police and the authorities to go beyond what we would normally do—to go the extra yard, the extra mile—to help them find the body and have closure. That is the principle we are dealing with here.

Whilst the circumstances are different, the tragic case of Matt Leveson illustrates the pain families go through and how they look to authorities and to the government to go that extra yard. Matthew Leveson, a gay man aged 20, disappeared from an Oxford Street nightclub in 2007 and was never seen again. A man was charged with the murder and a trial occurred, but he was acquitted and no body was ever located. Ten years later, after an extraordinary offer of indemnity to the man charged and acquitted of the murder, that man led police and the family to Matt's remains in the Royal National Park in Sutherland. Ten years later, the remains were recovered. Faye and Mark Leveson, the mum and dad, had received a tip-off that the body had been buried there. They had been searching the park themselves for that decade, their weekends spent digging and looking for their son's body—for a decade. I am getting emotional, because I have met with these people.

Faye and Mark Leveson are great people; really compassionate, wonderful people. Since this occurred, they have dedicated their lives to helping families where victims of crime and bodies are not located. After the bones were recovered in June 2019, they said in *The Daily Telegraph*, "Our family can now lay our son to rest." That is the two brothers and the mum and dad. I know this, as I said, because the Hon. Trevor Khan and I met with the brave and strong Faye and Mark Leveson at Parliament House to discuss what more can be done legally to assist people like them. I acknowledge that circumstances are slightly different, but the principle is here.

We talked about how rewards work and how rewards could have helped, and stronger laws around evidence without a body. Nonetheless, the case is legally different—the principle of government and authorities going above and beyond what is, at the moment, possible. In this circumstance there was a legal indemnity, but the principle is that the families of victims look to us for a better solution to their terrible situation, and to find some closure and that some sense of justice is still there. I ask members, when debating this bill, to keep the Levesons uppermost in their minds in terms of the principle of the pain that the family—and the community too, which I am a member of—went through and still go through. I am still a little bit emotional about that.

The bill sets out a stricter and stronger approach for New South Wales, but one that continues to provide leniency in appropriate circumstances. The amendments in the bill effectively provide an offender convicted of a homicide offence with a choice: whether to cooperate and increase the likelihood of their release on parole, or refuse to cooperate and serve the remainder of their sentence in prison. Parole will not be contingent on authorities finding the victims' remains, but it will be contingent on the offender cooperating in efforts to do so. The bill also recognises that in some cases there may be limits to an offender's capacity to cooperate. That could be due to mental or cognitive impairment, for example. The State Parole Authority must not only consider the nature and extent of the cooperation provided by the offender, but also take information about the offender's capacity into account when deciding whether a person has cooperated to a satisfactory extent as outlined.

Despite these provisions, minimising ongoing trauma to the families of victims is the primary focus of the bill. That is where I started. Therefore, cooperation will not automatically mean that an offender will be released on parole. Under section 135 of the Act, the State Parole Authority will still be required to consider a number of other mandatory factors, such as the risk to the community and the impact on any victims and their families, when determining whether releasing an offender on parole is in the interests of the safety of the community.

In New South Wales parole is intended to support the reintegration of suitable offenders into the community to ultimately reduce reoffending and promote community safety. An offender convicted of homicide-related offences who has refused to disclose the location of their victim's body—I hasten to add that



I imagine this is not a big cohort of prisoners; I suspect that if Matthew Leveson's body had been recovered, there might be a different story there—is not demonstrating readiness for rehabilitation and community reintegration. That is the point I am making. It is appropriate that offenders like these continue to serve the remainder of their sentence in prison. The bill reflects the careful consideration the Government has given to balancing the rights of both offenders and, importantly, the victims and their families and their communities. I strongly commend the bill to the House.

**The Hon. PETER POULOS (16:44):** On behalf of the Hon. Natasha Maclaren-Jones: In reply: I sincerely thank the number of honourable members who have, in a most sensitive way, contributed to this debate. I acknowledge the contribution of the Hon. Tara Moriarty and recognise the spirit of bipartisan support for the bill. I thank the Hon. Rod Roberts, the Hon. Emma Hurst and Ms Sue Higginson for their contributions. I also acknowledge the responses of the Government members: the Hon. Chris Rath, the Hon. Taylor Martin and the Hon. Shayne Mallard. Finally, I acknowledge the sentiments expressed by Reverend the Hon. Fred Nile.

A number of points have been raised, and I will make some brief remarks in relation to some of them. I respond to comments about what evidence exists in relation to ongoing "no body, no parole" schemes that are already in place. Given the lack of publicly available information, the small number of offenders to whom these provisions apply and the relatively short period of time these laws have been in place in other jurisdictions, it is very difficult to point to specific evidence about their impact. Queensland is the only jurisdiction with a "no body, no parole" scheme that publicly releases "no body, no parole" decisions in a consistent manner.

A Queensland study provided by authors Monique Moffa, Michelle Ruyters and Greg Stratton, entitled *Still no bodies: Five years of "no body, no parole" in Queensland, Australia*, in the *Journal of Criminology* from March of this year, did not find evidence that the provisions assisted to locate remains in the reported cases. However, this was based on only 10 published parole decisions by the Parole Board Queensland [PBQ] between the years 2018 to 2021. Further, the Queensland "no body, no parole" laws have been in place for only five years, so there was limited opportunity for matters that fall within the scope of the law to come before the PBQ.

I refer to one Queensland case that was not captured by the study. Leeann Lapham's killer was jailed for manslaughter after punching her to death and hiding her body. As reported by David Chen for *ABC News* on 21 March 2018, a detective said that Graeme Evans, who in 2018 was convicted of the manslaughter of his former partner, Leeann Lapham, was convinced to help police locate her remains due to Queensland's "no body, no parole" laws. This assistance was reported to have been provided before Mr Evans was convicted. The Government believes the reforms will provide an important incentive for offenders to reveal the whereabouts of their victim's remains.

In relation to the observations and commentary about why an offender should be eligible for parole in circumstances where a body has not been found, under new section 135A the State Parole Authority [SPA] must not make an order directing the release of an offender on parole unless the SPA is satisfied that the offender has cooperated satisfactorily to identify the victim's location. The provision stops short of prohibiting the SPA from granting parole until the body is actually recovered. This is appropriate because there may be a range of scenarios in which the SPA is satisfied that the offender has provided satisfactory cooperation to locate the remains of their victim, but cooperation does not lead to the victim's remains being recovered. For example, in situations involving more than one offender, a single offender may not have complete information about the means and manner in which the body of their victim was dealt with following death. In addition, the body may no longer be recoverable or identifiable, for example, because it has been washed away at sea or otherwise destroyed or moved following death.

In relation to the safeguards in the bill, I outline that the police commissioner must, at least 28 days before the State Parole Authority proposes to make a decision about an offender to which the reforms apply, give the SPA a written report that states whether the offender has cooperated to help identify the victim's location. If the offender has cooperated, the report must include an evaluation of the nature, extent and timeliness of the offender's cooperation; the truthfulness, completeness and reliability of any information or evidence provided by the offender relating to the victim's location; and the significance and usefulness of the offender's cooperation. In deciding whether it is satisfied about the offender's cooperation, the State Parole Authority must have regard to the police commissioner's report and any information that the State Parole Authority has about the offender's capacity to cooperate, and it may have regard to any other information that it considers relevant, including any information disclosed after the police report was provided or otherwise additionally disclosed.

The Crimes (Administration of Sentences) Act 1999 also contains a safeguard against the use of false or misleading information to obtain parole for serious offenders. Under section 156, if the State Parole Authority decides that a serious offender should be released on parole, and the Attorney General or the Director of Public Prosecutions [DPP] alleges that the decision has been made on the basis of false, misleading or irrelevant

information, the Attorney General or the DPP may apply to the Supreme Court of New South Wales for a direction to be given to the State Parole Authority as to whether the information was false, misleading or irrelevant.

The Government conducted targeted consultation with Corrective Services NSW, the State Parole Authority and the New South Wales Police Force on the drafting of the bill. The reform responds to concerns raised by victims' families about the need to incentivise offenders to reveal the location of victims' remains. The Government had regard to the previously expressed views of stakeholders about the current sentencing and parole framework in New South Wales, including in submissions to the Sentencing Council's 2021 homicide review. The Government acknowledges that some stakeholders may not agree with the reforms, but it is nevertheless determined to ensure that New South Wales laws are consistent with community expectations and that they are as tough as laws in other jurisdictions.

I note that the Missing Persons Advocacy Network has welcomed the introduction of the bill. The bill will ensure that offenders in homicide matters are only released on parole if they have satisfactorily cooperated to locate their victims' remains in circumstances where they have the capacity to do so. By incentivising cooperation, the bill aims to bring the loved ones of victims the closure they deserve. Other States and Territories have had strict "no body, no parole" laws in place for years. It is time for the New South Wales Parliament to pass the legislation and give the families of victims the opportunity to get the closure that they desperately seek. I commend the bill to the House.

**The DEPUTY PRESIDENT (The Hon. Chris Rath):** The question is that this bill be now read a second time.

**Motion agreed to.**

### In Committee

**The CHAIR (The Hon. Wes Fang):** There being no objection, the Committee will deal with the bill as a whole. There is one set of The Greens amendments on sheet c2022-159B.

**Ms SUE HIGGINSON (16:55):** By leave: I move The Greens amendments Nos 1 to 8 on sheet c2022-159B in globo:

**No. 1 Victim's location to be in personal knowledge of the offender**

Page 3, Schedule 1[3], proposed section 135A. Insert after line 20—

- (2A) Subsection (2) does not apply unless the Parole Authority is satisfied the offender has personal knowledge of the victim's location.

**No. 2 Satisfactory cooperation**

Page 3, Schedule 1[3], proposed section 135A. Insert after line 22—

- (3A) To avoid doubt, the Parole Authority may be satisfied the offender has cooperated satisfactorily in police investigations or other actions to identify the victim's location even if the victim's location is not able to be found.

**No. 3 Police documents, evidence and criminal intelligence**

Page 4, Schedule 1[3], proposed section 135A(6), lines 1–4. Omit all words on those lines.

**No. 4 Removal of infanticide from definition of "homicide offence"**

Page 4, Schedule 1[3], proposed section 135A(8), definition of *homicide offence*, line 15. Omit "22A,".

**No. 5 Definition of "homicide offence"—accessory after the fact**

Page 4, Schedule 1[3], proposed section 135A(8), definition of *homicide offence*, line 15. Omit ", 26 or 349(1)". Insert instead—

or 26, or

- (d) an offence against the *Crimes Act 1900*, section 349(1), but only if the commission of the offence comprised an act or omission relating to the disposal of the body or remains, or part of the body or remains, of a victim of a homicide offence within the meaning of paragraphs (a)–(c).

**No. 6 Definition of "victim's location"**

Page 4, Schedule 1[3], proposed section 135A(8), definition of *victim's location*, lines 16–20. Omit all words on those lines. Insert instead—

*victim's location* means the location, or the last known location, of every part of the body or remains of the victim of the homicide offence.

**No. 7 Parole orders in exceptional circumstances**

Page 4, Schedule 1[4], lines 23 and 24. Omit all words on those lines. Insert instead—

(3A) To avoid doubt, section 135A does not apply to a parole order under this section.

**No. 8 Prospective application of new provisions**

Page 4, Schedule 1[5], lines 31–36. Omit all words on those lines. Insert instead—

Section 135A applies only to a decision to make a parole order directing the release of an offender who was convicted of the homicide offence concerned after the commencement of the section.

The Greens move these amendments to deal with the overreach of the definition of homicide and how it would apply. The State Parole Authority must be satisfied that the offender has personal knowledge of the location of the victim and that the offence has close enough proximity to the act of disposing of the body. We are literally just trying to tighten up the provisions to make them more effective and strengthen their operation. The Greens are seeking to remove the bar to parole where the offender has cooperated and the victim's body has not been located, and to allow that to constitute satisfactory cooperation in express and no uncertain terms.

The legislation should only be applied to future cases. The amendments remove the retrospectivity provision in line with the common-law principle of making laws and to maintain the integrity of the principle of parole as a means of the reintegration of offenders, rather than using parole as a carrot to obtain further information by law enforcement. The principle of parole is about community safety. These amendments bring us back to the focus of criminal laws but with full acknowledgement and recognition of the victims' families that suffer from the absence of a body. We move these amendments to seek to make these laws better and more operative.

**The Hon. PETER POULOS (16:57):** The Government does not support the amendments to the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022 proposed by The Greens. The proposed amendments undermine the intent of the bill and are not necessary. The amendments would create exceptions on who would be captured by the provisions of the bill. The policy intention of the bill is to capture all offenders convicted of, or sentenced to imprisonment for, a homicide offence before and after the commencement of the provision so that all offenders are incentivised to disclose the location of their victims' remains and all victims' families are given the opportunity to get the closure that they are so desperately seeking.

The amendments are not needed to ensure that only offenders with the capacity to cooperate are required to do so. The provision as drafted already makes very clear that the SPA must consider an offender's capacity, which would include consideration of whether the offender had knowledge that could assist to locate the remains, whether the offender has a mental illness or whether the offender is affected by drugs. The bill is designed to ensure that anyone who has any knowledge, personal or otherwise, that might help locate a body or the remains of a victim is required to cooperate, provided they have the capacity to do so. New section 135A (6) has been inserted to address concerns that any report provided to the SPA by the police commissioner does not compromise any criminal intelligence.

New section 135A (6) makes it clear, for the avoidance of doubt, that police are not required to hand over any document, evidence or criminal intelligence used to prepare the report. This is to ensure that any investigation or intelligence is not compromised. The broad definition of "homicide offence" in the bill is intended to capture a range of offences where an offender may know of, but may be withholding, the location of a victim's body. This necessarily goes beyond the offences of murder and manslaughter. For the reasons I have outlined, the Government does not support The Greens amendments.

**Reverend the Hon. FRED NILE (17:00):** I add my support to the Government's position on the Crimes (Administration of Sentences) Amendment (No Body, No Parole) Bill 2022. I oppose the block of eight amendments moved by The Greens.

**The Hon. TARA MORIARTY (17:00):** On behalf of the Opposition, I indicate that Labor will not support The Greens amendments—although I appreciate where the member is coming from. As I said in the original debate, the bill is not perfect and it should have been dealt with in a better, much more comprehensive way and with more consultation. I appreciate the intention behind the amendments, but I do not see that they are necessary to improve the bill. The Opposition would normally not readily support retrospectivity, but it is really at the crux of the bill. We do not support that amendment.

I did have some questions on amendment No. 3 in terms of police documents. I certainly understand the need for police to be able to keep intelligence and their means of collecting information from investigations private in order to protect other investigations. This is a matter, though, that I sought some clarification on from the Government, just to make sure that relevant information can be provided to an offender. The offender still has the right to understand the situation that they are in and the report that has been provided by the Commissioner of Police. Based on the information that I received back from the Government, I am satisfied that the balance is right. The Opposition will not support any of the amendments.

**The CHAIR (The Hon. Wes Fang):** Ms Sue Higginson has moved The Greens amendments Nos 1 to 8 on sheet c2020-159B. The question is that the amendments be agreed to.

**Amendments negatived.**

**The CHAIR (The Hon. Wes Fang):** The question is that the bill as read be agreed to.

**Motion agreed to.**

**The Hon. PETER POULOS:** I move:

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

**Motion agreed to.**

### **Adoption of Report**

**The Hon. PETER POULOS:** On behalf of the Hon. Natasha Maclaren-Jones: I move:

That the report be adopted.

**Motion agreed to.**

### **Third Reading**

**The Hon. PETER POULOS:** On behalf of the Hon. Natasha Maclaren-Jones: I move:

That this bill be now read a third time.

**Motion agreed to.**

## **CHILDCARE AND ECONOMIC OPPORTUNITY FUND BILL 2022**

### **Second Reading Speech**

**The Hon. PETER POULOS (17:06):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

In this year's budget, the New South Wales Government introduced the inaugural Women's Opportunity Statement, which sets out its plan to invest in the aspirations of women across New South Wales. The Government has committed more than \$16.5 billion over the next decade in transformational reforms to address some of the biggest barriers women face in pursuing their dreams and aspirations, and building a better future for themselves and their families. Today, I am excited to introduce a bill that will cement one of the Government's most transformative reforms to increase women's economic opportunity: our investment of up to \$5 billion to expand access to quality, affordable child care. The women of New South Wales are some of the most highly educated anywhere in the world, yet the workforce participation rate of women is 9 per cent lower than that of men. By lifting the workforce participation rate of women so that it is equal to that of men, we can grow our economy so that it is 8 per cent larger by 2060-61. This is the equivalent of increasing the average income of every household in our State by \$22,000 per year. This is an economic opportunity we cannot ignore.

We know that one of the most acute barriers is the cost and lack of access to early childhood education and care. Almost half of all Australian women currently seeking work report that caring for children is the main barrier to working or working more hours. There are two key drivers for this. The first is the high workforce disincentive rates faced by women when the full costs of child care are considered. After factoring in childcare costs, income tax and the loss of family tax benefits, some women returning to work are taking home less than 25 cents in each dollar they earn. The second driver is a lack of access to child care close to work or home. According to research from the Mitchell Institute for Education and Health Policy, over a third of Australians live in areas where it is extremely difficult to find a childcare place—also known as "childcare deserts". This issue is particularly bad in western Sydney, south-west Sydney and in the regions.

Child care is the key to ensuring that no-one has to choose between having a family and having a career. We are committed to giving women the genuine option to pursue a career while raising a family, without having to make unnecessary trade-offs. This bill is a huge step in delivering on that vision. Today we are cementing our landmark investment into child care with the establishment of the Childcare and Economic Opportunity Fund. The fund will target known barriers to families accessing quality early childhood education and care by providing major incentives to enable providers to extend more affordably their services to more families. It will help existing services, including not-for-profit and for-profit providers, to grow in size and quality, and it will improve the viability of existing services, particularly in regional and rural locations.

The fund will also support sector organisations which help break down barriers to children accessing education and care. The fund will also support services to drive down their fees for families and to build, retain

and better reward their workforce. Over the next decade the fund will expand access to affordable child care, targeting areas of the State with the least access to affordable child care. The fund will work hand in glove with the Commonwealth Government's commitment to increase the Child Care Subsidy. The fund will mean that New South Wales families and childcare service providers can plan and invest with confidence. We estimate the fund, alongside all the early childhood education reforms announced in the budget and committed to by the Commonwealth, will support the delivery of about 47,000 additional, ongoing and affordable childcare places. These reforms will see up to 95,000 women enter the workforce or take on more hours and drive down the gender workforce participation gap by up to 14 per cent within a decade.

The reforms will also deliver major cost-of-living relief to working families across New South Wales. We estimate the fund will help save a middle-income family in western Sydney with one child in child care approximately \$3,400 a year. A family living in regional New South Wales with two children in care could potentially save up to \$7,800 a year in childcare costs. The Government will identify priority areas and release detailed guidelines for accessing the fund after consultation with the sector. Investment from the fund will be guided by expert independent reports and expert advice, which will underpin a long-term plan for the expansion of the childcare system in New South Wales. This fund is a huge step in a long journey to reform our early childhood education and care sector to make it work better for our families, children and educators.

I turn to the detail of the bill. The bill establishes the Childcare and Economic Opportunity Fund in the Special Deposits Account. Establishing the fund in the Special Deposits Account will ensure the Government's landmark investment to boost the supply of child care is sufficiently safeguarded and enduring to give certainty of funding for the sector. It will also create opportunities to support long-term public-private partnerships and innovative solutions from the sector to boost supply in target areas. Part 1 of the bill sets out that the principal objective of the fund is "to increase participation in the State's workforce, particularly for women, by making quality child care more affordable and accessible". The fund will target assistance particularly in areas where there are childcare supply shortages or higher barriers to parents and carers participating in work because of the affordability or accessibility, or both, of child care.

Part 2 of the bill establishes that the Minister must commission expert persons to review, monitor and report on the childcare sector. These independent reports will provide the primary evidence base in the development of the fund's strategic direction and key strategic documents. The reports will provide independent advice to the Minister on areas where there are childcare supply shortages and oversupply, and areas in which parents face higher disincentives due to cost and accessibility barriers to child care. As set out in part 2, clause 6, from 2026-27 onwards the reports will include an estimate of the annual amount required to be invested into the fund to support the delivery of the fund's objectives up to a cap of \$650 million per year indexed to the consumer price index. Part 2 further sets out that the expert persons commissioned to prepare the independent reports may gather additional necessary information, evidence and data. That power is intended to be available only where reasonable efforts to gather information by other means have been unsuccessful, such as through the Department of Education's existing processes or information-sharing arrangements with the Commonwealth, which we are actively pursuing.

Part 3 establishes the Childcare and Economic Opportunity Fund Board to support the fund's strategic direction and operations. The board will provide advice to the Government on the strategic direction of the fund, informed by expert independent reports commissioned by the Minister. The board will comprise five members to be appointed by the Minister for Education and Early Learning and the Treasurer as follows: the NSW Department of Education Secretary or delegate; the NSW Treasury Secretary or delegate; and three additional members with appropriate expertise, with at least one employed in the Department of Education to ensure continuity with our broader Early Years Commitment. The board will have authority to approve and release payments out of the fund in accordance with the objects of the Act and key strategic documents and guidelines. The board, as the final decision-maker for granting funds and financial assistance, will ensure a high level of accountability and transparency of the fund's investment. In addition to supporting accountability and transparency, the board will exercise its functions in accordance with the principles of market understanding and fiscal responsibility, as with any grants program.

Part 4 of the bill establishes the fund in the Special Deposits Account and provides a standing appropriation into the fund in line with the Government's commitment to invest \$775 million over the next four years. From 2026-27 to 2031-32, the New South Wales Government will invest an annual amount informed by the estimates in the independent expert reports to ensure New South Wales families have adequate access to child care at affordable prices to maximise workforce participation, capped at \$650 million a year indexed to CPI. Having those funds committed into the Special Deposits Account safeguards the funds for investment into the childcare sector as established in statute, provides certainty to the sector and enhances transparency and accountability of these investments.

Part 5, clause 24, is incredibly important. It ties the focus of the fund back to the ability for parents, particularly women, to work or work more hours if they want to. The clause provides for people exercising functions under the Act to consider the disincentives posed by childcare costs on parents and enables the Minister to develop and publish guidelines on further details of the assessment of workforce disincentive rates. The fund will also be guided by regulations and guidelines developed following further consultation with the sector.

This bill delivers on our commitment to invest in a brighter future for all New South Wales families and responds to the call for change we have heard from so many women across our State. It addresses the number one recommendation of the New South Wales Government's Women's Economic Opportunities Review to make child care more accessible and affordable and empower women to participate in the workforce. Not only will this help more women into the workforce and close the women's workforce participation gap; it will also increase economic activity in New South Wales by up to \$17.1 billion per year by 2032-33. I repeat: \$17.1 billion per year by 2032-33. This investment is not only the right thing to do by women and children across New South Wales; it is also one of the biggest productivity reforms we can do to increase prosperity across the New South Wales economy. I fundamentally believe that every person has the right to choose to participate in the workforce. For too long this right has been overlooked, despite the calls, from so many women across this great State, that this is a basic right that every person deserves. I am proud to introduce the bill to the Parliament. It takes a big step towards delivering on this right. I am excited to commend the bill to the House.

### Second Reading Debate

**The Hon. COURTNEY HOUSSOS (17:20):** I lead for Labor on the Childcare and Economic Opportunity Fund Bill 2022. We will be supporting this bill. I thank my colleague the member for Macquarie Fields, Anoulack Chanthivong, who led for us in the other place. I refer members to his, as always, insightful and learned comments on the bill. I acknowledge the work of my colleague the shadow Treasurer, the Hon. Daniel Mookhey, and my colleague and friend the shadow Minister for Education and Early Childhood Learning, Prue Car. They formulated Labor's careful and considered position. The Labor Party in the lower House moved a number of amendments to which the Government agreed. I will outline some of those shortly. It goes to how we have sought to engage on this very important issue. The Labor Party absolutely understands the importance of accessible, affordable and high-quality child care.

Increasing the participation rate of women in the workforce is the main economic objective of the bill, but on this side of the House we understand that there are significant benefits for children when they undertake early childhood learning. That is especially the case for disadvantaged children from low socio-economic or non-English-speaking backgrounds. There is now so much scientific research that tells us about the development and learning going on in those crucial childhood years from nought to five. If we support that through early childhood education with fantastic early childhood educators and teachers, then we will ensure that, when our kids start school, they are ready to learn.

I frequently talk about New South Wales having the fastest declining education outcomes in the world. When kids get to school and start behind, they stay behind. It is so much harder for them to catch up if they do not have those skills and have not harnessed those learning opportunities in those early years. That does not mean that we are teaching them the times tables from when they are nought to five years old. Any early childhood educator could tell you about play-based learning and all of the ways of teaching children in those crucial early years. So many skills can be imparted by our fantastic and skilled early childhood teachers. I thank them and pay tribute to them today. This bill has an economic objective, but there is an equally important educational and social aspect to what it seeks to achieve.

I thank also Unions NSW and the United Workers Union in particular. I know that the Labor Party consulted with a large number of stakeholders in formulating our position, but I especially thank them for taking the time to provide considered and constructive feedback on this bill. They expressed a concern about the lack of transparency of the board and the fund and said that the bill does not address the skill shortage and the workforce issues within the childcare sector. The United Workers Union, as the union representing those workers, understands the shortages our early childhood sector is facing. We talk in this place a lot about the chronic teacher shortages in our schools. It is so much worse in our childcare centres, not only in terms of teachers but also in terms of the qualified early childhood educators we are trying to get.

This fund is a significant amount of money—\$5 billion. We want the board to be able to address the workforce issues. So our amendments require that an independent person on the board produce, every two years, a workforce plan addressing skills, wages, standards and quality of training for workers within the childcare sector. We want to make sure that we are maximising the use of this money and that workforce planning is in place to ensure that we are harnessing the benefits in that crucial nought-to-five period I talked about. The amendments also require that independent person to have regard to quality standards when conducting the review into the childcare sector. The Federal Labor Government introduced the National Quality Framework at a Federal level to

govern our early childhood centres. We know how important that is for ensuring centres are up to standard and operating well. We think that this is how, at a State level, we can ensure that the money is being spent in the best possible way.

Labor moved amendments also in relation to auditing and transparency. We believe the bill needs better transparency of the board and the fund. As a result, we moved amendments that would require all independent market-monitoring reports to be tabled in the Parliament within 60 days of being handed to the Minister, require a statutory review three years after the fund commences, and require the Auditor-General to conduct every three years a performance audit of the fund and of the programs it has provided financial assistance to. I take this opportunity to again place on the record my deep respect for the Auditor-General, for her office and for the work she does. It is incredibly important. When we are establishing a fund of this size, we must ensure that the Auditor-General has oversight and the ability to provide that important feedback on how the fund is being used and how it can be improved.

Labor's amendments to part 4, which the Government supported in the lower House, require that the Minister produce an additional annual report. This additional annual report is to be tabled in each House of Parliament within six months of the end of the financial year to which it relates and include the audit of the fund by the Auditor-General, including the report of the Auditor-General on whether the payments from the fund have been made in accordance with the Act. The amendments required also that any underspend to be carried forward first be approved by the Treasurer.

We made some amendments around the board membership and the qualification requirements for the appointed members, which are that at least one of the appointed members be a person appointed by Unions NSW and another appointed member be appointed by Business NSW or the Australian Industry Group. This recognises that it is important for the board membership to represent how the industry works. The sector and the workers who are affected in the sector should be reflected in the board, which has such a significant amount of money to put toward such an important cause. That was an important and useful amendment to make as well.

The shadow Minister for Education and shadow Minister for Early Childhood Learning, Ms Prue Car, talked about the shortage of teachers and early childhood educators in the State. I have not spoken to a childcare centre operator, stakeholder or industry group that has not stressed the challenges that they are facing in finding qualified teachers or early childhood educators for early childhood centres. This became significantly worse during the COVID-19 pandemic. It is a crucial challenge for us going forward. If we are going to harness this amount of money and make sure that we are maximising the potential benefits of early childhood education, it can only be done with qualified and trained early childhood educators. The full spectrum of educators is required, from university-trained teachers to diploma and certificate III and IV trained educators. They all play an important role.

I am sure many members in this House have firsthand experience of how fantastic our early childhood educators are. With the indulgence of the House, I thank, in particular, Ms Lynne Marshall, who retired as director of Earlwood Uniting Church Preschool at the end of last term. She had worked in early childhood education for more than 40 years. She is a remarkable, amazing woman. She and that centre have had an incredible influence on the lives of our family—of our children, Anna and Arthur—and of so many families in our area. She was there so long that she taught children who brought their own children back. Despite that incredibly long history at Earlwood Uniting Church Preschool, she made sure that they were always adopting new ways of engaging and learning, and were constantly changing and adapting. She leads an amazing team. She is an incredible shining force for the potential of early childhood learning.

I appreciate the indulgence of the House. Ms Marshall retired at the end of last term, and this is a great opportunity for me to show an example of how, when our early childhood education centres and preschools work well, they are remarkable and amazing places. They become almost an extension of your family, and that is what we want. This is a significant amount of public money. It is a very important cause. That is why New South Wales Labor supports it, with important amendments. The amendments allow for increased oversight to ensure that this bill is achieving these goals; that the right workforce and oversight are in place; that the public money will ensure the economic opportunities and support for families overall, and women in particular; and that educational outcomes are addressed. I commend the bill to the House.

**The Hon. MARK LATHAM (17:33):** In addressing the Childcare and Economic Opportunity Fund Bill 2022, it is clear that the bill is not about economics and is certainly not about helping women and the female labour force participation rate. It is 100 per cent, purely and solely about politics—Liberal Party electoral politics, with Matt Kean trying to fight off the teal threat to Liberal electorates on Sydney's North Shore. The bill is back-end loaded in the dodgy style of the Gillard Government's 10-year Gonski and NDIS funding commitments. It has \$400 million in the forward estimates but supposedly \$4.6 billion unfunded in the last six-year period of the

10-year funding envelope. Essentially, it is invisible money with no way of realising the full funding commitment three Parliaments from now.

Anything that is to do with three Parliaments from now is, by and large, a fiscal fantasy. In that sense alone the bill is a sham—another capital commitment accounted for off budget, adding to the true level of ballooning debt and deficit in New South Wales under the Kean-Perrottet Government. Let's not forget the accounting trick in Mr Kean's budget. In June John Kehoe of *The Australian Financial Review* wrote:

Despite NSW promoting 'returning the budget to surplus' by 2024-25, that is not a real surplus because it includes recurrent spending and excludes infrastructure investments.

Using the same accounting method as the federal government, NSW's cash deficits are \$24 billion in 2022-23, \$16.6 billion in 2023-24, \$12.6 billion in 2024-25 ...

When you add the Transport Asset Holding Entity accounting trick on top of that, between \$1.3 billion and \$2.7 billion is the true cash deficit of this Government, depending on the year. It is tricky stuff to avoid the truth, but that article belled the cat. Of course, these were heroic assumptions. The truth is that, in giving up our triple-A credit rating, the bill adds to the fiscal carnage and problem.

What is the purpose of the bill? Essentially it is setting up an election slush fund for subsidising new childcare centres in Government marginal electorates, overseen by a board yet to be appointed and yet to have any terms of reference applied to it. Benefit-cost ratios find no mention in the legislation, nor is there any rigorous analysis of how the money might be spent. It is a blank cheque for pork-barrelling in Liberal electorates vulnerable to the teal Independents and National Party electorates under siege in the bush. The board will be filled by political functionaries such as Daisy Turnbull and woke, frivolous elites like Sam Mostyn.

For all the huff and puff in this place about the evils of pork-barrelling, incredibly, the Labor Opposition is waving the bill through. It reminds me of the famous saying about Bob Menzies—that his glorious military career was cut short by the outbreak of war in World War I. The Labor Party's glorious commitment to ending pork-barrelling was cut short by the imminent arrival of a general election. They will not stand against pork-barrelling because there might be some marginal electorates where there is a commitment that they will be keen to support, even though they know the funding allocation was on the most spurious, irrational grounds. The Labor Party, along with the Government, has embraced Keanism in all its debilitating nature—shallow, opportunistic, duplicitous and completely and utterly wasteful and corrupt in the use of taxpayers' money.

The bill is based on false assumptions about gender equality in New South Wales. It is part of the Treasurer's wacky homage, in the preface of his Women's Opportunity Statement, to Brittany Higgins and Grace Tame, the credibility of one unravelling in the Australian Capital Territory Supreme Court and the other a spaced-out, leftie ratbag. Let's put this political activism and fake emotionalism aside and look at the facts. What is the true meaning of improved gender equity when important professions in Australia are already female dominated? These include GP doctors, pharmacists, vets, lawyers, teachers, journalists, PR specialists, office managers and community service managers. In the big, important professions, there are many more women working in the highly paid positions than men. I think most parents want their daughters to work in those jobs rather than the male-dominated industries of construction, transport, plumbing, garbage, landscaping, removalists, security and the military.

Then we hear about the gender pay gap. In reality, Australia has had equal pay laws for 50 years. When women leave the workforce to have babies—and the woke mob are yet to contradict this; only women can have babies—their career paths are disrupted. Hence, there is the so-called gender pay gap. But the data, when it was collected by the Federal Government, showed that there is no such gap for university graduates entering the workforce. In fact, for professional groups in the highly paid areas, many female-dominated groupings were at a higher pay rate than male. It was not by a big margin, but the female groups dominated. But like in so many areas where the research ran against the conventional wisdom, the response in Canberra was to discontinue the dataset. We have not seen it now for some four or five years.

Invariably, gender equity comes down more jobs for a tiny number of women—the leftie elites who want to be MPs, government Ministers and corporate board members. That is an accurate description of the committee that the Treasurer established, headed by Sam Mostyn and including that well-known, impoverished single mother representative, Daisy "I only have four paid nannies to help me" Turnbull. The single mums in the vast suburbs of western Sydney are completely unrepresented on that committee and in the ridiculous situation of being represented by someone as wealthy as Daisy Turnbull. Is there anything more sickening in public life than the privileged feminist elites crying poor about the need for child care? One of them, Annabel Crabb, wrote a long, turgid book about the so-called wife drought—how women need a wife to help them survive in juggling work and family commitments. But then after hundreds of pages of insomniac therapy, she finally revealed that in her own



circumstances she and her wealthy partner had a live-in nanny—or three—to ease their burden. The problem was not so much a "wife drought"—and this applies to Mostyn and Turnbull and their ilk—but rather a nanny El Niño.

From an economic rationale perspective, why is New South Wales funding childcare subsidies traditionally financed out of Canberra? Why is New South Wales, already heavily in debt and deficit, volunteering for reverse cost-shifting? Why are we now allowing Jim Chalmers to say, in effect, "For the first time ever New South Wales is going beyond its traditional State funding and responsibility for preschools and offering up capital support for new childcare centres traditionally funded out of Canberra. Here's a chance for the Commonwealth to reduce its own effort in this space and undertake budget repair effectively funded by the foolish Matt Kean"? If Jim Chalmers has got any sense, that probably is what he is saying. The funding effort in Canberra will drop in proportion to New South Wales' reverse cost-shifting. We are volunteering to fund things traditionally funded out of Canberra with its broader, more substantial tax base.

This is a recurring pattern in the mismanagement of the New South Wales budget, entrenching, for electoral reasons, new entitlements that can never be worked out of the system in the practicality of party politics. It is the defining feature of Kean-Perrottet fiscal extravagance, which includes \$10 billion in green energy programs under the delusion that a provincial government can save the planet when, in fact, its wasteful spend-athon and destruction of the electricity grid has been measured to reduce average global surface temperatures by 0.00055 degrees Celsius over a century; \$2 billion in university research funding—again, reverse cost-shifting—that benefits and reduces the effort of the Commonwealth; the recently announced 25 State-funded GP clinics, which are traditionally funded out of the Medicare scheme in Canberra; State money for long-day childcare fee relief, which again funds an established Federal Government responsibility; the infamous trade commissioners, duplicating the huge national expenditure by the Department of Foreign Affairs and Trade, including Austrade; and wasted State spending on the arts, Aboriginal affairs, multiculturalism—all of which is better funded out of Canberra with its broader tax base.

We have never seen voluntary cost-shifting in a State budget on this scale and dimension before. Tragically, these foolhardy decisions are now embedded. Labor supports them. No future major party government is likely to restore fiscal sanity and abolish them. The other delusion in the bill is its claim to lifting the New South Wales female labour force participation rate. The impacts of the combined budget measures claiming to be female-friendly on participation, working hours and wages are extraordinarily marginal. At page 69 of the budget's women's statement, the participation uplift is as low as 0.5 per cent over a decade, and just 0.7 per cent over 40 years. That is through to 2060. It is a dismal 0.018 per cent increase per annum—essentially nothing. For working hours, the uplift might be as low, according to that data, as 0.1 per cent over the next decade and, for wages, just 0.15 per cent through to 2032-33.

These are not cost-effective reforms. Why would they be at State or provincial level, where the Government has such limited industrial relations [IR] or economic powers? Whether it is male, female or overall labour participation rates, normally they are calibrated out of Canberra where there are substantial IR, economic and fiscal powers. It is Matt Green's plan to save the planet by blacking out the electricity grid in New South Wales. It is the work of a delusional narcissist who has lost touch with the reality of where he sits in the pecking order of political power. Kean can barely save his own party on the North Shore of Sydney, let alone save the planet.

What is the research base for this pork-barrelling bill? Minister Kean was unable to answer that question in crossbench briefings, but a junior staffer piped up to say that it is a Mitchell Institute report commissioned by Jay Weatherill—it turns out—at the Victoria University, itself a glorified centre for adult education. This report has invented the notion of childcare deserts, which are said to be populated areas where there are less than 0.333 childcare places per child. No account in this so-called research is taken of the availability of preschool places, the preferred option of so many families for their children, as it was for mine. The report focuses on just one part of the early childhood sector: centre-based day care as supported by the Commonwealth childcare subsidy.

Again, the availability of family day care, outside school hours care and many publicly provided local services is not even factored into this Mitchell Institute report. The research that the bill relies on is incomplete and unreliable. It has been written solely to produce a certain outcome—an outcome that cannot be verified on any factual basis. In the tiny map on page 5 of the Mitchell Report, it is hard to see how Sydney is in need of this teal-generated Kean largesse. The areas coloured dark red, denoting the so-called childcare deserts, cover the city's national parks, bushland and the former army land at Holsworthy in south-west Sydney, where people, obviously, do not live. If people are not living there, is it hard to know why there is a childcare or any other form of service provision desert?

The Government's focus naturally, given that reality, turns to the bush. One can already hear the greedy engines of the Coalition's Daryl Maguire Memorial Engine Room at the Pork-Barrelling Central gearing up for more abuse of State taxpayer funds. I am laying London to a brick on that, come February or March, the Kean

slush fund will be supporting the announcement of a new childcare centre in Dubbo, where The Nationals are under siege from the Shooters, Fishers and Farmers Party. We know Dubbo well. I have the Dubbo pork-barrelling list in front of me: one hundred and eighty-three grants over an 18-month period, or a grant every three days, while the much needier electorates of Fairfield and Bankstown, low socio-economic status electorates in western Sydney, received just three grants. For every time Dubbo receives 60 grants, those needy western Sydney electorates get one. According to that ratio, number 61 will be on its way to Dubbo courtesy of the election slush fund now before the House.

In its support for the bill, Labor's anti-pork-barrel credentials have been shattered. The proximity of a general election seems to have scrambled its members' brains and their public policy judgements. I cannot believe that the Labor Party is writing into the statute book another invitation for Kean-style pork-barrelling geared by the National Party to the electorates that it feels it might lose at the general election in March. At every level, by every test, whether we are talking about fiscal responsibility, the foolishness of reverse cost-shifting or the likelihood of abuse for pork-barrelling, this is an appallingly bad bill, typical of the Kean genre. Accordingly, One Nation opposes it and will vote against it. We did consider amendments, but quite frankly the bill is so bad it is unamendable. It is unsalvageable in its form and needs to be voted down by the Parliament.

**Reverend the Hon. FRED NILE (17:47):** I speak strongly in support of the Childcare and Economic Opportunity Fund Bill 2022. I congratulate the Premier, the Treasurer and the Government on bringing forth such an imaginative bill at this time in the life of the Parliament and the life of the Liberal-Nationals Coalition in New South Wales. I have studied the bill. To me, the bill, for the first time, picks up all the areas of opportunity that have been neglected over past years by governments. It is time to provide legislation that does meet the needs of children in the area of child care and that also meets the needs of families in providing opportunities for working women. The bill gets a lot of ticks from me. I have observed the Parliament for many years—over 40-odd years—waiting for a bill like this to be drafted and introduced. I congratulate the Government on this bill. It has the full support of me and our party, the Revive Australia party. I am sure this bill will go a long way to help to revive New South Wales.

**The Hon. AILEEN MacDONALD (17:49):** I am so pleased to speak in favour of the Childcare and Economic Opportunity Fund Bill 2022. I have been involved with a preschool management committee in my community, knowing that preschool learning was integral to my children's development. It also gave me the ability to run our small business. The bill is the right thing to do, and I will go into some of the detail. The New South Wales Government has committed \$15.9 billion over 10 years to give every child in New South Wales the very best start in life and set them up for future prosperity, ultimately setting up our State for continued prosperity. The Childcare and Economic Opportunity Fund, the focus of the bill, is a central part of that commitment, investing up to \$5 billion over 10 years towards delivering quality, affordable and accessible child care for New South Wales families.

Quality child care and early learning supports children's educational journeys and shapes future success for individuals, families and society. Accessing care and support during that foundational component of a child's development is central to ensuring the best possible start for all children, but is especially critical for children and families who are more vulnerable or are experiencing disadvantage. Importantly, affordable and accessible child care is also a chance to support families by ensuring that second income earners, statistically more likely to be women, have a genuine choice to continue their career after having children if they choose. The bill will be a catalyst to help women have greater choice in balancing work and care, and will enable women to have greater financial independence and economic security. The benefits from that will flow into household earnings and the economy. It will also drive more equal distribution of care within households and, with that, a greater societal recognition of the importance of early childhood education and care.

Addressing the barriers to accessible and affordable child care is a complex challenge. However, a strong and thriving early childhood workforce is the foundation to providing quality early childhood education and care. Quality child care depends on investment in more places, higher quality early education, and rewarding and secure early childhood jobs. New South Wales has a diverse early childhood education and childcare system, delivered through a mixed market of preschools, long day care, occasional care, family day care and before- and after-school care services delivered by a range of for-profit, not-for-profit and government providers. Across that diversity of services and providers, there are shortages of early childhood teachers and educators throughout Australia. Those shortages have been significantly exacerbated by COVID-19, but staff turnover rates were as high as 30 per cent even before the pandemic. It was predicted that 39,000 additional educators would be needed nationally by 2023—only next year.

Let me be clear: The overwhelming majority of the early childhood workforce are not employed by the New South Wales Government. The Commonwealth holds the essential levers on pay and conditions for those workers, alongside individual employers. The pay and conditions of teachers and educators are covered by the

Commonwealth Fair Work Act 2009 and either the modern award, which provides for minimum wages, or an enterprise agreement negotiated directly between employees, their representatives and the employer. To address those concerns, together with the other jurisdictions and the Commonwealth at the Jobs and Skills Summit, New South Wales committed to work with unions and business on workplace relations for the early childhood sector and will be developing a long-term vision through National Cabinet for early childhood education and care reform.

Alongside Government members' support for the National Children's Education and Care Workforce Strategy, we are taking immediate action through major investments within New South Wales to address significant and sustained workforce shortages to ensure that our ambitious early years reforms and goals can be delivered and supply side issues are addressed. The New South Wales Government is making an historic investment of \$281.6 million over the next four years to help build the New South Wales early childhood education workforce as part of this Government's Early Years Commitment. That investment will assist in addressing ongoing shortages of qualified early childhood educators and teachers.

The Government is offering early childhood teacher higher education scholarships of up to \$25,000 to provide financial support to those studying bachelor-level qualifications. Students may also be eligible for a completion incentive payment if they remain employed in the early childhood education and care sector. The Government is also offering scholarships of up to \$2,000 for students undertaking VET qualifications. That opportunity is in addition to the existing fee-free pathways for certificate III and diploma qualifications through the JobTrainer and Smart and Skilled programs.

We will be providing early childhood teacher supports, including supplements for employers who demonstrate best practice workforce strategies. We are also seeking to create innovative new career pathways in partnership with universities and VET providers, including accelerated programs to upskill to a diploma or degree. That significant investment is already reaping benefits, with 430 successful scholarships announced since the commencement of the program and 87 per cent of the recipients currently working in the early childhood sector.

By working together with the sector, we can deliver more quality, affordable and accessible services; enhance our children's educational outcomes; and provide genuine choice and new opportunities for working parents and women. Research suggests that thin markets in the sector—that is, areas where there is no or insufficient child care availability—are driven partly by workforce issues, partly by difficulty in suppliers responding to demand because of the structure of the industry and partly by the short-term nature of demand. Those issues can be addressed through the fund, both through the quantum of funding we are securing for that purpose and through the provision of a diverse range of programs and financial support that prioritises both the sector and families.

Further, because the Commonwealth Government's Child Care Subsidy arrangements are changing, the fund is designed to evolve over time to meet contemporary challenges and address gaps that may arise as the policies of both New South Wales and Commonwealth governments evolve. That is why the fund is designed to respond flexibly on funding, based on sound evidence and stakeholder consultation. The fund will have a wide scope to determine the best way to improve affordability and accessibility while supporting competition, parental choice and capacity of childcare providers, informed by independent market intelligence.

That could include supporting funding proposals to increase the size and quality of the early childhood workforce, including support for staffing costs to operators so that centres are adequately resourced to deliver quality services and offer more attractive packages to their staff. It could include trialling new service models so that quality services can be delivered at a time and in a way that suits educators, parents and the local community. It could include helping services to operate in communities that need extra support to stay viable. Finally, it could include creating innovative new investment partnerships and approaches, including to child development, with integrated service offerings. The Perrottet Government will work with the sector and across jurisdictions on workforce strategies and design the fund so that together we can transform the childcare sector to benefit children, parents, educators and providers alike. I commend the bill to the House.

**Mr JUSTIN FIELD (17:59):** I oppose the Childcare and Economic Opportunity Fund Bill 2022. I am not sure that this enormous investment of \$5 billion is best directed towards the provision of, largely, private and for-profit childcare facilities in New South Wales. It is a bit peculiar to other States that in New South Wales the provision of care and early childhood education is overwhelmingly delivered in private long day care centres. One just has to look at the objectives of the legislation and the way that it has been presented in the media around the economic potential of providing additional childcare facilities. Not one aspect of it is grounded in the needs and best interests of children. I am not going to vote for legislation that starts from the assumption that investment in care is primarily about the economic participation of women, as much as that is an incredibly important conversation for us to have.

This is a huge amount of money. There is a good argument for why a lot of additional economic resources need to be put into support for mothers, fathers and families to assist people to make choices in their lives for themselves, their families and their children. This legislation seems to be directed at one particular choice: to support people to put their children into care from the early stages of their lives. It seems that this is a controversial position to take in society these days and, as a man, it is difficult to stand up and talk about these issues, but I have been informed in my thinking about this bill and this debate by the experiences of my wife, in particular, who works supporting women during pregnancy and in postnatal care. I have also been informed by the experiences of the women in my office and by Peter Cook's book *Mothering Matters* and Steve Biddulph's book *Raising Boys*. We need to be able to have an honest conversation about the role of care, mothering and fathering, and of the importance of being able to spend time with our children, particularly in their infant years.

There is a conflation in this debate about child care, as if child care is everything that happens before a kid goes to primary school. There is a distinction between the experience of a child in the period from zero to two years old and the period between three years old and five years old. We know that there are huge benefits of experiencing early childhood education for the development of a child and their social interaction. It is an educational opportunity that has profound benefits for children in society. But there are clear, well-documented risks to the emotional development, social welfare and health outcomes for infants who are put into institutionalised care. I use that term not in the way that we think of institutions of the past but in the way that we have set up a model of care for children in our society that sees so many of them—about 45 per cent of children between zero and two years old—in these forms of care. There are risks associated with building our economic model around the idea that the preferred option is to put infants into care.

There is an argument at the centre of this debate, and it has been made to me by the Minister and his team, that this is ultimately about choice—that this is about providing women and families with the choice to be able to go back to work. Let us interrogate that idea of choice for a moment. I am not just talking about the \$5 billion in this package; I am talking about all of the Commonwealth money that goes into childcare subsidies and support. When a government decides that the majority of its economic resources should provide for facilities that enable this type of care to be provided, it is implicitly saying that is the preferred model. It is saying that the work of mothering and fathering is of less economic value than the work a person will do when their child is in care. I am not sure that is a good public policy position to take.

In response to the *2021-22 NSW Intergenerational Report*, the Treasurer said that "the economy would be 8 per cent larger by 2060-61 if women's participation reached parity with men". That is just fiddling with the numbers to suit an economic argument. If we are honest with ourselves, women's participation in work is more than equal to men; they just do not get paid for the majority of the work that they do as caregivers. That we are not prepared to acknowledge the value of that work, and to say that the real economic opportunity for our society is for women and families to put their children into care and do more productive work, shows how little consideration there is for the needs of infant children in this debate. We should have a conversation about choice and what that means.

A recent article written by journalist Virginia Tapscott was titled "I care for my own kids, so why am I made to feel like a freak? The government wants me to get a 'real job'. But I don't want gender equality if it is simply a process of erasing everything that is inherently female." She is talking about the inherent role of women in caring for children and the fundamentally important role that mothering in the infant years plays for the health and wellbeing of mothers and children. That has huge implications for our society. If we build the most emotionally intelligent, connected and bonded children, we create an environment in our society where we get the best health, social and economic outcomes in the long term. I will read a couple of sections of this article because they go to the heart of this matter, and they are points being made by a mother of four who has been going through the real considerations that are the basis of this Government policy in her family. She says:

It's easier to make childcare more accessible than to get men to do their fair share of unpaid care work.

That is a very important point. She then says:

Making childcare more accessible is also easier than genuinely shifting the seat of power to be more inclusive of women and caregivers or giving them any sort of agency in that role ... The easiest and most effective way to reduce our oppressive circumstances has been to limit our engagement in caregiving, rather than fighting to change the factors that make caregiving oppressive, such as little support and low or no pay.

In concluding, she says:

It's time to give caregivers a seat on the board, government support and a workplace that is more inclusive of people in unpaid caregiving roles. It's time to recognise a caregiver's contribution and fully enable them re-skill and re-enter the paid workforce without penalty when they are ready. If it is the most important job in the world—

mothering, caregiving and caring for each other, particularly our infant children—

why don't we act like it?

We do not act like it when the overwhelming amount of government investment is not in supporting people to be good carers but instead enabling them to hand off their children, including their infants, to institutions to be cared for by someone else, despite the fact that there is overwhelming evidence that there are risks to the health and long-term social wellbeing of those children.

I have had this very real experience in the past six years, and I have to say that a big part of my decision to leave politics at the end of this term is related to it. Banjo was born three months before I became a member of Parliament, and it has been an intense juggle for me and my wife, Melissa, to try to be good caregivers and to continue to do what we do. I am leaving because, ultimately, I want to be a dad first and foremost. I know that is a common thing for people to say—that they want to get out of politics to spend more time with their families. But it is not just the time; it is the role. It is the most important job that I have. It does not really matter what else I can achieve if I have had a chance to give my son the opportunity to be a secure, emotionally intelligent, sensitive human.

My feeling is that, if we can build a society of children like this, if we ensure that our children genuinely get the best start in life, we might very well find that many of the challenges that we grapple with in this place—the economic and social challenges that we deal with within our communities—might well look after themselves. This is not a judgement on how others choose to parent. The reason that this is important to me is that I recognise that I, like very few others, have had the opportunity to make the decision to spend a lot of time with my son because I had the sort of job that enabled that flexibility. It was a privileged decision that most do not get to make.

If Banjo had not come into my life around the time I started in Parliament, if I was still doing the nine to five, I might not have realised the importance of the role. He may well have ended up in care from the earliest age because that was just what we had to do. But I had the flexibility to be with him and to see the consequences of being able to be with him—and to see what it meant for my wife to have the support of my being there as well, so she could also be with him. I got to see that and I cannot ignore those things. So why isn't the discussion about how to design public policy to help parents to parent, not just to help them go to work? They do no more important job if we are to have a happy and healthy society. Bring a bill to Parliament with \$5 billion to help address that, and I will happily support it.

I was talking to Emily from my office earlier. She had Reuben in August last year. Emily stayed at work pretty much full time until she had Reuben—it coincided with the COVID pandemic, so things were a little bit different. She has had the great opportunity to largely do her work part time. I would like to think that I provided a really supportive environment for her to be able to deliver the care that she wants to give to her son. Again, I recognise that that has been a privileged opportunity: partly because I thought that was important for an employer to be able to deliver, and partly because for a public servant there is more support and flexibility for that.

If you want to talk about choice, how do we enable people to make genuine choices in how they fulfil their multiple roles in society? For a lot of us, it is a short part of our lives that we spend as carers for children. This is especially important for mothers. It is not just about giving them the ability to go back to work. Real choice would enable them to choose to care for their children in the way they want to, and for that not to have a huge economic impact and burden on the rest of their lives. We can support them to stay connected to their work, to maintain their skills and to be able to come back. We can enhance access to maternity and paternity leave so that mothers and fathers can actively participate in the care of their children for longer.

I suspect that if we had invested some of this money into genuinely providing choices for people—to choose how to care for their children, or to access institutionalised care—maybe the choices they make would be different. I suspect that quite a lot of women and families would choose to spend more time being carers for their children. We have seen that other countries, particularly in Europe, have tried to make a genuine choice possible. They have invested in both universal free childcare and also much longer periods of paid parental leave. That is real choice. I know that requires huge dollars. But to dress this particular policy up as choice for women, I think, disregards the very real risks of having infants in care from a young age.

We are missing an opportunity to have a genuine discussion about how to make sure people can provide that critically important role as carers, and how much better off we might be—as people, as families and as a society—if we were to do that. I do not support this bill. I am very concerned by the way it is being dressed up purely around economic and employment participation. It fails to recognise the needs of children. It fails to genuinely provide choices. I think that in 10 years' time it will be a massive subsidy to private and largely for-profit childcare centres. Whilst I know there are a lot of people who work in those centres and do an incredibly important job at very low pay—and there is a really important role for them, particularly in the preschool years, for early childhood education—that is not the be-all and end-all in delivering options and choices for parents, for families and children.

I wish it was different: that, with the Government so prepared to actually spend money on this important area of public policy, we could have a broader and more nuanced conversation about the needs of women and families and children in society. It is disappointing that this debate has been so narrow in its focus. I have expressed that to the Minister and to the Minister's office, and I appreciate them for listening to my arguments.

I really thank, in particular, Ishbel and Emily from my office for helping me to be able to come here and say these sorts of things in the debate today. It does feel very awkward in some ways, as a male, saying this. But, with their support and the support of my wife—women who were prepared to put this down in writing—I think that I have a responsibility, also having watched it so closely in my own life, to try to articulate that. I recognise some people will construe it in a certain way, but I hope that I have been able to articulate it in a way that enables people to understand that it comes from a good place and a real hope that we can really, genuinely meet the needs of women and families in our society.

**Ms ABIGAIL BOYD (18:17):** On behalf of The Greens, I contribute to debate on the Childcare and Economic Opportunity Fund Bill 2022. The bill is, to put it kindly, the wrong solution to the right problem. The Government is right to finally acknowledge the enormous financial burden placed upon new families in New South Wales trying to access quality early childhood education and care. There is, of course, no doubt that there is a lack of affordable early childhood centres and child care throughout the State. It is particularly pronounced in lower socioeconomic areas and in western New South Wales, where, not coincidentally, there is also a distinct lack of publicly owned and run facilities.

The stress and impact on families that the lack of childcare options presents, and the impact on children's long-term wellbeing, is something that we need to address urgently, along with the ongoing barrier that it presents to some women's participation in paid work. You do not need a 77-page research paper to tell you that—we have known about it for years—but Treasury got one done, just to be sure. The *Women's economic opportunities in the NSW labour market and the impact of early childhood education and care* report did not allow its somewhat misguided assumptions to get in the way of achieving some really meaningful insights. The report states:

The cost of ECEC in Australia and New South Wales is high by international standards, with subsidies progressively withdrawn on the basis of household income, from a level below the average full-time wage of a single income earner. Accessibility of care, in terms of the availability of places across locations, and the type and quality of care, presents a further challenge to parents. The ECEC market is predominantly privately run, with limited system management to prevent cost escalation and to ensure supply across the State, in stark contrast to the universal public provision of education from age five onwards ... A significant determinant of availability and quality of ECEC is the workforce, who are paid well below the average wage.

So the report acknowledged the issues that are caused by the fact that we have a predominantly privately run early childhood and childcare system, and the fact that the workforce is not adequately compensated for the incredibly valuable work that they do.

It was with great fanfare that the Treasurer announced he would be addressing the lack of affordable and accessible child care in our State as part of his so-called women's budget in June. Affordable and accessible child care, he told us, is critical to increasing "women's workforce participation", to enabling women to be seen as productive units for the purposes of our economy—never mind the enormous contribution that women make to our economy through their unpaid work. I have long expressed the view that it is well past time that we move on from archaic concepts of gross domestic product and gross State domestic product which undervalue the millions of hours of unpaid work performed across the State and which create a perverse incentive to get more people into paid work regardless of the tangible impact on their wellbeing. I reiterate that you can improve GDP in this State by getting everybody to pay for each other to look after their children, but if everybody looks after their own child that does not increase GDP. The idea that just because there is a cost involved it creates some sort of tangible impact of an increase in GDP and upon people's wellbeing is, of course, a complete fallacy.

This also ignores the experiences of single women and two-income families who are already working full-time, often in multiple jobs, and spending huge chunks of their income on ensuring that their children are looked after. This bill is not focused on them because it is directed only at increasing the numbers of women working, or the hours they are working each week, and not on easing the burden on women who are already working. Never mind the evidence that shows us that early childhood education is of significant benefit to the children themselves, above and beyond that to their parents, particularly in lower socioeconomic areas. Access to early childhood education has been shown to have a huge impact on children's lives. In addition to the development of early social skills, children attending early childhood education are more likely to have disabilities and other learning disadvantages picked up at an earlier age and to receive the early intervention they need to prepare them adequately for school.

I acknowledge the excellent contribution from Mr Justin Field in relation to this conflation of care of infants and then the years leading up to preparation for school, before they even get to preschool stage. I reflect on my own experience as a parent. My view on whether I would be the one to look after my children or ask someone

else to was always based on the principle that I would look after them unless they would be better off with someone else spending that time with them. If I felt that I was just depositing them at a daycare centre like a repository, to be held as opposed to being educated, then that was not good enough for me. But what an incredibly privileged thing that is for me to say, because I had a choice. I had a choice whether or not to work. I chose to work, knowing that I could afford and that I had access to child care. That is not a choice the majority of people have. I am keenly aware of that.

I think that the inequality between those who can and those who cannot afford these sorts of childcare options is even more stark when children reach the age of 2½ or three. From my own experience, that was the point at which my children started experiencing difficulties that I was incapable of dealing with. I did not know what to do. There was nothing in the parenting manual about how to look after my children at that point. I was incredibly fortunate that I could put them into early childhood education where they were able to identify, "Yes, your children are different from the norm. There is something here you need to look at." But, again, what an absolute position of privilege I was in and that other people were not in.

It is no accident that that is how our system has got to the point that it is at now; it is through systematic underfunding of public services. We are making it so that only the most privileged of us are able to provide that sort of care for our child. I think that it is really important that we focus on that when we talk about choice. I share some of the previous speaker's sentiments that it does seem to be an approach that is based on a very privileged, wealthy vision of what families are going through. It really rubs me the wrong way, when I consider the realities of what most people are going through in this State.

The framing of the provision of affordable and accessible child care as a women's participation issue goes some way to explaining why the Treasurer has conceived and drafted the bill for this reform so poorly. But to understand how the Treasurer could get this reform so terribly wrong, we need to understand his and the Liberal Party's adoration of market economics and stubborn adherence to the idea that profit-taking entities can provide essential public services somehow cheaper or more effectively than public and not-for-profit entities. When we saw waves of privatisation 20 or 30 years ago, there was certainly that view. I think it has been disproven now. I think people have seen that private entities have the same issues. If you look at the core structural drivers and impacts around a public versus a private entity, there is no inherent reason why a government entity would be less effective or more costly than a private one. I know that I am rubbing up against the core ideology of the Liberal Party on that, and I am unlikely to get any love for those sorts of sentiments.

But it is no accident that child care in our State is so unaffordable and so patchy; it is precisely because over the years the government stopped funding public alternatives. The so-called childcare deserts outside metropolitan Sydney that the Treasurer keeps talking about are effectively the same areas in which there are no publicly run centres. Long gone are the days when local councils routinely ran childcare centres. Childcare centres used to be run across the State. Looking back through the history of childcare provision, it is not that surprising that we have ended up where we are. A whopping 75 per cent of our daycare centres are private and run for profit, 17 per cent are private not-for-profit and 2 per cent are managed by Catholic and independent schools. Only 6 per cent are run by government.

So what is the Treasurer's solution to this problem—a problem created by giving over the running of an essential public service to the private sector? It is more investment in the private sector. That is his solution to a problem which has been caused by investment in the private sector. Here we have a proposal not to directly invest billions of dollars in public childcare services but instead to prop up the very entities taking profit at the expense of families across our State. The response from the Government is to shovel more money out the door to private providers, with the hope of maybe enticing or incentivising them to build more services in underserved areas. How the Government expects this to improve affordability is anyone's guess. Following the Government's logic of supply and demand, a new entrant into an underserved area would be able to charge even higher fees to desperate families and, driven by a profit motive, private for-profit providers surely will.

I compare that with Labor's response to improving child care for Victorian families. Labor will spend \$9 billion and establish 50 government-owned and affordable childcare centres—greater investment, starting sooner, in government public services. Early childhood education and care is the first rung on our education ladder. The fact that this policy will further degrade the availability of a public education offering flies in the face of our proud, universally available public education system, which we have spent so long building up, protecting and supporting.

The bill contemplates more money going to private operators. The Greens policy at both the New South Wales and national levels is explicitly against public money going to private early childhood education and childcare centres. It is a core Greens policy principle and informs our thinking on the bill. We should be doing something far more similar to what the Labor Government in Victoria is doing. For example, we could have set up a fund for councils to access to establish council-run early childhood education centres instead.

Notwithstanding The Greens' opposition to the bill on the basis of our core disagreement with privatisation of public services, I thank the education Minister and the Treasurer, and, in particular, their hardworking staff, for working cooperatively with us on the bill. In the past few days over the course of a number of meetings, we have been able to agree on a number of amendments, which, if successful, will improve the bill. We have some fundamental differences of opinion on policy. However, there is always room to improve any legislation if the attempt is made to work it through. I sincerely thank the Treasurer and the education Minister for the respect they have shown to The Greens in taking the time to have those discussions. I am out of time but will have more to say during the Committee stage.

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

**The Hon. PETER POULOS (20:00):** On behalf of the Hon. Damien Tudehope: In reply: I thank the Hon. Courtney Houssos for her contribution and for indicating that the Opposition will support this important reform bill. It is encouraging to see the Opposition doing so, especially when the Government is providing leadership and a blueprint to undertake this very important initiative. I thank the Hon. Mark Latham, Reverend the Hon. Fred Nile, the Hon. Aileen MacDonald, Mr Justin Field and Ms Abigail Boyd for their contributions.

The Childcare and Economic Opportunity Fund Bill 2022 provides for financial assistance for the provision of affordable and accessible child care. In the history of this very historic Parliament, this is landmark reform. For the most experienced and seasoned member of this Chamber, Reverend the Hon. Fred Nile, to acknowledge that this reform is well and truly overdue and highly imaginative is an indication of how far we have come in a very short period under the stewardship of this energised Government under the leadership of Premier Perrottet and Treasurer Matt Kean.

The bill supports women and supports the aspirations of working families. The measures will achieve savings and address a significant cost-of-living pressure for working families. The policy has been shaped by women and has guided the Government's response. This Government is listening. This Government provides choice. This Government understands that childcare reform is due. This is global leadership. I commend the bill to the House.

**The DEPUTY PRESIDENT (The Hon. Chris Rath):** The question is that this bill be now read a second time.

**Motion agreed to.**

### In Committee

**The CHAIR (The Hon. Wes Fang):** There being no objection, the Committee will deal with the bill as a whole.

**Ms ABIGAIL BOYD (20:05):** By leave: I move The Greens amendments Nos 1 and 2 on sheet c2022-160L in globo:

**No. 1 Name of Act**

Page 2, proposed section 1, line 4. Omit "*and Economic Opportunity*".

**No. 2 Objective of Act**

Page 2, proposed section 4(1), lines 25–27. Omit all words on those lines. Insert instead—

- (1) The principal objective of this Act is to increase levels of affordable and accessible childcare across the State.

As I made clear in my contribution to the second reading debate, the dressing up of childcare funding as economic opportunity for women is misguided and wrong-headed. It is about far more than that. The idea that we are targeting only those women currently not working and that this fund will be specifically directed towards getting more women into the workforce, rather than easing the burden on women who are already in the workforce is wrong-headed and it also underestimates the value of the unpaid work that women do across the State. Calling this bill something to do with women's equal opportunity is a long bow. For that reason, we are proposing that we take out "economic opportunity" from the name of the Act and that the objective of the Act to be, instead, "to increase levels of affordable and accessible child care across the State", because that problem has been identified. This is not about a simple reduction of barriers to women working. It is about providing the best possible support for families across the State.

**The Hon. PETER POULOS (20:07):** I thank Ms Abigail Boyd. The Government does not support The Greens amendment No. 1. The fund is a cornerstone of the Government's Women's Opportunity Statement, in recognition of the significant impact of childcare cost and accessibility barriers on women's opportunities to



engage in the workforce. The Government does not support amendment No. 2. The fund's principal policy intent is to increase participation in the State's workforce, particularly by women, by making child care more affordable and accessible. Section 4 (2) (b) notes childcare affordability and accessibility as an aim of the Act to achieve its principal objective. I note that the fund is one component of the Government's suite of early childhood reforms, with other funding focused primarily on quality and access to education and care such as the universal pre-kindergarten reform and affordable preschool investment.

**The Hon. DANIEL MOOKHEY (20:08):** The Opposition maintains that the absence of suitable, ubiquitous, cheap and accessible child care has a real impact on women's participation, but it is equally as clear that the improvement of such child care brings benefits to everyone as well, and we very much recognise that The Greens here are right to point out that the provision of child care is necessary for the care of children, and also to correct centuries of imbalance that have wrongly distorted it. I feel that The Greens have moved a symbolic amendment. From our perspective, because the bill does not contain the word "women" in its title, we are comfortable with it as it currently is.

**The CHAIR (The Hon. Wes Fang):** Ms Abigail Boyd has moved The Greens amendments Nos 1 and 2 on sheet c2022-106L. The question is that the amendments be agreed to.

**Amendments negated.**

**Ms ABIGAIL BOYD (20:09):** I move The Greens amendment No. 3 on sheet c2022-160L:

**No. 3 Objective of Act**

Page 2, proposed section 4(2)(b), line 30. Omit "childcare.". Insert instead—

childcare, and

(c) support the early childhood education and care workforce and sector.

In this amendment we are ensuring that we are considering the workforce capacity of this sector. The objects in the Act direct the exercise of functions by the board and the dispensing of funds. If we are not careful to look after the childcare workforce, strengthen pay and conditions to make it a profession that attracts and retains individuals, then we are not going to have a viable and vibrant childcare sector in the future. With that in mind, we have proposed that we include within the elements of how we will achieve the objects of the Act that we will support the early childhood education and care workforce, as well as the sector more broadly. That is vital. I acknowledge the amendments made by the Opposition in the other place that gave this nod to workers. I understand that the Government has a separate plan when it comes to investing in the workforce. However, we cannot have funding under this bill being used in a way that could damage the sector's workforce capacity in the future. I hope to get support on this amendment.

**The Hon. PETER POULOS (20:11):** Once again, I thank Ms Abigail Boyd for her constructive observations. The Government supports amendment No. 3 in recognition that workforce issues are a critical component to addressing the supply of accessible quality childcare services. That will be achieved through the independent market monitoring reports that will help the Government to develop workforce policies, alongside the fund, and engage with the Commonwealth, which has primary policy responsibility for workforce matters.

**The Hon. DANIEL MOOKHEY (20:12):** The Opposition supports the amendment. We appreciate the comments of Ms Abigail Boyd, who made reference to the fact that it was the Opposition in the other place that forced workforce issues into the core of the plan that has to be produced. We could not take all the glory in the lower House; we had to leave something for our colleagues on the crossbench here. We are glad that we have given them this room and we are glad that, as a result, the objective of this Special Deposits Account will support the early education and care workforce and sector. It is important because to uplift the quality of child care, its ubiquity, its accessibility and its affordability, we also need to make sure that people that work within it are not forgotten.

**The CHAIR (The Hon. Wes Fang):** Ms Abigail Boyd has moved The Greens amendment No. 3 on sheet c2022-106L. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The CHAIR (The Hon. Wes Fang):** In the Committee stage, amendments can be moved in any order, but if there is an agreement that Ms Abigail Boyd will move all her amendments before the Opposition or the Government, then we will proceed that way.

**Ms Abigail Boyd:** Are there other amendments? I have not seen any others. I missed the other sheets of amendments. I see there is a Government sheet.

**The CHAIR (The Hon. Wes Fang):** There is one from the Opposition as well. I may have announced them earlier.

**Ms Abigail Boyd:** In my defence—I will put it in *Hansard* because I want to—I am recovering from an operation. That is going to give me a "get out of jail" card for the next however long.

**The CHAIR (The Hon. Wes Fang):** You do not need one. Ms Abigail Boyd has the call.

**Ms ABIGAIL BOYD (20:13):** By leave: I move The Greens amendments Nos 5 and 6 on sheet c2022-160L in globo:

**No. 5 Appointed members of Board**

Page 6, proposed section 9(3)(c), line 11. Omit "3". Insert instead "5".

**No. 6 Appointed members of Board**

Page 6, proposed section 10. Insert after line 30—

(2A) At least one of the appointed members must have experience or expertise in childcare.

(2B) At least one of the appointed members must have experience or expertise in childcare sector workforce issues.

We are attempting to further specify the composition of the board that manages the fund. The idea is to boost the numbers of individuals on the board to include, most importantly, somebody who has experience or expertise in childcare sector workforce issues. Ideally that would be somebody who had worked in the sector and had good connections with the sector. Also, at least one of the additional members should have experience or expertise in child care. We are keeping the board at an uneven number, which will help with decision-making on the board. I hope we can get support for these amendments.

**The Hon. DANIEL MOOKHEY (20:16):** I move Opposition amendment No. 1 on sheet c2022-168:

**No. 1 Appointed members**

Page 6, proposed section 10. Insert after line 30—

(2A) One of the appointed members must be appointed on the recommendation of Unions NSW.

(2B) One of the appointed members must be appointed on the recommendation of Business NSW or the Australian Industry Group.

We too have a view as to who should be sitting on the board that will supervise the Special Deposits Account and which will have access to a standing appropriation as it discharges its objectives. We think it is important to have a representative of Business NSW and the Australian Industry Group, which reflects the fact that for a long time those two organisations and their national counterparts have been campaigning very hard for a solution to the absence of childcare places in certain parts of our State and our nation. We also support a representative who is appointed on the recommendation of Unions NSW. To be clear, we are very respectful of the business voice, but we are equally respectful of the worker voice when it comes to a sector that people have been campaigning to transform for 40 or 50 years.

In fact, the very existence of child care in any form arises from the tremendous contribution led by trade unionists going back to Elizabeth Evatt. I also pick up on the outstanding contributions of people like Jennie George who, at the Teachers Federation, led strikes about this issue in the 70s and 80s. Sharan Burrow and many of our sisters in the union movement fought hard within that movement to make sure that this issue was taken seriously. The fact that at many times other parts of the House have fought the idea that this is a necessary part of the social contract, and have been dismissive of the contribution and struggle that led to it, is disappointing. Given the ambitions we now commit to on a bipartisan basis to carry forward this work into the next decade and to make sure that we as a government make the necessary investments, we should be working with business, workers and unions. We should make sure that they have a seat at the table. If this amendment is not to pass, and if The Greens amendment is not to pass, then the sole discretion as to who is to be sitting on this board belongs to the Treasurer. I am confident in the probability that, after March, the quality of the Treasurer will improve, but I cannot guarantee it. We are working hard. There is more to do, but we are heading in the right direction.

Regardless of the amendment's success, the Government will have the numbers on the board, so there is no harm in ensuring that it has some legitimacy. It is important that it has some accountability, too. That is why putting people in these positions who are not answerable to the Minister but can access public oversight and who have the opportunity to assist in the rollout and bring their expertise to the interrogation of this investment plan is crucially important. That is why we make the case for our amendment. Of course, I foresee a scenario in which, by certain parliamentary quirks, we may not well have the opportunity to record in *Hansard* our precise view, so I make it clear now.

But, should we find ourselves in a position where we are unable to test the House's support for our amendment, we will support The Greens' amendment. Because it is sensible to at least specify that the board of a fund that controls billions of public dollars with the objective of improving accessibility to work, especially for women, should have at least one appointed member who has expertise or experience in child care and at least one member who has experience or expertise in childcare sector workforce issues. I am disappointed that The Greens have gone to the right on this matter compared to the Opposition, but it is what it is. Something is better than nothing. We certainly do not think that prescribing membership of this board should be done by regulation or any such thing. This is a good step forward. I certainly hope that the Government can support at least one of these amendments.

**The Hon. PETER POULOS (20:21):** Before I outline the Government's response, Chair, with your indulgence, I invite Ms Abigail Boyd to consider detaching amendment No. 5 from amendment No. 6 on sheet c2022-160L so that the House can deal with them separately. The Greens amendment No. 6 and Opposition amendment No. 1 on sheet c2022-168 both relate to page 6 of the bill. It might be particularly useful in the Committee stage that we therefore consider The Greens amendment No. 5 separately from those.

**The CHAIR (The Hon. Wes Fang):** My understanding of the procedure—and I will watch for any death stares from the Clerk's table if I am wrong—is that The Greens amendments Nos 5 and 6 being moved in globo does not preclude the House from voting on them separately. Adopting The Greens amendment No. 6 also does not preclude Opposition amendment No. 1 from being adopted. There is no clash; the Committee can vote on the amendments separately. If one is adopted, there is no effect on the other.

**The Hon. PETER POULOS:** Thank you, Chair, for your guidance. The Government does not support The Greens amendment No. 5. The fund board is intended to be small and to operate efficiently. The board's composition is also intended to support strategic alignment with the other early childhood education and care [ECEC] reforms. The fund is unlikely to achieve its intended benefits unless it complements existing and proposed New South Wales Government early childhood education and care initiatives. The Government supports The Greens amendment No. 6.

The Government recognises having board members with deep childcare expertise or experience will be critical to the success of the fund, and the amendment strengthens the wording of this section of the bill. The Government also recognises that having a board member with deep understanding on the issues occurring in the ECEC workforce is, indeed, beneficial. As I have outlined the Government's position on The Greens amendment No. 6, the Government therefore does not support Opposition amendment No. 1. This amendment is superseded by The Greens amendment, which specifies in further detail the expertise requirements of the board, including expertise or experience in workforce issues in the childcare sector.

**Ms ABIGAIL BOYD (20:24):** In relation to Opposition amendment No. 1 on sheet c2022-168, The Greens wholeheartedly support paragraph (2A). However, in the interests of passing these amendments so that we can all sing Kumbaya, we will prioritise the amendment that we have moved. I thank the Government for meeting us halfway on that. I also note that The Greens do not support paragraph (2B) of the Opposition's amendment. We would not vote for it for that reason as well. We believe that Business NSW and the business sector generally have enough of a say when it comes to what the Government does. I am happy to vote on amendments Nos 5 and 6 separately.

**The CHAIR (The Hon. Wes Fang):** Ms Abigail Boyd has moved The Greens amendments Nos 5 and 6 on sheet c2022-160L and the Hon. Daniel Mookhey has moved Opposition amendment No. 1 on sheet c2022-168. A request has been made that The Greens amendments be put seriatim. The question is that The Greens amendment No. 5 be agreed to.

**Amendment negatived.**

**The CHAIR (The Hon. Wes Fang):** The question is that The Greens amendment No. 6 be agreed to.

**Amendment agreed to.**

**The Hon. Daniel Mookhey:** Chair, I suggest that you seek advice from the Clerks as to whether or not, as a result of the House endorsing The Greens amendment No. 6, the Opposition's amendment has lapsed.

**The CHAIR (The Hon. Wes Fang):** I have received advice that nothing precludes the adoption of the Opposition amendment. It is up to the House how the board is formed. We can continue to vote on this amendment. The question is that Opposition amendment No. 1 be agreed to.

**Amendment negatived.**

**Ms ABIGAIL BOYD (20:29):** I move The Greens amendment No. 7 on sheet c2022-160L:

**No. 7 Provision of financial assistance**

Page 7, proposed section 12. Insert after line 15—

- (2A) Financial assistance from the Fund may be given only to—
- (a) government sector agencies, including local government agencies, or
  - (b) not-for-profit bodies.

As I mentioned in my contribution to the second reading debate, The Greens have a hard line when it comes to the provision of public money to private early childhood education and childcare services. We believe that the Government is best placed to provide such an essential public service, and we put the blame for the current affordability and accessibility crisis in child care squarely at the feet of those who sought to privatise the system in the first place. Education should be universal in this country, and throwing more money at the private sector should be resisted. That is the reason for the amendment. I understand the Government will not be supporting it, and we have a very different idea when it comes to the privatisation of essential public services. I move this nonetheless because it is a core and closely held principle of The Greens.

**The Hon. PETER POULOS (20:30):** As Ms Abigail Boyd hinted, the Government does not support the amendment. The early childhood education and care market is diverse, with a mix of providers including private for-profit providers, private not-for-profit providers, community providers and local government providers. Around 60 per cent of providers are private businesses, and a large majority of those—around 75 per cent—are businesses that operate one service.

**The Hon. DANIEL MOOKHEY (20:31):** The Opposition is for what works when it comes to taking action to ensure the accessibility and affordability of child care. In many places that will be government sector agencies, including local government agencies, as well as not-for-profit bodies. Opposition members have already outlined our intention to build 100 preschools in public schools as well, as an example of the type of leadership that governments can provide. But we certainly think that for-profit entities should have the right to have their offers inspected to see whether or not there is public utility, especially when it comes to providing speedy responses.

We have concerns about the provision of public funds in certain parts of the private for-profit sector that take over the role and replace capital that could otherwise be accessed by those private capital firms themselves. That is a concern. There is a real question mark as to whether we are providing a public subsidy that otherwise could be sourced from the private sector itself. Incidentally, for 30 to 40 years that argument has usually been made by the conservative side of politics when it comes to the provision of public funds and public subsidies to private capital, especially in a scenario in which their economic structure is determined as well.

In the childcare space, the Federal Government has traditionally provided income support to the purchasers of childcare services. Nevertheless, this is one of those scenarios in which we need to see how it plays out. Part of the reason the Opposition fought so hard in the other place for many of the accountability, transparency and performance audit functions that have since been achieved is to ensure that there is appropriate accountability for the expenditure of public funds. Given that there is the ability for governments to test that through the production of an investment plan, we would certainly be applying high standards should that investment plan recommend the provision of public money to for-profit entities. I am sure the Government would too.

In that sense, Opposition members have to see how this issue develops. We are proud of the fact that our agitation led to the improvement of the transparency, accountability and audit functions that are now in the bill. We are also pleased that we have obtained a statutory review. Should we find ourselves in a circumstance where The Greens' concerns have manifested themselves, the Parliament will have the opportunity to respond at that time.

**The CHAIR (The Hon. Wes Fang):** I indicate to the Committee that the Government has submitted a further amendment on sheet c2022-169A. It is up to the discretion of the Chair to decide whether further amendments may be accepted. In this instance, the amendment may be debated. Ms Abigail Boyd has moved The Greens amendment No. 7 on sheet c2022-160L. The question is that the amendment be agreed to.

**The Committee divided.**

Ayes .....6  
 Noes .....27  
 Majority.....21

AYES

Boyd (teller)

Field

Hurst

|                  |                    |           |
|------------------|--------------------|-----------|
| AYES             |                    |           |
| Faehrmann        | Higginson (teller) | Roberts   |
| NOES             |                    |           |
| Amato            | Franklin           | Moselmane |
| Banasiak         | Graham             | Nile      |
| Barrett (teller) | Houssos            | Poulos    |
| Borsak           | MacDonald          | Primrose  |
| Buttigieg        | Mallard            | Rath      |
| D'Adam           | Martin             | Searle    |
| Donnelly         | Mason-Cox          | Tudehope  |
| Farlow (teller)  | Mookhey            | Veitch    |
| Farraway         | Moriarty           | Ward      |

### Amendment negatived.

**Ms ABIGAIL BOYD (20:44):** By leave: I move The Greens amendments Nos 8 to 10 on sheet c2022-160L in globo:

#### No. 8 Matters to be considered when exercising functions

Page 12, proposed section 24, lines 2–5. Omit all words on those lines. Insert instead—

#### 24 Matters to consider when exercising functions under Act

- (1) A person exercising functions under this Act must consider the following—
  - (a) the percentage of marginal income spent by families on childcare,
  - (b) the impact the cost of childcare has on—
    - (i) preventing children from accessing early childhood education, and
    - (ii) discouraging persons from participating, or increasing participation, in work.

#### No. 9 Repeal of Act

Page 13, proposed section 29, lines 1–6. Omit all words on those lines.

#### No. 10 Maximum financial assistance

Page 14, proposed Schedule 1, section 2, line 9. Omit "The maximum". Insert instead "Subject to a higher amount being recommended for a financial year in a strategic investment plan, the maximum".

I will talk about amendment No. 8 first because the amendments are unrelated, but I have moved them together. Amendment No. 8 is again about the concept that we are not just concerned with making child care more accessible and affordable in those areas where women are facing a barrier to participation in work—and so are working either not at all or at reduced hours compared with what they would like—but we are also focused on areas where the percentage of marginal income being spent by families on child care is prohibitive. We are focused as well on the impact that the lack of accessibility and affordability of child care has on preventing children from accessing that education. That is also important in addition to also discouraging persons from participating or from increasing their participation in work. Again, we are broadening out the scope of the matters to consider when we are working out which areas of the State we should provide this funding to.

Amendment No. 9 relates to something that was pointed out by the Legislation Review Committee: the idea that we have a provision where the Act is repealed by proclamation. That is quite unusual. In the opinion of the Legislation Review Committee and The Greens, it is not best practice drafting and gives far too much discretion to the Executive.

Once the board has done its market review and put together its strategic investment plan, in its wisdom—now bolstered with representatives of the workforce in some form—it may decide that actually it would be smart to recommend an increased amount of funding for a particular year. Amendment No. 10 would allow it to put that into its strategic investment plan, with that strategic investment plan then being approved by the Minister. In those circumstances, if a higher amount than what is listed in the schedule is recommended, that would then apply instead of the default amount that would apply in other circumstances. That is the reason for that amendment.

I flag again that, given the amendment that has come from the Government just now, I will not move The Greens amendment No. 11. Instead, I will accept the compromise that we have reached with the Government about payments before the strategic investment plan. As this is the final time I will speak to this bill, I again thank

the Minister for Education and Early Learning, the Treasurer and their very hardworking staff. They have been very patient with me throughout the past couple of days to try to come up with a consensus position here. I am grateful, and I hope we can see more of that collaborative approach.

**The Hon. PETER POULOS (20:48):** The Government appreciates the constructive input from The Greens, as outlined by Ms Abigail Boyd. The Government supports amendment No. 8. The proposed section is intended to ensure that the impact of childcare barriers on workforce participation by parents is considered in the functions of the board. The proposed wording builds on this intention by specifying further detail in this section. In response to The Greens amendment No. 9, as moved by Ms Abigail Boyd, once again the Government thanks The Greens for their input. The Government supports this amendment, as the repeal of the Act can be considered by a future Parliament.

The Government will support The Greens amendment No. 10, and thanks The Greens for their contribution. The maximum amount, as set out in the bill, is intended to be aligned to the Government's funding commitment to the fund, as announced in the 2022-23 budget. This includes that, from the 2026 financial year, the amount to be appropriated into the fund will be up to \$650 million indexed to CPI. The amendment would enable a higher amount to be appropriated into the fund from the 2026 financial year if recommended in the strategic investment plans. Noting that strategic investment plans must be approved by the Minister for Education and Early Learning and by the Treasurer, the amendment is supported as it would provide an appropriate level of flexibility regarding investment in the fund over the longer term, subject to ministerial approval. Finally, the Government acknowledges and thanks The Greens for withdrawing amendment No. 11. I will provide further input into the reason for that, shortly.

**The CHAIR (The Hon. Wes Fang):** I cannot wait for the mystery to be solved. Until then, I call the Hon. Daniel Mookhey.

**The Hon. DANIEL MOOKHEY (20:51):** With respect to The Greens amendments Nos 8 to 10, who are we to disturb the consensus?

**The CHAIR (The Hon. Wes Fang):** Ms Abigail Boyd has moved The Greens amendments Nos 8 to 10 on sheet c2022-160L. The question is that the amendments be agreed to.

#### **Amendments agreed to.**

**The CHAIR (The Hon. Wes Fang):** Ms Abigail Boyd has confirmed that The Greens will not be moving amendment No. 4 on sheet c2022-160L. I call the Parliamentary Secretary.

**The Hon. PETER POULOS (20:52):** By leave: I move Government amendment No. 1 on sheet c2022-169A and Government amendment No. 1 on sheet c2022-167 in globo:

[c2022-169A]

#### **No. 1 Payments before first strategic investment plan**

Page 16, proposed Schedule 2, section 4. Insert after line 8—

- (2) No later than 45 days after a payment is made under this section, the following information about the payment must be made publicly available on a website—
  - (a) the amount of the payment,
  - (b) the scope of the program funded by the payment,
  - (c) the reasons for making the payment.

[c2022-167]

#### **No. 1 Review of Act**

Page 12, proposed section 28, lines 32–39. Omit all words on those lines.

In the spirit of very noble cooperation between the Government and the crossbenchers, particularly in relation to amendments moved by The Greens, the Government moves amendment No. 1 on sheet c2022-169A to take into consideration the concerns of The Greens regarding reporting fund expenditure prior to the first strategic investment plan. Whilst there will be an annual report detailing the funds expended, the Government is happy to strengthen accountability and transparency measures. We move this amendment as it aligns more closely with the requirements of the grants administration guidelines circulated by the Department of Premier and Cabinet in September 2022.

Amendment No. 1 on sheet c2022-167, Review of the Act, relates to page 12, proposed section 28, lines 32 to 39. This proposed section is superseded by amendments passed in the other place that set out a review regime for the fund. Government amendment No. 1 on sheet c2022-169A, which amends schedule 2 to the bill, ensures

that guidelines or documents outlining the purpose of payments made before the first strategic investment plan are made publicly available on a website.

**The Hon. DANIEL MOOKHEY (20:54):** The Opposition supports both Government amendments. Amendment No. 1 on sheet c2022-169A is a welcome step forward with regard to transparency and accountability, especially prior to the formation of the investment plan. That is a good step forward. Amendment No. 1 on sheet c2022-167 seems technically needed, and so it is also good. I acknowledge the constructive dialogue the Opposition has had with the respective Ministers' offices and their hardworking staff. The bill is a good example of the ability of members to reach legislative agreement. I look forward to resuming the Opposition's otherwise standard hostile relationship with the Government tomorrow, as I am sure the hardworking staff of the respective Ministers do.

**The CHAIR (The Hon. Wes Fang):** The Hon. Peter Poulos has moved Government amendment No. 1 on sheet c2022-169A and Government amendment No. 1 on sheet c2022-167. The question is that the amendments be agreed to.

**Amendments agreed to.**

**The CHAIR (The Hon. Wes Fang):** The question is that the bill as amended be agreed to.

**Motion agreed to.**

**The Hon. PETER POULOS:** 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. PETER POULOS:** On behalf of the Hon. Damien Tudehope: I move:

That the report be adopted.

**Motion agreed to.**

### **Third Reading**

**The Hon. PETER POULOS (20:58):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

I acknowledge the leadership of the Minister for Education and Early Learning, the Hon. Sarah Mitchell, and her contribution to the bill and the Government's landmark reform to early childhood support and child care. The Minister is absent this evening due to illness, but she wanted to convey her very strong endorsement of the bill.

**The DEPUTY PRESIDENT (The Hon. Chris Rath):** The question is that this bill be now read a third time.

**Motion agreed to.**

### *Committees*

### **PRIVILEGES COMMITTEE**

#### **Reference**

**The Hon. PETER PRIMROSE:** According to section 72C (5) of the Independent Commission Against Corruption Act 1988 and paragraph 2 (c) (iv) of the resolution of the House establishing the Privileges Committee, I inform the House that on Wednesday 12 October 2022 the Committee resolved to adopt terms of reference to inquire into and report on the Code of Conduct for Members, together with any relevant aspects of the pecuniary interest disclosure regime for members under the Constitution (Disclosures by Members) Regulation 1983.

### *Adjournment Debate*

### **ADJOURNMENT DEBATE**

**The Hon. DAMIEN TUDEHOPE:** I move:

That this House do now adjourn.

## WESTINVEST FUND

**The Hon. SHAYNE MALLARD (21:06):** I recently had a great week joining Treasurer Matt Kean as we visited west and south-west Sydney local government areas to announce successful projects being funded under the New South Wales Government's WestInvest Fund. Over the week we were joined by Premier Dominic Perrottet; the Minister for Metropolitan Roads, the Hon. Natalie Ward; the Minister for Local Government, the Hon. Wendy Tuckerman; and local—mainly Labor—mayors, including the Mayor of Burwood Council, John Faker; the Mayor of Blue Mountains City Council, Mark Greenhill; the Lord Mayor of City of Parramatta Council, Donna Davis; and the Mayor of Blacktown City Council, Tony Bleasdale. Local members of Parliament were also invited, some of whom joined us as well.

The \$5 billion WestInvest program is designed to fund transformational infrastructure projects that will improve livability in west and south-west Sydney. The 15 local government areas that are eligible for support through WestInvest are Blacktown, Blue Mountains, Burwood, Camden, Campbelltown, Canterbury Bankstown, Cumberland, Fairfield, Hawkesbury, The Hills, Liverpool, Parramatta, Penrith, Strathfield and Wollondilly. The fund is only made possible by the asset recycling strategy, so criticised by those opposite, which delivers critical infrastructure across our State and funds for the community.

It should be made clear that the \$5 billion fund is assessed and recommendations are made by an independent steering committee at full arm's length from the Executive side of Government. The Government has listened to the steering committee's advice. A total of \$2 billion is allocated to community project grants, including the local government allocation of approximately \$400 million for the 15 local government areas. Each local council is eligible for between \$20 million and \$35 million, depending on its population size. That is a guaranteed commitment to those councils—and I must say that those mayors were salivating as we delivered that money.

A total of \$1.6 billion from WestInvest will be allocated through a competitive round of grants. Community organisations and local government can both compete for that funding, which is proceeds from the WestConnex transaction. That round is under assessment at the moment and is being keenly competed for by cultural organisations, sporting organisations, arts organisations, religious groups, community groups, environmental groups and, of course, local government. It is important to note that the WestInvest Fund is administered and assessed by an independent steering committee and the assessments that the Government signs off on are now being delivered. Under the WestInvest program, funding announcements have already been made in the last week for the following local government areas: \$24 million for community projects in Canterbury Bankstown, a strong Labor area; over \$14 million for upgraded street spaces in Burwood; \$9.13 million for a new sports centre and cycling connections in the Blue Mountains; over \$15 million for park upgrades in Parramatta; and over \$34.5 million for community projects in Blacktown, including the revitalisation of Mount Druitt Hub, the heart of Mount Druitt.

The projects assessed under the local government allocation, which are being announced progressively as they are approved, will deliver numerous enormous benefits across the 15 local government areas covering most of western and south-western Sydney, including at least 13 new and revitalised parks; at least seven activated high streets; more than 15 new and upgraded community centres; nine upgraded sports grounds and fields; more than 37 kilometres of new walking and cycling tracks; more than nine new BMX and skating tracks and parks—the kids were fantastic about that when we saw them—and a huge number of new trees and greenery. These projects will help to ensure that residents love their communities and spend more time in their local areas for quality of life. Happy local residents are residents who spend money in local businesses, volunteer in their local communities and take part in local hobbies and activities and so have a healthy life.

Members opposite should be cheering us on for this asset recycling that has delivered State- and city-changing infrastructure like WestConnex and dividends to our communities in western Sydney. This Government's record investment in hospitals, schools, arts, sports infrastructure, public transport and road infrastructure is now, after 10 years, on record. WestInvest is the icing on the cake delivered to the people of western Sydney by this experienced and responsible Government. Members should watch this space over the next seven days as more of this investment rolls out over western Sydney and more Labor mayors and Labor State members queue up to thank the State Government for being responsible and delivering for western Sydney.

## PARLIAMENTARY FRIENDS OF AUSTRALIAN MUSIC

**The Hon. JOHN GRAHAM (21:11):** I am happy to place on record that, after a three-year hiatus, the Parliamentary Friends of Australian Music event was held this week. The event was an opportunity for members to enjoy an evening of music with key industry leaders and artists, and to hear about the relevance and value of the contemporary music industry to the economic, export, social and cultural life of New South Wales. I thank the presenting partners, including APRA AMCOS, ARIA, Phonographic Performance Company of Australia, Australian Hotels Association NSW and Clubs NSW. In particular I recognise Narelle Butterworth, APRA



AMCOS's senior manager of events, who put together the evening. I acknowledge my fellow executive members of the parliamentary friendship group—founding chair Ben Franklin, Jo Haylen, Cate Faehrmann, Tim Crakanthorp, Jenny Leong, Kevin Anderson and, of course, chair Shayne Mallard—for their involvement.

We were joined in the Speaker's Garden by the funniest man in New South Wales, emcee Matt Okine, and four fantastic local acts showcasing the incredible talent we have in New South Wales music and the diversity of our State's soundtrack. Hailing from Sydney's eastern suburbs, singer-songwriter Martha Marlow kicked off the night for us all. Marlow's debut studio album, *Medicine Man*, was released in May 2021 and received a nomination for the ARIA award for best blues and roots album at the 2021 ARIA Music Awards, best independent blues and roots album at the Australian Independent Record Awards, and a nomination for the Australian Music Prize. It has been hard to attend any recent music industry awards in Australia without reading her name in the program, and I note that she recently won the emerging artist award at the Australian Women in Music Awards.

We were lucky to catch our second performer, western Sydney artist Becca Hatch, before she heads off to tour with Vera Blue this November and December. Becca Hatch won triple j's 2017 Unearthed High Indigenous Initiative at the National Indigenous Music Awards and has been nominated for other awards, such as Free Broadcast Inc's Sydney's Music Arts & Culture's Next Big Thing, and most performed R&B or soul work at the APRA Music Awards. Hatch spoke about the difficulties of the venue drought in Campbelltown, where she grew up, and having to drive an hour to perform. While much of our State's most exciting art is emerging from Sydney's west, Becca's story is a testament to the need for more venues.

Tamworth born and raised, now Sydney based, Charlie Collins brought her own old country sound to the New South Wales Parliament. Collins won an Australian Independent Record award for best independent country album, was nominated for an ARIA award for her album *Snowpine* and was yesterday nominated for an ARIA award for best blues and roots album for *Undone*. We wish her all the best at the awards in November. No Parliamentary Friends of Australian Music event would be complete without some Aussie rock. Mark Lizotte, better known as Diesel, headlined the evening. I will not list all of his achievements; they are well known across the country. With just the guitar in his hand, he showed us why he is an Australian music icon, and he spoke powerfully about music's ability to heal and to inspire us in tough times.

Of course, the day is not just about the gig. It is also about sharing with MPs the importance of the music industry as a cultural and economic asset to the State. Earlier that day, the Parliamentary Friends of Australian Music executive met with Dean Ormston and Nicholas Pickard from APRA AMCOS, Annabelle Herd and Julia Robinson from ARIA, Emily Collins from MusicNSW, Etsi Zilver from Sounds Australia, Mitch Wilson from the Australian Festivals Association, and Jane Slingo from EMC and VibeLab to discuss the challenges currently facing the music industry in New South Wales.

I finish by reminding the Chamber that Ausmusic T-Shirt Day this year is on Friday 18 November. It celebrates Australian music and raises funds for Support Act, the charity for musicians, roadies and the whole industry, which has been important to the industry getting through the past couple of years during the pandemic. It is an organisation devoted to helping music industry workers in crisis. We will be celebrating the day one day before, on the Thursday, as members will all be together on the last sitting day of the year. It was referred to by one of the Executive members—I will not give the game away by naming them—as muck-up day.

**The Hon. Shayne Mallard:** Don't look at me.

**The Hon. JOHN GRAHAM:** I hope it is not that, but it will be a great day for members to bring their favourite Aussie music T-shirt to wear. We have had a fantastic turnout from MPs in the past. This will be another chance to do it. Of course, which shirt to wear is one of the most important decisions that any member will make this year. I look forward to all members from both Chambers taking part.

### TAXI INDUSTRY

**The Hon. ROBERT BORSAK (21:16):** The announcement from the Treasurer and the transport Minister that they have the "taxi industry's back" with a \$645 million assistance package is nothing more than a stab in the back. Some \$145 million of the package has been paid out, and the remaining will provide \$100,000 for each eligible Sydney metro taxi licence for up to six licences per owner and \$130,000 for each taxi licence outside of Sydney, with no cap on the number of licences per owner. A bill will follow that will deregulate the entire point to point industry. This is not a win for the taxi industry. Those thinking deregulating the point to point transport system does not matter, or that it will be good for the industry, should think again. If deregulation happens, surge pricing will become the norm, drivers will regularly refuse fares unless they are paid up-front. There will be no control on numbers and no safety requirements. Those in the regions will be worst hit.

The proposal put forward by Government lackey Sue Baker-Finch has been unilaterally rejected by the industry. The industry does welcome reform and has given proposals to the Government, which were arrogantly

dismissed. We only need to look at the impact of full deregulation in other jurisdictions to know the devastation that will occur here. At this very moment, New Zealand is considering the re-regulation of its industry. Only the arrogant Liberal-Nationals Government could think that the same issues experienced with point to point and rideshare services in other jurisdictions will not occur in New South Wales. We all rely on the taxi service, often in our moments of greatest need. Those in our regions who are disabled or elderly rely on them to get to doctor appointments, hospitals and their loved ones. With a deregulated industry and rideshare flooding the market, that is when they will be hit for six.

People who live in the bush will be particularly vulnerable to these abuses. Regional areas have been divided into four tiers, with some drivers looking at as little as \$25,000 for each plate; not many applicants will receive the full \$130,000. The Hon. Sam Faraway should speak out against these attacks on regional transport. Instead, he parrots the lines given to him by his masters. For seven years, the industry has asked for an equal working environment, and the Government time and time again has chosen to call it a "level playing field". It is not a game that is being played here; it is people's livelihoods. It is their small businesses.

The Government's actions have caused divorces, suicides, loss of homes and much worse. It is not the conga line of transport Ministers who have taken the phone calls of taxi drivers, desperate and at the point of suicide. My colleague and I have taken many of those calls. This Government should be supporting small businesses; instead it is wiping out an entire industry and devastating lives and communities. What a tragic joke this has become. It is clear that the Liberal-Nationals Government has no respect for the taxi industry, its participants, small business owners, their families, rural and regional communities—the list goes on. The historical disrespect does not give the taxi industry nor the Shooters, Fishers and Farmers Party hope that the next assistance package will reach those who need it. It is too late for many in the industry who have suffered financial and emotional wreckage for years. Up to the next election, the Shooters, Fishers and Farmers Party will be combining with the taxi industry, the Taxi Owners Small Business Association and the NSW Taxi Council to campaign for a better deal of compensation for New South Wales taxi drivers and owners.

#### RENEW ARMIDALE

**The Hon. AILEEN MacDONALD (21:20):** I am sure empty spaces in CBDs are not unique to regional centres. It is a challenge and has an impact not just on tourism opportunities, but also on businesses and the communities they serve. As CEO and founder of Renew Newcastle Marcus Westbury, OAM, has said, "Every empty space is a missed opportunity." In August 2018, after meeting with Marcus Westbury and Renew Newcastle manager Christopher Saunders, community leaders from Armidale Business Chamber—now known as Business New England—Guyra & District Chamber of Commerce and Armidale Locals 4 Locals formed Renew Armidale.

Renew Armidale was based on the successful model of Renew Newcastle, which had been formed a decade before in 2008. Initially, Marcus and Christopher came to a public forum to talk to us about Renew Newcastle and to see whether there was an appetite for something similar in Armidale. I am pleased to say there was overwhelming support, and Renew Armidale was born. Those familiar with the Renew Newcastle model would know that it was designed to bring life back to under-utilised neighbourhoods by finding creative entrepreneurs and community groups to undertake quality projects in otherwise empty buildings. The idea is to turn around CBDs through high-quality, low-capital, creative place-making projects. What I love about Renew Armidale is that it was community driven, did not rely on government funding and was able to pivot according to needs.

Armidale's community is different to Newcastle, so the project was adapted accordingly. Our group was able to start Renew Armidale by forging relationships with landlords, community art groups, local council, existing businesses and new start-ups. It worked by licensing premises from landlords on a no-rent basis with a guaranteed availability to the landlord within 30 days' notice and, conversely, providing opportunities for creative start-ups for a very low financial contribution. The program ensured that participants were complementary to, and not competing with, existing surrounding businesses. The program was a win-win for property owners, participants and the community.

Benefits to participating property owners are that their space is looked after and used, pedestrian traffic and retailers are attracted back to the CBD, asset values are maintained, and there has been a reduction in crime and vandalism as pedestrian traffic has increased. It is possible for participants to become full tenants with rent-paying agreements with the property owners. Maintenance levels are reduced as buildings are occupied and therefore attended to. Agreements with participants provide a 30-day rolling agreement and many more benefits to participants. These include the removal of some of the risks associated with creating new businesses by providing opportunities to experiment cheaply. The program also attracts local creative people to put their ideas forward and provides a launching pad for creative industries and collaboration with other participants. Public liability insurance is included as part of the project and electricity is connected so they can basically walk in and commence business. Links with the chamber of commerce and other organisations are provided to assist with

business ideas. We delivered, and continue to deliver, an increased sense of community. We have provided possibilities to experiment with business opportunities and have contributed to the economy.

Back in August 2018 we were able to secure 10 empty shops through our relationships with real estate agents and property owners and invited expressions of interest from the community. Since that time we have seen many different businesses in those spaces, including art studios, artist workshops, co-working spaces, an opportunity shop for the Animal Welfare Society and a pre-loved items store. Those spaces also provided a place for an HSC student to display an interactive art project for his final work. They also housed a craft collective, belly dancing and a yoga studio, a safe place during NAIDOC Week to provide workshops for First Nations women, a Fleece To Fashion store, a print gallery, a digital studio and many more. *[Time expired.]*

### TRIBUTE TO CHRIS WINDSOR

**The Hon. MARK BUTTIGIEG (21:25):** I pay tribute to the late, great Chris Windsor, who recently passed away. I express my deepest condolences to Chris' family, loved ones and friends. He was affectionately known to many as Chris "The Bean" Windsor. Chris was a heroic New South Wales firefighter who served from November 1973 until his retirement in November 2008. Chris was devoted to helping improve the lives of working people. He served as president of the Fire Brigade Employees Union [FBEU] from 2006 until 2009 and as the junior vice-president from 2000 until 2003. He was a member of the mighty FBEU for 35 years.

Chris was born in 1955. He was a fourth-generation Glebe resident. He was an avid sportsman from a young age, competing as an age-champion sprinter and swimmer. Chris was a fantastic rugby league player and became an Australian Schoolboys rugby league player. He also played Jersey Flegg for the Balmain Tigers in 1973. Chris' love for the Tigers continued throughout his life, and his loved ones have remarked upon his absolute passion for the team.

Chris's career as a firefighter began after finishing high school. After completing year 12 on a Thursday in 1973, he commenced working with the fire brigade the following day. Chris served valiantly at the city headquarters and the local fire brigades at Glebe, Pyrmont, Balmain, Leichhardt, Ashfield and Woollahra. Chris was vital in ensuring other firefighters were trained to be prepared for anything in their jobs. He worked as an instructor at the Fire and Rescue NSW Emergency Services Academy training centre in Alexandria. Chris took great pride in being a fantastic mentor for our firefighters. He was able to ensure he used practical and relevant contexts to make certain that their learning experiences were meaningful—a time that they enjoyed and in which they flourished.

Chris will be remembered for his relentless and deep commitment to bettering working people's lives. Chris was a passionate and strong union man. He stated, "It was drummed into me from my grandfather, and my father, that the first thing you do when you start employment is you join the union." Chris relentlessly stood up for workers and was passionate about fighting for better working conditions for our firefighters. His tireless work for firefighters and the FBEU contributed to the current Death And Disability Award that firefighters are protected by.

After his retirement, Chris remained passionate about the need for our firefighters to be treated fairly by the government. Chris was actively involved in the Labor Party and worked on many campaigns. Chris understood the importance of public service, and his passion for serving the community was continued when he was elected as a councillor on Leichhardt council. He served in the Glebe ward for nine years from 1999 until 2008 and as the deputy mayor from 2005 to 2006. Chris was already an active member of his community prior to becoming a councillor. He was a member of the Friends of Benledi and Glebe Library and an avid supporter of the Police Citizens Youth Club and the Glebe Youth Service.

A local bulletin quoted Chris as saying, "The closest you can get to real democratic representation is to actually elect a local person who can really represent the area." He took great pride in standing up and advocating for the needs of people in his community as a councillor. He advocated for the importance of giving young people a voice and for providing adequate youth services. He fought for conservation and members of the community by speaking out against developments that would not be fair to the residents that they impacted. Chris' children and grandchildren gave him immense pride. He will be deeply missed by his loved ones, family and friends. His unwavering advocacy for firefighters will always be cherished. He will always be remembered as a man of enormous courage and valour, who was deeply committed to helping people. Vale, Chris Windsor.

### UNIVERSAL WELLBEING PAYMENT

**Ms ABIGAIL BOYD (21:30):** The ongoing climate and COVID crises have shown more clearly than ever that our current economic system is not fit for purpose. In response, our governments have bent what were previously assumed to be the rigid rules of running a capitalist society, abandoning the deficit myth and handing out billions in income support. More people than ever before are questioning the economic status quo. There has

never been a better time to push for a new way of doing things, to introduce new ideas and to fight for long overdue improvements to our economic system. That is why The Greens have developed our own version of a universal basic income [UBI]. We call it the universal wellbeing payment [UWP]. As far as I am aware, I am the first Australian politician to actively campaign for a universal basic income, with a concrete and detailed proposal for what an achievable, effective and transformative UBI could look like.

There will be those at the ready with reasons why this proposal cannot fit into the current economic status quo, but that is the entire point. Done right, a universal basic income is the foundation for a different type of economy—a modern economy fit for the twenty-first century designed to, first and foremost, provide for every person's basic needs, guaranteeing a minimum standard of wellbeing for all before anyone else gets to skim the profits. A universal wellbeing payment recognises that we all contribute in different ways. Whether someone is a carer, an artist, a student or an entrepreneur, they can get on with what they need to do, knowing that they will be supported regardless of their income. Our ability to find paid work is not synonymous with our value as individuals. Our right to wellbeing is separate and distinct from our right to work.

The universal wellbeing payment is universal in that everybody over the age of 16 receives it. There are no conditions and no means testing. Along with universal health care, universal education and universal housing, the universal wellbeing payment would be a core part of our societal structure under a progressive economy. Yes, in many cases the amount would be effectively taxed back in the hands of the wealthy. But, by making it universal, the UWP ensures people's autonomy, which is vital for mental health, and ensures that the stigma involved with being on so-called welfare is done away with, because nobody should have to beg the government for the support they need in tough times. We should not be forced to wait, jump through hoops to meet conditions, or repeatedly justify our circumstances to Centrelink. It has never been clearer that we should abandon the punitive mutual obligations scheme.

There is nothing basic about our universal wellbeing payment. It is not an amount to ensure that people just survive; it is an amount to ensure that they thrive. It is not an amount that still forces them to take on paid work before they can do more than just get by from day to day; it is an amount that recognises the contributions that we all make to our society and the right of all of us to a minimum standard of wellbeing, regardless of whether or not we also have paid work. And the UWP is a payment. It is not income. People do not have to do something for it. It is an amount they are owed simply for being a participant in our society to spend however they like. It is paid in addition to any support they currently receive for their additional needs or special circumstances, ensuring that people with a disability, parents, carers and other groups will continue to receive more in recognition of their additional expenses.

Importantly, the design of the UWP ensures that governments are not let off the hook for providing essential public services like education, health and public transport. The rate of payment will be independently reviewed and adjusted depending on cost-of-living pressures, taking into account, for example, the increasing cost of essential services in circumstances where governments are backing out of their obligations to provide them. Our plan for the universal wellbeing payment is incredibly detailed. We have a website that members can visit, [universalwellbeingpayment.com.au](https://universalwellbeingpayment.com.au). They can look at the Frequently Asked Questions page to understand our proposal in more detail. It is clear that we cannot tinker around the edges anymore. The challenges we face are gigantic: climate, inequality and health. Our economic system is standing in the way of tackling them in any meaningful way. We cannot accept anything less than a complete overhaul of the economic status quo.

**The DEPUTY PRESIDENT (The Hon. Wes Fang):** The question is that this House do now adjourn.

**Motion agreed to.**

**The House adjourned at 21:34 until Tuesday 18 October 2022 at 14:30.**