



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Thursday, 20 October 2022

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LEGISLATIVE COUNCIL

Thursday, 20 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

NATIONAL CARERS WEEK

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

- (1) That this House notes that:
 - (a) National Carers Week will be held this year from 16 to 22 October;
 - (b) in New South Wales there are more than 854,300 informal carers, of which 80,000 are young carers under 25; and
 - (c) the Government has provided grants to carer support groups and organisations to hold more than 440 activities throughout Carers Week, and in 2022-23 is spending \$4.9 million supporting carers in line with the NSW Carers Strategy: Caring in NSW 2020-2030.
- (2) That this House thanks all carers for the important work they do in supporting people throughout New South Wales.

Motion agreed to.

GRAND PHILIPPINE FIESTA KULTURA

The Hon. SHAYNE MALLARD (10:04): I move:

- (1) That this House notes that:
 - (a) on Sunday 2 October Philippine Australian Sports & Culture held its thirty-second Grand Philippine Fiesta Kultura;
 - (b) in attendance were the President of Philippine Australian Sports & Culture, Ms Marivic Ayap-Flores; Parliamentary Secretary for Western Sydney, the Hon. Shayne Mallard; member for Fowler, Dai Le; member for Blacktown, Stephen Bali; Fairfield mayor, Councillor Frank Carbone; and Philippines Consuls for New South Wales Mr Emmanuel Donato Koch Guzman and Mrs Melanie Rita Balisi Diano;
 - (c) the Fiesta Kultura showcases the arts, music, dance, cuisine and heritage of the Filipino-Australian community; and
 - (d) the theme for this year was "Strength in Community" as a celebration of both the community spirit that got us through COVID-19 and events like the fiesta in lifting our spirits on the other side.
- (2) That this House commends the organisers and attendees on what was an uplifting day and night of cultural exchange.

Motion agreed to.

CANTERBURY OLYMPIC ICE RINK

The Hon. SHAYNE MALLARD (10:05): I move:

- (1) That this House notes that:
 - (a) on Saturday 8 October 2022 community members in the Canterbury area gathered together for a rally in support of Canterbury Olympic Ice Rink;
 - (b) parliamentary representatives from both major parties attended the rally with Parliamentary Secretary for Western Sydney, the Hon. Shayne Mallard, delivering a speech in support of the group and the Canterbury Olympic Ice Rink;
 - (c) Canterbury Olympic Ice Rink is one of two Olympic-sized ice rinks in Sydney with the other already operating at capacity;
 - (d) over 120,000 people use the Canterbury Olympic Ice Rink annually with over 1,000 participants in public sessions every week; and
 - (e) the rink supports classes and training for inclusive skating, ice hockey, speed skaters, synchronised skating teams, figure skaters and ice dancers at all levels, including the Olympics.
- (2) That this House supports calls for a solution to be found to replace the roof and return the Canterbury Olympic Ice Rink to use for the inner west and Greater Sydney community.

Motion agreed to.

*Committees***COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION****Reports**

The Hon. CHRIS RATH (10:06): I table report No. 5/57 of the Committee on the Independent Commission Against Corruption entitled *Review of the 2020-2021 Annual Reports of the ICAC and the Inspector of the ICAC*, dated October 2022.

I move:

That the House take note of the report.

Debate adjourned.

STANDING COMMITTEE ON SOCIAL ISSUES**Reports**

The Hon. SCOTT BARRETT (10:06): I table report No. 61 of the Standing Committee on Social Issues entitled *Homelessness amongst older people aged over 55 in New South Wales*, dated October 2022, together with submissions, transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry.

I move:

That the House take note of the report.

I have not been in this place very long. However, I think far too many resources are spent on chasing headlines for cheap political wins rather than on achieving outcomes for the people we are here to represent: the people of New South Wales and, for me in particular, the people of regional New South Wales. It is easy to do that, but in the long run no-one benefits from that approach. That is why I am pleased and rather proud to table this report of the Standing Committee on Social Issues. From our first meeting to our last deliberative, the committee attempted to use the inquiry to get genuine outcomes for those people who have experienced, are experiencing or are at risk of homelessness, particularly older people, women and other vulnerable groups.

I thank the committee members: Ms Abigail Boyd, the Hon. Rose Jackson, the Hon. Shayne Mallard, the Hon. Taylor Martin, Reverend the Hon. Fred Nile, the Hon. Peter Primrose and the Hon. Chris Rath. The committee held three hearings for this inquiry: one in this building, one at Parramatta and one at Wyong. The committee also visited the Women's Housing Company in western Sydney. The report contains 10 findings and 40 recommendations. The findings refer to the changing face of homelessness and the concerning upward trajectory of affected older people. There is still a lot more to learn about the true extent of homelessness in that demographic. Clearly there is no silver bullet to fix the problem. That is highlighted in finding 3, which states:

While a confluence of complex and diverse factors drive homelessness amongst older people, the primary drivers are financial difficulty, housing crisis and housing affordability stress.

The report makes 40 recommendations in total. I will not go into them in great detail, except to say that the committee has made some very good recommendations that are well informed, well considered and well debated by the committee. I am confident they can lead to some good policy outcomes. I congratulate the secretariat staff and thank them for a job well done, as always. They continue to amaze me with their professionalism and logistical abilities to make committee inquiries happen. On top of that, they are all good people to hang around with. I also thank the Hansard team, who did a fantastic job in such an unobtrusive way. In particular, I thank Kate and Rhia, who, in assisting me in my first role as chair, were incredibly patient, helpful, tolerant and professional, as well as being lovely human beings.

I thank the agencies, charities and homelessness services that we heard from throughout the inquiry. Their insights and the work that they do in this space is invaluable. I give my final and deepest thanks to the witnesses who shared their stories and lived experiences of homelessness. That includes the residents of the units we visited. We heard moving accounts throughout the inquiry about the journey into homelessness, the impact of homelessness and the toll of being homeless. We heard some harrowing evidence. I thank them with the deepest sincerity for sharing their stories with us.

Apart from reiterating all of the thanks I have for those involved with the report, I close with an observation. There are many stereotypes around homelessness, what it looks like and what the causes are. When people read the report they will see that it is not nearly that simple. The journey to homelessness differs greatly for many people. There are many who, only a couple of years ago, would never have imagined that they would be homeless. It was quite evident that many people are only one incident away from becoming homeless. Apart from being off

the mark, stereotypes are dangerous and damaging, and they further exacerbate the problem. They create a prejudice and stigma that is not helpful to someone who is navigating through everything that comes with facing homelessness. We must all work together to break down those stereotypes. I commend the report to the House and strongly urge that the recommendations be given genuine consideration.

Debate adjourned.

Ministerial Statement

TRIBUTE TO DAVID PEARCE

The Hon. BRONNIE TAYLOR (Minister for Women, Minister for Regional Health, and Minister for Mental Health) (10:18): I thank the Leader of the Opposition in the Legislative Council for allowing me to make this ministerial statement. I recognise an incredible man, David Pearce, who recently passed away after a short illness. He was a dedicated health professional who worked for NSW Health for over 40 years. Members in this Chamber who have a passion for mental health will know him well from his various roles, most recently as the Executive Director of the Mental Health Branch at NSW Health. David's commitment to NSW Health and our health system was second to none. He laid the groundwork for the Towards Zero Suicides program, which is saving lives and providing first-class mental health support across the State. I am pleased that David was able to see the decrease in the number of suicides, particularly youth suicide, which we talked about yesterday. His leadership had so much to do with that. David was passionate about co-designing mental health supports with people with a lived experience of suicide, which is an attribute of our approach to mental health that will remain in practice. This is a permanent and meaningful change to our approach to mental health programs and support.

On a personal note, I have been the Minister for Mental Health for almost four years and David was the Executive Director of the Mental Health Branch at NSW Health during that time. His advice, candour and commitment to mental health above all politics really was second to none. He provided incredible guidance and advice, and he was always willing to discuss that with everybody. The passing of David Pearce is a great loss for New South Wales, but I know that his family, including his wife, Rose, and his children, Amber and Ryan, his colleagues across NSW Health, and all of us in this place, recognise the incredible contribution that David made to mental health, and the effects his legacy will have on the future of health care in our State. I attended his funeral this week. I know that David would want all of us to get on with the job of making sure that everyone in New South Wales has the access to mental health services that they deserve. We are very fortunate to have an incredible public service in this State. I thank the House for its indulgence.

The Hon. TARA MORIARTY (10:20): On behalf of the Opposition, I acknowledge the life and work of David Pearce, who—as the Minister has outlined—was the Executive Director of the Mental Health Branch in NSW Health. We are very sorry for his passing and for the loss no doubt felt by his family, friends and his colleagues in NSW Health, particularly within the Mental Health Branch. He made a significant contribution to health and mental health in the New South Wales public service. We acknowledge his work as a public servant. I had a little bit to do with David during my time as shadow Minister for Mental Health and I, personally, acknowledge this loss and thank him for his work.

David Pearce had some significant achievements during his 40-year-plus career in the public service. They included the introduction of a groundbreaking program for monitoring sexual safety amongst mental health clients and consumers to ensure individual safety and wellbeing, free from abuse and exploitation; the introduction of the internationally recognised Keeping the Body in Mind program to reduce risk factors for cardiovascular disease and diabetes in young people experiencing psychosis; the development of the South Eastern Sydney Recovery College, which was a first in Australia; being awarded the Collaborative Health Leader of the Year award at the 2014 NSW Health Awards; and being responsible for the development of the Early Psychosis Programme at Bondi Junction.

In his most recent role as executive director of the Mental Health Branch at NSW Health, David's commitment to the broader New South Wales community was evidenced in a sustained focus on the mental health and wellbeing of individuals during the difficult past two years that our communities faced. He managed the Government's mental health responses to the bushfire crisis, the COVID-19 pandemic, the recent floods and all of the other difficult events that the people of New South Wales have gone through during the past couple of years. His was one of the most important—but sometimes unrecognised—jobs in our response to the pandemic and other crises in New South Wales. The Opposition acknowledges David Pearce's work. We are sorry for his passing and offer our condolences to his friends and family.

The PRESIDENT: I note that Standing Order 48 allows a response to a ministerial statement to be made by a member of the Opposition nominated by the Leader of the Opposition. If the Hon. Walt Secord wishes to make a contribution, he will need to seek the leave of the House.

The Hon. WALT SECORD (10:23): By leave: I will be very brief. I am very surprised by the news of David Pearce's passing. I wish to join the Minister and the shadow Minister in paying tribute to him. I had many dealings with him in my short period as the shadow Minister for Mental Health. I extend my deep condolences to his family, colleagues and friends. I thank the House for its consideration.

Bills

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

Second Reading Debate

Debate resumed from 13 October 2022.

The Hon. PENNY SHARPE (10:24): I speak on behalf of the Opposition on the Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill 2022. I thank the many Aboriginal people and families who have been campaigning for many years for a fix to a very difficult child protection system that has led to many poor outcomes for Aboriginal children and young people under the long history of child removal, which was official policy in this State. There are real challenges here. I have had the privilege to sit down and speak with many Aboriginal-controlled organisations who are working every day in their communities to protect children, to try to keep kids together with their families, and to look after those kids where it is not safe for them to be at home—but, importantly, to also keep them connected to their kin, culture and country when it is not safe for them to be living with their immediate family.

We have to understand the numbers here. This significant problem is not getting turned around easily any time soon. Through the best efforts of the department over many years, we have in place an Aboriginal placement principle, which says that the placement of Aboriginal children in non-Aboriginal families should be a last resort. The reality is that children are less likely now than a decade ago to be placed in that position. We also have to understand that 43 per cent of children and young people in out-of-home care are Aboriginal children and young people. I also note that the Aboriginal-controlled organisations—who I again pay tribute to—receive only 6 per cent of the funding that is allocated to child protection services across the State. We need to have a longer discussion about that.

The further preliminary comments I want to make are about the statement of public interest accompanying the bill. I listened carefully to the Minister's speech, which was a fairly typical Department of Communities and Justice speech containing lots of technical amendments, lots of talk about the provisions of the bill, but not actually telling the story of the problem we are trying to solve here, where we have been, where we are going and why we are doing this. I place on record that the statement of public interest is very good. It tells the story of why we are here, what we are trying to do and why this is important. I will read briefly from the statement of public interest. I again thank members of the House who have worked towards the bill. This is the first opportunity I have had to publicly thank Percy Allan and his group of tireless workers, who have tried very hard to get better quality debate and input into policy as we go forward. In the statement of public interest, the policy's objective is couched in terms of the public interest as follows:

Aboriginal and Torres Strait Islander children are 7 times more likely than non-Aboriginal children to be seen by a child protection caseworker and 12 times more likely to be in statutory out-of-home care. Often children are placed in out-of-home care because they are the subject of substantiated abuse or neglect. It is known that child abuse and neglect can have substantial adverse impacts on a child's development including reduced social skills, poor school performance, higher likelihood of criminal offending and mental health issues.

Let us also remember that being abused or neglected is a traumatic experience that we do not want even one child in this State to go through. I will get to the Family is Culture report shortly, but a lot of work has been done through the process of developing the bill to get the balance right in trying to address the over-representation of Aboriginal young people in the system. The statement of public interest goes on to say:

A key objective of the child protection system is to ensure that children grow up in a stable, secure and safe environment and minimise adverse impacts for children and young people who cannot be adequately cared for by their parents. These amendments support the improvement of out-of-home care services and ensure that best outcomes for the child or young person are achieved. Importantly, the amendments in this Bill do not in any way diminish the overriding principle that the safety, welfare and well-being of the child or young person is of paramount concern. This principle guides all child protection actions and decisions and prevails over all other considerations.

The legislative amendments will support service delivery and decision-making processes to ensure children are safe by:

- improving how restoration and permanency decisions are made by the Children's Court
- ensuring better casework for children
- requiring the Department to take active steps to prevent child removals and to show evidence of the active steps taken when making a care application

- ensuring Aboriginal children, families and relevant Aboriginal organisations are involved in care and protection decisions about their children, in casework and in Children's Court proceedings, and
- improving transparency and accountability in the system.

This is an important and good step forward. But I make the point that there is not an extra dollar attached to what we are trying to do here. If we are serious about investing in communities and supporting the organisations that can keep children safe in their communities then we need to put more money into it. I previously worked for a community services Minister and have been an active and interested participant in this for my entire time in Parliament. It is rare to see a reform like this that does not have a dollar attached to it. This needs investment, not just words. We are asking the overworked caseworkers in our system to do more, but we are giving them nothing in return.

The Family is Culture review was initially commissioned by the Government in 2016 to examine the disproportionate and increasing number of Aboriginal children and young people in out-of-home care. It is unfortunate that, in the six years since Family is Culture was first commissioned, not much has changed for Aboriginal children in out-of-home care in New South Wales and that some aspects have worsened significantly. We have to be honest about this. Whenever we ask governments questions about this, they list all of the inputs and all of the programs. They say, "We've got a program for everything. We've invested this amount of money." But we need to understand that the metrics are going in the wrong direction.

Despite the number of children in out-of-home care in New South Wales reducing quite significantly over that time, which everyone in this Chamber welcomes, this is not the case for Aboriginal children. At the time Family is Culture was commissioned in 2016, there were 6,652 Aboriginal children in out-of-home care, making the proportion of First Nations children 37 per cent. This was a stark over-representation, given that Aboriginal children made up only 6 per cent of children in New South Wales. But the latest figures we have, from 2021, show that the number of First Nations children in care had increased to 6,829. What is perhaps most shocking is that Aboriginal children now make up 43 per cent of children in care, while still representing only 6 per cent of children in New South Wales.

This issue sits at the core of Professor Megan Davis' findings in the Family is Culture report, which found problems with the application of the Aboriginal child placement principles, poor and inappropriate child removal practices, and barriers to effective and culturally competent early intervention support for families at risk of child removal. Professor Davis made more than 3,000 recommendations regarding the specific cases she and her team examined, as well as 125 systemic recommendations to improve Aboriginal out-of-home care in New South Wales. Of these recommendations, 25 went to legislative amendments to our care and protection laws and court processes.

Previously the New South Wales Government said that it would not consider legislative reform until 2024, when a statutory review of the Children and Young Persons (Care and Protection) Act 1998 is due. Labor was angry about that. We on this side thought that we needed to do it more quickly. I welcome the fact that the Government has moved forward on this and has worked hard to bring this to us before Parliament rises for the election. These are important changes. I give credit where credit is due. We are seeing some of the work that has occurred here. On this side of the House we welcome that. We are pleased to see that the Minister has listened to those concerns by bringing forward this bill to implement a number of the reforms, particularly following the work that was done through the Family is Culture bill progressed formerly by Mr David Shoebridge. I worked very closely with Mr Shoebridge on these issues over many years and I acknowledge his work here.

The Opposition understands that the principles in this bill have been the subject of extensive community consultation. According to the consultation report for the bill, the Department of Communities and Justice consulted with more than 130 representatives and received 31 written submissions. It is clear to the Opposition that, while the bill does not deliver on everything recommended in the report and does not fully realise the ambitions of many in the community regarding the reforms to the system, there is general agreement that this bill is an important and necessary step in implementing the reforms needed to have an impact on reducing the over-representation of Aboriginal children in out-of-home care. The Opposition supports this bill. But achieving these reforms will require more than legislative reforms. It requires comprehensive and cross-governmental reforms about principles, policies, practices, training and attitudes. It needs a renewed and committed trust in Aboriginal-controlled community organisations, who are experts in the needs of their communities and how to address the issues outlined in the Family is Culture report.

I turn to the legislative changes contained in the bill. The bill inserts the Secretariat of National Aboriginal and Islander Child Care's child placement principles into the care Act, including the principles of prevention, partnership, placement, participation and connection—that was a lot of alliteration. It requires caseworkers to demonstrate the active efforts they have undertaken to support children to remain safely with their families or, for

children who have been removed, the active efforts undertaken to safely restore the child to parents, family, kin or communities. I cannot overstate how important this is.

Part of the complaints from First Nations people across the State, part of the trauma they have experienced, is from situations where a child cannot live safely with mum or dad but there is a community round them—there are aunts and grandparents—who are willing and able to take the children, and they have begged the department to be considered able to look after those children, and sometimes the families have been ignored. How that is possible is a mystery to me, and it is a shame to all of us. This is what active efforts are about: This child is not safe. Where can they be safe where they can stay with their family, and be on country and connected to culture? This is an important principle in this instance and, frankly, is important for all children, whether they are First Nations children or not.

I have spoken previously in this House about being a foster carer. I understand the impact of removing a child. I have cared for young women who are massively traumatised by that but also traumatised by a system that did not give them a voice and often did not involve the broader parts of their families in trying to keep them safe and also to restore them to their parents when they desperately wanted that, and the parents had made incredible efforts over many years to get their lives together. We need to acknowledge that we do not do that well. That is what active efforts are about and why they are so important.

The bill makes a number of other structural changes to child protection processes, including amending the presumption to remove a child if the parent has previously had children removed. However, importantly, the particular circumstances may still warrant such removals. We need to understand that there are times when it is not safe for children to be with their families. We cannot pretend that it is reasonable to leave them there or that they do not need support to be safe. I suspect that a bit later during the debate we will have a bit of toing and froing about this. We need to work through this and be honest about it. We cannot have children being left in unsafe situations.

The bill reintroduces an appeals mechanism to the NSW Civil and Administrative Tribunal, introduces regulation-making powers with respect to identifying whether a child is Aboriginal or Torres Strait Islander, and inserts parliamentary joint committee oversight of the Children's Guardian out-of-home care functions. The bill also proposes other amendments. I understand that amendments will be moved during the Committee stage, and we will deal with them then. Finally, I want to say that this is a problem for all of us. But, importantly, it is a problem for every First Nations family across New South Wales. Very few have not been touched by the legacy of the Stolen Generation, the ongoing impact and the over-representation of children being removed from families. We can do better in this and we need to do better in this. I just make my last appeal: This sort of reform needs more dollars. If the Minister wants to go to the Treasurer on this, the Opposition will back her all the way.

Ms SUE HIGGINSON (10:39): On behalf of The Greens I indicate that, in what we view as a very necessary compromise, we will support the Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill. I also indicate that we will be moving amendments. I acknowledge that we have been working with the Opposition and the Government to improve this bill. I am grateful for the collegiality that has taken place. I am quite new to this place and that experience has been incredibly enlightening. I have inherited this matter as a relatively new member of Parliament from my predecessor, the now Senator David Shoebridge, who, as every member would know, committed much rigour, intellect, heart, passion and work to improving the situation in relation to the issue of Aboriginal children in the care and protection system which is before all of us.

We have heard from the Leader of the Opposition about how significant the issue is, how dire the circumstances are, how grossly unfair the system is right now and how much work we need to be committing to improve this. That said, this is not the bill introduced by The Greens and passed by this House earlier this year. It addresses in some part some of the recommendations contained in Professor Megan Davis' 2019 independent report into Aboriginal and Torres Strait Islander children and young people in out-of-home care in New South Wales. It is also the case that The Greens are supporting the bill because it represents a small step forward in a situation that ultimately, as we have indicated, is so bad that right now anything is better than nothing.

When the Minister briefed us on the bill, she said that this reform was so desperately needed we could not delay, because three more children are entering care every day. Well, I put on record that it has been 238 days since this Government voted against The Greens' Family is Culture bill. That bill was built on rigorous engagement and a thorough look at the independent report, its recommendations and the implementation of those recommendations. Since that time 714 children have entered out-of-home care and this Government has forced us back to the drawing board to deliver what we believe is a watered-down piece of legislation that does only the bare minimum to address the recommendations of the Family is Culture report and very little to finally end the forced removal of children. We know what that is; it is the perpetuation of ongoing Stolen Generations.

The Leader of the Opposition made the point that we need to be allocating significant resources. The whole failure is that we are not allocating the resources we need. We know that the report identified, in no uncertain terms, that we need to be supporting the very root and cause of why children are struggling in families. We need to be supporting families so that they can address the underlying causes of the problems that they are facing, which are leading to the problems that children are facing. Until we invest in and provide, materially and substantively, the support that families need, we will continue to fail, we will continue to take children where otherwise we did not need to and we will continue the legacy of the Stolen Generations on our watch.

We are supporting this bill ultimately on the basis that it has a very early review mechanism built into it. I thank the Government for understanding how significant this part is. There will be a review in 12 months' time. We stand in hope that, following that review, we can implement further change and more of the recommendations of Professor Davis. We are very concerned that this bill in its current form departs in some part from the principles of self-determination, and that it does not have what is substantively necessary to keep First Nations families together, to ensure that every First Nations family that is suffering the ongoing trauma of colonisation and dispossession is fully supported and, therefore, to ensure that children are no longer ripped from family, community, culture and country.

That is what the Family is Culture report called for and provided the path for. That is what Family is Culture legislation should be doing. It is bitter and disappointing that the Government has introduced this bill in the eleventh hour of Parliament. I say "bitter" because we are glad something is here. But to do so this late in the term is in some part a significant indictment on the Government's priorities. It had the opportunity and the obligation to do better, to be more timely, to be more thorough, to be more sincere and to make an actual difference to the lives of Aboriginal children and their families. In some part this Government has failed to do so. The Family is Culture report calls for genuine partnership with Aboriginal-controlled organisations in changing the way we approach First Nations child protection and developing Aboriginal and Torres Strait Islander-led responses.

During my consultation with Aboriginal-controlled frontline response organisations, they said that the bill does not do what it needs to do to substantively address the forced removal of First Nations children. They do not feel that they have been partners in developing the bill. Yes, it was an opportunity for some input, but once again they had to sit by as the Government wrote critical legislation about their communities without genuinely listening and taking on board the solutions they proposed. We should be walking step by step with First Nations communities to develop responses that they have true self-determination over. I point to some key points and areas in the bill where we have failed to address the need for bold reforms to First Nations child protection. One of these is the need for the consideration and the presumption that harm is caused by removing First Nations children from family, community and country and therefore stripping them of culture. The Family is Culture report says:

The inclusion of a legislative provision directing attention to the harm of removal will unambiguously signal to all Magistrates—or determiners—

that removal is often a harmful practice that must be undertaken with due care.

The Government's bill makes no mention of the presumption of harm, despite it being at the fundamental core and a key recommendation of the report. The presumption is necessary, in our view. As brutal as it sounds, in legal frameworks presumptions provide the basis for the operation of the law. The basis of the decisions is framed around that presumption. Those presumptions are what, in fact, lead to serious change through law. They change attitudes and the mechanisms that decision-makers base their decisions on, and they form the basis of entire schemes. Lawmakers should know this. Presumptions are very important. They are the point of departure for decision-making; they are the basis.

I think we know why we abandoned this key recommendation. After The Greens' bill passed this House in February, an ill-informed shock jock radio interview with one of the members of this House seemed to have been given more weight than those frontline legal services, an expert professor engaged in one of the most detailed explorations and works in this field ever, and the generations of First Nations advocates and families who have argued for the unique relationship of First Nations community with culture and country and for the trauma of separation to be acknowledged in the laws that govern whether or not a child is removed.

Taking First Nations children away from family, out of community and off country causes harm, which should be recognised in any circumstance where such a removal may be considered. It was unusual timing that the Opposition also withdrew its support in the other place for The Greens' Family is Culture bill, which reflected that critical understanding, and that the bill never made it to debate in the other place. It is really disappointing that this Parliament is so overly influenced in that way.

I now turn to the principle of active efforts in the Government bill. While I acknowledge the intention to require that active efforts be made to restore children to family and community—we know how important those active efforts are and that they are called for—the bill in its current form fails to ensure appropriate oversight that guarantees active efforts are not just another hurdle to be quickly stepped over before placing children in out-of-home care in the same way we already do. That is one of the areas where the Government and the Opposition have engaged in really good faith, and we have managed to include some words that we will consider in the amendments part of this process.

In all of my meetings with First Nations stakeholders—whether they be about child protection, cultural heritage or youth incarceration—the prevailing sentiment is that we do not need any more words; we need action and greater resourcing. We need to allow self-determination and to assist in that process, not dictate that process. The principle of active efforts in its current form falls vulnerable to being just more words. We need active efforts and we need them to be treated with rigour, to ensure that not one Aboriginal child is removed from their family or community unless absolutely every avenue of keeping children safe and families together has been exhausted. We need to do everything we can to end the ongoing Stolen Generations, and not just what we consider feasible, what is convenient or what we can do now. We need to be doing that thoroughly, properly, genuinely and to success.

While this bill is not what we wanted or have worked for, we have worked with the Opposition and the Minister and we are very grateful to both for the work that has been done in the very short time since seeing the bill. The Greens have had one week to try to improve the bill. I thank all the stakeholders who have worked tirelessly on the reforms over many years—on The Greens' bill previously and now on trying to improve the legislation currently in front of us. I am all too aware of the disappointment coming from the organisations that so desperately want to see true reform of our child protection laws to better the lives of First Nations children. When we get it wrong, we compound the trauma of children at the beginning of their lives.

I also acknowledge the work of now Senator David Shoebridge, a former member of this place. He worked tirelessly with stakeholders, Aboriginal-controlled organisations and community—particularly the Grandmothers Against Removal, who have worked day and night over years and lives to try to end the absurdity that we still perpetrate the forced removal of children from families and community, and therefore culture. The Greens are here, truly listening, and we stand with those families, grandmas, Aboriginal-controlled organisations and frontline services. The Greens will always walk with First Nations communities, and we will continue to do everything we can to make these changes in genuine partnership. We will be moving amendments in the Committee of the Whole.

The Hon. MARK LATHAM (10:54): One Nation members have grave concerns about this legislation. We find it incredible that anyone could draft such a bill and MPs could make speeches about it without addressing the fundamental truth that needs to be addressed, and that is that the real epidemic in New South Wales is one of child sexual assault in places like Bourke, Wilcannia and Toomelah. We have concerns that the clause about active efforts is simply a rewording of the notion of presumption of harm that was previously rejected by the Parliament.

The whole process behind the Family is Culture notion has been geared up for a certain outcome. It has been run at the elite level of the political establishment without grassroots evidence collection in places like Bourke, Wilcannia and Toomelah, where the situations are life destroying and simply horrendous in any nation that would lay claim to being a civilised society. The process was started by then Minister Brad Hazzard in 2016, and it was left to a left-wing Indigenous academic to draft the report. We have had responses, the Shoebridge bill and thousands of pages of legal and political commentary about it—all of it wilfully turning a blind eye to the real problems in places like Bourke, Wilcannia and Toomelah.

The previous speaker, Ms Sue Higginson, made an oblique mention of my interview with Ray Hadley. It is not that hard to say that the interview was with the Hon. Mark Latham by Ray Hadley on 2GB. I am glad I gave that interview pointing out the horror of writing into legislation a presumption of harm in removing an Indigenous child from a household situation where that child could be raped every night, a victim of child sexual assault. A blanket rule of the presumption of harm cannot be blind to safety concerns about the wellbeing of the child, but that was the Shoebridge approach. I am very glad I explained that to Ray Hadley and there was some form of Labor Party response.

Even better, I am very glad that the President of this House and I went out in the winter recess to visit western New South Wales and look at the Indigenous issues in Moree, Walgett, Brewarrina and Bourke. We spoke to the authorities and the social workers at grassroots level, and the information gleaned—information that members will not find in the bill or the speeches we have heard so far—is simply horrific. We spoke to police officers in Bourke who said that every single Indigenous child over the age of five has been sexually abused and assaulted. We spoke to social workers who say the number is 50 per cent. Any percentage is unacceptable and absolutely horrendous. Whether it is 50 per cent or 100 per cent of the Indigenous children in Bourke being

sexually assaulted, surely that needs to be the number one priority in a parliamentary response. Surely addressing that life-destroying horror is the responsibility of a parliamentarian.

In speaking to those officials and workers in Bourke, we further found out that there are no prosecutions of the perpetrators. For all the Government's efforts and spending on domestic and family violence, there are no prosecutions, due to the intimidation of anyone who might raise a concern. We heard of one mother who was threatened with death if she spoke out about the rape of her daughter. We heard of one young girl who got to court to give evidence but was spun around so badly by the Aboriginal Legal Service lawyers that at the end of her testimony she was saying it could have all been a dream. The processes through the legal arrangements that we currently have are not sufficient to prosecute any of the perpetrators—made worse by propaganda about deaths in custody and about Stolen Generations today, rather than the truth of last century, and made worse by the active efforts provision in the bill.

What the President and I heard in Bourke and other places really pointed to a vicious cycle that follows from the epidemic of child sexual assault. The children seek to escape it by being out on the street all night. We heard of some children who sleep on the roof, knowing that the drunk uncles cannot reach them there, given their condition. We visited the schools. The children who have been on the street all night, and sometimes getting into trouble, do not attend school. At Walgett Community College, only 3 per cent of students attend for 90 per cent of the time. That figure of 90 per cent, which is nine days a fortnight, is seen as the threshold at which someone can make educational advances and can get decent qualifications for a decent career and life. Only 3 per cent of the students at an overwhelmingly Aboriginal school attend for 90 per cent of the time.

The Auditor-General gave evidence two weeks ago that 57 per cent of Indigenous students right around New South Wales—not just in remote western locations, but through the city and the coastal regions—do not attend school for 90 per cent of the time. They have not reached the threshold of educational possibility. In all my visits to schools around New South Wales, over my long time in public life, I have found nothing more dispiriting than visiting Bourke and Walgett high schools: walking down long corridors and seeing darkened classrooms, so devoid of students that they do not even turn on the lights. You can visit schools in western Sydney that are completely overcrowded and have seas of demountables, while in Bourke and Walgett high schools there are darkened classrooms because there are no students to turn on the lights.

There are 150 students enrolled at each school. On the days we visited, there were maybe 20 or 30 students attending in the afternoon. At Bourke High School, we asked, "Where are the kids?" They told us, "It was cold this morning, and there's COVID." We found out later that night that 150 Indigenous youth were attending the PCYC in Bourke. There was no COVID problem when they woke up later that afternoon and went to the PCYC to have a good Friday night. The reasons were not valid, and the lack of educational opportunity was just horrid. The vicious cycle of child sexual abuse—forcing the kids to go out onto the streets or to sleep on the roof, so they are not getting a decent night's sleep and not going to school the next day—destroys lives at every turn.

It is self-evident that, to break the Indigenous poverty cycle, young people need to go to school. They need to take up educational opportunities, get a qualification, get a job, get a career and enjoy the benefits of a normal, regular life that we would take for granted in our own circumstances in the middle of Sydney. The bill responds to this need with active efforts to return victims to homes and families under the banner of kinship, irrespective of these safety concerns and realities. We should tear up the bill and have a serious debate about ending the epidemic of child sexual assault that is destroying Indigenous lives.

Active efforts to return children to homes, regardless of safety, is the same as saying that there is a presumption of harm to take them away, regardless of safety concerns. It is a synonym. Sadly, in too many cases, family is not culture; family has been rape. Family has been child sexual assault. I am bitterly disappointed by the Government's response to this reality. I raised a question on notice and the Premier said there is no such evidence. He needs to visit Bourke. He needs to speak to the police officers that the President and I spoke to. He needs to speak to the social workers.

In question time in this Chamber, I directed a question to the Minister for Aboriginal Affairs, the Hon. Ben Franklin, who basically said that it was not his job and pushed it off elsewhere. I am disappointed that, on her recent visit to Bourke, the Minister at the table, the Hon. Natasha Maclaren-Jones, did not speak to the police officers who were willing to make themselves available. I am bitterly disappointed that Labor and The Greens, while well intentioned, are completely delusional and out of touch and are not gathering the evidence in places like Bourke, Wilcannia and Toomelah that would drive a practical rather than an ideological response to this social tragedy. It is easy to virtue signal. It is easy to put flags on bridges, cleanse your soul and say, "I'm a virtuous person. Look at that flying up there." It is absolutely meaningless against the extent of the social horror that you confront when you visit these places in practice.

Every member of Parliament, every senior bureaucrat who wilfully turns a blind eye and fails to face up to the reality of this social tragedy is in practice enabling the perpetrators: the rapists, the perverts, the sickos who sexually assault children. I ask Ministers, members of Parliament and public servants, "How do you sleep at night when not confronting this horror and dealing with it head-on with practical solutions?" Of course, not for a nanosecond would we allow it to happen to our own children. We would fight and scratch and thump and do everything possible to defend our own children in those circumstances. I say that as members of Parliament our responsibility is to protect Indigenous children no less fiercely than if they were our own children. We represent their interests in this place.

We have a solemn duty to represent the vulnerable in this place and to deal with the realities that we find on visits like the one that the President and I made to western New South Wales. This means visiting places like Moree, Brewarrina, Walgett and Bourke as often as possible. I plan to do so in every single winter recess so long as I am here. It means talking to the authorities, visiting the schools and seeing what is happening on the streets at night. It means talking to community leaders and acting on that evidence base—not walking away and saying that it is too hard, too awkward and inconvenient to talk about these problems in all their horror.

We have a responsibility as elected persons, who have the privileged opportunity of representing people, to act on the evidence that we find and to do things that are substantial. That does not mean putting flags on bridges or focusing on the petty legalism of the Australian Constitution. If you want an Indigenous voice, you only need to listen to Senator Jacinta Price of the Country Liberal Party. I am saying what she is saying. In western New South Wales I saw what she has seen for most of her life in the Northern Territory: the same evidence base, the same social tragedy and the same vicious cycle.

The senator and I are advocating for the same solutions, which will not be found in this bill. We are not engaged in the deluded woke ideology of putting a white left-wing political interpretation of Indigenous cultural needs ahead of the physical safety, wellbeing, educational needs and lifetime opportunities of Aboriginal kids who are being assaulted every night. In net terms, such ideology is a sad thing for our country and adds to the delusion. What we are actually witnessing is the slow-burning destruction of Indigenous people and their culture. Not for the first time, the leftist policy agenda—so well intentioned in the eyes of the woke—has backfired on the intended beneficiaries.

Three major policy developments over the past 50 years have locked these young people in particular into a life of trauma and destruction. First was the land rights agenda, which at one time I vigorously supported. I saw the benefits of it in some respects, but it has ended in welfare dependency, grog and drug addiction, violence and basically locking people into places where nobody can turn a dollar. I remember visiting some of the Indigenous communities in North Queensland as a Federal member of Parliament and saying to my colleagues, "This place is so desolate. This place might have a notion of land rights, but Bill Gates couldn't turn a dollar here. There's nothing here in terms of real economic activity or potential." If you lock disadvantaged people into a disadvantaged place under the banner of land rights, you magnify the extent of the disadvantage and their isolation from real economic opportunities in the real economy.

The second lock-in mechanism has been the propaganda about deaths in custody. Over a 30-year period since the royal commission report, not a single police or prison officer has been convicted of any crime alleged by those who run the propaganda campaign. In the legal system, everyone from the Chief Justice and Attorney General downwards will say, "On the basis of skin colour, we will keep Indigenous people out of jail." I say that if you are a murderer, a rapist, a thief and a con man, you belong in jail, and the longer you stay in jail, the safer the community will be.

The third lock-in mechanism is that of the Stolen Generation, which has not been applicable for decades—certainly not in this century. It traps young people in homes that are not safe. There has been a campaign over the past 10 years saying that every Indigenous person is a victim of colonisation. The rhetoric is that every Indigenous person, in 2022, is a victim of Captain Cook and Arthur Phillip and even Queen Elizabeth, as we heard recently. It has established an entitlement mentality.

What we found in western New South Wales is that a lot of the Indigenous leaders will say that they want housing paid for by government. I said to those strapping young fellas who were just wandering around without work, "If you go to the city and get a job then you can save your money, come back here and build your own house." But they say, "Oh no, the Government has to do everything for us." Indigenous culture at its best, traditionally, has been proud and self-reliant. That is the antithesis of the welfare dependency and entitlement mentality that has been built up by telling people constantly that they are victims and that the system owes them. We have people saying, "The system owes us; we don't have to go to work. The system owes us; we don't have to send our kids to school. You owe us." If it is paid in welfare that leads to alcohol and drug dependency, absence of the regular habits and benefits of work, and family violence and the disintegration of community life that we saw in western New South Wales, it is such a folly. It is such a complete act of public policy folly.

In respect of the availability of jobs, we visited the reopened Bourke abattoir. It is not the fanciest kind of work, but we all start out in pretty dismal circumstances trying to earn a crust. There are 75 available jobs at the Bourke abattoir and only 15 of the locals are taking them up. The other 60 will be taken by guest workers from East Timor. Do not tell me there are no jobs in places such as Bourke. The publican said, "Would put an extra three or four staff on here if people wanted to work." But the trek is not to the Bourke abattoir or the local hospitality venues to put your name down to get a job; the trek is to the Centrelink office, which looked like it was the most popular venue in the town. If we build up a mentality of victimhood and entitlement, people will not work. They will say the system owes them, but then it leads to the vicious cycle of destruction and decay.

Once proud and self-reliant people are now reduced to hovel underclass conditions. Some of the housing we see, we would not put our worst enemy in. We hear stories of how in kinship and family disputes they burn down someone else's house as an act of revenge. In Moree it was absolutely horrific to see that. All of this is the leftist campaign rebounding against the interests of Indigenous people. My conclusion from a long period in public life is there are some lefty people with hearts of gold but when they implement policy, nine times out of 10 it is counterproductive. It is a dismal failure. What we are seeing now in these three lock-in policies—land rights, deaths in custody, Stolen Generation with the victimhood and entitlement mentality being built up in Indigenous communities—is all far more damaging than colonisation. If we want to pretend that things that happened 230 years ago are more relevant than the horror of places such as Bourke, Moree, Brewarrina and Walgett, that is the ultimate delusion.

This bill is part of 50-year pattern of public policy failure for Indigenous Australians, pretending that the geographic isolation of land rights and welfare dependency can be a substitute for real jobs in the real economy. We need to prioritise the need for Aboriginal Australians to benefit from the regular habits, mentoring and financial benefits of work, otherwise we are denying them that important priority. When we pretend that the Stolen Generation is still happening, making policy through the lens of an historical practice that ended last century, locking vulnerable children into the horrors of child sexual assault night after night, destroying their lives, is passing on trauma and disadvantage, and entrenching the poverty cycle onto the next generation instead of breaking it.

We should not pretend that Aboriginal murderers, rapists, thieves and conmen should get a leave pass from jail under the fake banner of deaths in custody. The net outcome is to lock already disadvantaged people in disadvantaged places, cruelly magnifying the extent of their disadvantage. That is a rule that applies to black and white, remote Indigenous communities, as well as the public housing estates in western Sydney that I have always tried to represent. If we put disadvantaged people in a disadvantaged place and have policies that lock them there, it just adds to the disadvantage and the difficulty in the next generation breaking free from poverty.

Indigenous children are trapped in unsafe homes, preyed upon by the drunk uncles, with the system leaving them there for fear of invoking the demonisation of anyone breaching the unwritten political code of Stolen Generation, which ultimately today in practice has become nothing more than a slogan. For the drunk uncles, the system from the Chief Justice and the Attorney General downwards bends over backwards to keep them out of jail—not because they are good people. They are not; they are monsters. Like anyone who preys upon children—whether they are black or white—they are absolute monsters. The worst social practice that we can ever talk about is the primitive habit of judging people by how they look, not by their deeds or character, and because of their skin colour they are not jailed. Right through the domestic violence space the clearest indicator of a future perpetrator, whether black or white, is past incarceration for domestic violence. So why not throw away the key and keep them locked up for longer as a measure that protects the safety of vulnerable children?

One Nation has circulated 10 amendments to the bill. They essentially take out the blank cheque of active effort, which is a synonym for the presumption of harm, and replaces it with the overwhelming priority of protecting the safety, wellbeing and educational opportunities of young Indigenous people. Our approach is hope over ideology. It is reality over political dogma. It is evidence over virtue signalling. Our remedy is not to say this is a question of spending more money. There is so much money being spent in those communities that we could not jump over it. Schools that are the product of generous government budgets have empty classrooms. Welfare workers are climbing over each other. There is a legal system that is amply funded with courthouse lawyers galore in each of those towns. One Nation has a different solution that I will talk about in another context, to beef up the laws to address the law and order problem, not the resourcing one. [*Time expired.*]

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (11:15): In reply: I thank the Leader of the Opposition, Ms Sue Higginson and also the Hon. Mark Latham for their contributions. It is fair to say that we are all looking at this legislation from different perspectives. Although I may not agree with all the positions put, we all have one thing in common and that is to ensure that every child in this State has a safe place to live. Although we will go into detail at the Committee stage, particularly in relation to "active efforts" and "harms", one thing I will highlight is that they are two different

things altogether. Active efforts is focused on working with the parents, with the family, to see a child restored where it is safe to do so and, if not, then ensuring that there is a permanent placement for that child for the long-term, possibly through guardianship or adoption. The other key element of this legislation and active efforts is that it is to ensure that every child in this State, irrespective of their background, is provided that support.

The Hon. Mark Latham made reference to my visit to Bourke and meeting with police. So there is no misunderstanding, I want to clarify that the meeting was scheduled, but the police officers cancelled that meeting on the day. As it was alluded to, this legislation has come out from the Family is Culture report. The amendments will improve child protection decision-making that is in the best interests of Aboriginal and Torres Strait Islander children and, as I have said before, all children across New South Wales. We have consulted with Aboriginal people, community representatives, the coalition of peak Aboriginal organisation partners, AbSec, the Aboriginal Legal Service and other legal stakeholders. The bill will improve how decisions are made to ensure that the focus is on preventing children from entering or staying in out-of-home care. I have touched briefly on active efforts. As I said, that is to ensure that every child is given the right to be restored to their parents where it is safe to do so and, if not, then a permanency placement is made.

We are also improving how restoration and permanency decisions are made by the Children's Court and how evidence of risk to children is presented in the court, thereby strengthening the court's oversight of child protection casework. We are also reinforcing requirements to keep Aboriginal and Torres Strait Islander children safely connected to their families, communities and culture. We are also improving casework practice so that it is culturally appropriate and informed by the participation of children, families and relevant Aboriginal organisations, and is also improving transparency. Funding has been mentioned numerous times. In addition to the \$1.6 billion that our Government commits to out-of-home care and permanency, particularly around early intervention and family support, in this budget we have committed over \$400 million to Closing the Gap, focusing on the early intervention initiatives and support. That includes \$100 million to establish six new Aboriginal child and family centres and expanding the existing nine.

We are also investing \$38.6 million to expand pregnancy and family conferencing programs for vulnerable women and their families, which will be in the best interests of Aboriginal women to ensure that they receive the support they need before a child is born. We are also partnering with Aboriginal-controlled organisations to deliver more family preservation services to Aboriginal children and families through an \$11 million investment that will be focused on family preservation funding. That will go directly to agencies by June 2024 to support around 300 more Aboriginal children and young people each year. We are also investing \$4 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. We are partnering with the Aboriginal Legal Service, investing close to \$10 million over four years to provide legal advocacy support to families at risk of having children removed. These initiatives will work to ensure that the service system is supporting the new requirements if the bill passes.

I acknowledge the work of Mr Greg Piper and thank him for his contribution to the bill, for working with me over the previous few months and for his patience in relation to the consultation process. A key point to clarify is that the extensive Family is Culture review was done a number of years ago. So, yes, consultation on the bill occurred over a shorter time but it was focused purely on the implementation of all those recommendations. I also acknowledge Kate Washington in the other place, and the Leader of the Opposition and Ms Sue Higginson in this place for their collaboration and work on the bill. I also acknowledge John Leha and his team from AbSec, and Karly Warner and her team from the Aboriginal Legal Service, for their cooperation, leadership and participation in the consultation process that has occurred throughout this year. We have all been operating within a tight time frame. However, it will be worthwhile in the long term if the bill goes through.

I acknowledge Brendan Thomas, Deputy Secretary of the Department of Communities and Justice, for his assistance in leading the development of this bill and in delivering outcomes for Aboriginal communities across New South Wales. I thank Francesca Di Benedetto for her legal expertise, Rebecca Magoffin for her policy knowledge, Craig Layton and Stephen Bray. I also thank Jagadish Gorrepati and Simon Santow from my office. Finally, I thank Brad Hazzard for his previous work in relation to the review.

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

The House divided.

Ayes35
 Noes2
 Majority.....33

AYES

Amato	Graham	Moselmane
Barrett (teller)	Higginson	Nile
Boyd	Houssos	Pearson
Buttigieg	Hurst	Poulos
D'Adam	Jackson	Primrose
Donnelly	MacDonald	Rath
Faehrmann	Maclaren-Jones	Searle
Fang	Mallard	Secord
Farlow (teller)	Martin	Sharpe
Farraway	Mitchell	Taylor
Field	Mookhey	Tudehope
Franklin	Moriarty	

NOES

Latham (teller)	Roberts (teller)
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Motion agreed to.

*Visitors***VISITORS**

The DEPUTY PRESIDENT (The Hon. Wes Fang): I welcome to the gallery former member of the Legislative Assembly Jill Hall and her guests from east Lake Macquarie. I hope they enjoy the proceedings of the House.

Bills

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

In Committee

The CHAIR (The Hon. Wes Fang): There being no objection, the Committee will deal with the bill as a whole. There are four sets of amendments, being Opposition amendment on sheet c2022-179B, The Greens amendments on sheet c2022-171C, The Greens amendments on sheet c2022-172D and One Nation amendments on sheet XOX54. There are some conflicts with the amendments, but we will guide those through as we continue.

The Hon. PENNY SHARPE (11:34): I move Opposition amendment No. 1 on sheet c2022-179B:

No. 1 Evidence of active efforts to take alternative action

Page 6, Schedule 1[8], proposed section 63(5), lines 13–19. Omit all words on the lines. Insert instead—

- (5) If the Children's Court is not satisfied with the evidence provided by the Secretary under subsection (1), the Court must not take either of the following actions unless the Court is satisfied that taking the action is in the best interests of the safety, welfare and well-being of the child or young person—
 - (a) dismiss a care application in relation to the child or young person,
 - (b) discharge the child or young person from the care responsibility of the Secretary.

This amendment is about wording to tidy up and strengthen the part of the bill that deals with "active efforts". The Opposition feels that the wording is a little murky, and it wants to be clear about the meaning of "active efforts". The amendment says that:

If the Children's Court is not satisfied with the evidence provided by the Secretary under subsection (1), the Court must not take either of the following actions unless the Court is satisfied that taking the action is in the best interests of the safety, welfare and well-being of the child or young person—

That guarantees and puts it beyond doubt that "active efforts" in no way undermine the safety of children. The amendment strengthens what the Government has put in the bill and guarantees that the primacy of the bill is the safety, welfare and wellbeing of every single child.

Ms SUE HIGGINSON (11:35): I speak on behalf of The Greens in support of the amendment. We would like to assume, believe and accept that "active efforts" will be the circuit breaker for the system being successful in leading to children staying with families and in community and, therefore, maintaining their connection to

culture. This is an important safety mechanism. I acknowledge that the amendment has the support of the frontline Aboriginal organisations that we have been working with. I thank the Opposition.

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (11:36): The Government supports the amendment, particularly as it clarifies and reinforces what the Government has been saying that "active efforts" are about ensuring that the safety, welfare and wellbeing of all children is paramount. I also place on the record that the Government is satisfied that the proposed amendment does not create inconsistencies in the context of section 63 of the bill or the Act more broadly.

The CHAIR (The Hon. Wes Fang): The Hon. Penny Sharpe has moved Opposition amendment No. 1 on sheet c2022-179B. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Wes Fang): I ask Ms Sue Higginson to move The Greens amendments on sheet c2022-172D. I will then ask the Hon. Mark Latham to move One Nation amendments on sheet XOX54. Those amendments will then be put after they have all been moved.

Ms SUE HIGGINSON (11:37): By leave: I move The Greens amendments Nos 1 and 2 on sheet c2022-172D in globo:

No. 1 Principle of making "active efforts"

Page 3, Schedule 1[2], proposed section 9A(3)(b), line 39. Insert ", thorough and purposeful" after "practicable".

No. 2 Principle of making "active efforts"

Pages 3 and 4, Schedule 1[2], proposed section 9A, line 42 on page 3 to line 3 on page 4. Omit all words on those lines. Insert instead—

- (d) conducted, to the greatest extent possible, in partnership with the child or young person and the family, kin and community of the child or young person, and
- (e) culturally appropriate, and
- (f) otherwise in accordance with any requirements prescribed by the regulations.

These amendments make small but important changes to the principle of making "active efforts". The amendments seek to add substance and flesh and include the terms "thorough and purposeful" around "active efforts". They seek to bolster what the operation of "active efforts" will require. There is a grave concern that, where we relegate efforts to being practicable, we fall foul and will end up in a practicable framework, which is possible; however, it is limited by what is feasible. We need to have strength here. We need to go beyond mere feasibility. We need to really work in this active efforts space—hence, the inclusion of "thorough and purposeful". We also seek to ensure that active efforts to keep families together and restore children with kin are done in true partnership with families and are always culturally appropriate—hence the addition of some words around that and the exclusion of qualifying terms. It is about making our system accountable to the active efforts, how we get there and who we talk to while we are doing it.

The CHAIR (The Hon. Wes Fang): I call the Hon. Mark Latham to move One Nation amendment No. 1 or, if he likes, he can move all the amendments on the sheet, speak to them, and then they can be put separately at another point.

The Hon. MARK LATHAM (11:40): I move One Nation amendment No. 1 on sheet XOX54:

1. Page 3 line 16 to page 4 line 23: Omit Section 9A

I acknowledge the presence of Jill Hall in the gallery, a very distinguished former member of the Legislative Assembly for the electorate of Swansea. Jill also did great work in the House of Representatives as the member for Shortland. She is a very good contributor in that part of the Central Coast-Hunter region. I also say, with regard to the Minister's visit to Bourke, the police officers in question are still waiting for a phone call, and the work they do and the frustrations they have expressed—

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

The Hon. MARK LATHAM: They deserve the respect of a Minister who cares enough to ring them.

The CHAIR (The Hon. Wes Fang): I will hear the point of order.

The Hon. Natasha Maclaren-Jones: There is a scope of debate when it comes to amendments before the Committee. This is not a second reading debate. I am more than happy for the member to ask me questions in question time. But I have addressed the issue in relation to—

The Hon. MARK LATHAM: What is the big problem? The police officers know who the predators are, they are frustrated they cannot arrest them, and the Minister has their phone numbers and will not ring them.

The Hon. Natasha Maclaren-Jones: I have rung them—you know. Do not—

The Hon. MARK LATHAM: No, you have not. You have not.

The CHAIR (The Hon. Wes Fang): Order!

The Hon. MARK LATHAM: They are saying you have not.

The CHAIR (The Hon. Wes Fang): Order!

The Hon. MARK LATHAM: Anyway, I have moved amendment No. 1—

The CHAIR (The Hon. Wes Fang): Before the Hon. Mark Latham continues, I remind him that we are debating a serious and sombre topic. There are rules around the way that we conduct ourselves in Committee. When we are in Committee we speak to the amendments. The Minister is right: It is not a second reading debate. I uphold the point of order and ask the Hon. Mark Latham to contain any contributions that he has to the amendment that he is speaking to.

The Hon. MARK LATHAM: The amendment seeks to delete new section 9A, the principle of making "active efforts"—which is a synonym for the presumption of harm. Any sensible, intelligent person in this space knows that the Stolen Generation ethos has overwhelmed this system. It overwhelms the child protection officers and it is part of the reality of how these decisions are made. Any mention of safety in a bill like this or in the amendment that was made earlier on is just lip-service.

All other things being equal, there is no doubt that these kids are either left in the original home where they are being harmed or they are moved to a house up the road, the predators know exactly where they have been taken, and the same thing happens the very next night. The active efforts provision adds to that. It further bakes into the system the third element of locking these disadvantaged, vulnerable children into further horror. It should be removed from the bill, and the Minister should get serious about protecting these kids that are notionally her responsibility. How she sleeps at night, knowing the horror at places like Bourke, beggars belief.

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (11:43): The Government does not support One Nation amendment No. 1 moved by the Hon. Mark Latham. As I outlined in the second reading speech and also in my reply, "active efforts" is about working with families to ensure that, where it is safe to do so, a child—and that means all children across this State—will return to their family and, if not, then all efforts have been made to do so and the court will then look at alternative arrangements, which is that the child will be placed in out-of-home care with the long-term aim of finding a permanent placement for that child.

The Hon. PENNY SHARPE (11:44): The Opposition does not support the amendment. Let me give an example of active efforts. When I was shadow Minister for this portfolio, I was aware of multiple case examples where we tried to help families in a range of different ways. Active efforts sometimes is as basic as this: A woman had two children removed when she was younger. She spent 10 years getting off drugs. She got herself into stable accommodation where she is caring for her parent. She has been having ongoing active discussions and contact with her children, who she loves dearly. She is now in a position to have them living back at home with her. Her issue is that she is living in public housing accommodation that has only two bedrooms.

"Active efforts" means that it is in the best interests of those children to live safely with their mum and their grandad. If that is the case, it means that the Department of Housing has to have a conversation about whether she can get on the transfer list to have her housing situation sorted out so that those children can move back home. It is not in the best interests of those First Nations children for them to be continuing to live in out-of-home care, out of country, away from their grandparent and their mum, who has made the most valiant of efforts to turn her situation around. She has achieved a lot and is ready, willing and needing to be the mum to her children, because that is in their best interests. That is important.

Ms SUE HIGGINSON (11:46): I thank the Leader of the Opposition for sharing that example, because that is precisely the understanding that The Greens have had when we engaged and consulted about the need for active efforts. The Hon. Mark Latham's point about active efforts somehow being a disguised version of the presumption of harm is absolute nonsense. Active efforts has nothing to do with a presumption of harm. It is in fact the very thing that will help to address all of the terrible, complex and tragic things that the honourable member presented as the very things we need to be addressing in this system. The amendment that the Hon. Mark Latham is putting forward, and his reason for not supporting active efforts, is almost incomprehensible. Active

efforts will make a real difference on the ground to women, children and grandparents across New South Wales. The Greens will not be supporting the One Nation amendment.

The Hon. MARK LATHAM (11:47): Speaking to my amendment, the example that was given by the Leader of the Opposition highlights how we do not need special legislation for the Department of Housing to do its job. In that circumstance, if it is safe for the children to return and they need a house with more bedrooms, is that not just standard practice from a sensitive, nimble—

Ms Sue Higginson: No.

The Hon. Penny Sharpe: No, it is not.

Ms Sue Higginson: That is troubling.

The Hon. MARK LATHAM: Anyone here who thinks that active efforts needs to be written into a Family is Culture bill to make the Department of Housing do its job is off on the wrong tangent, I am afraid. We need to make the Department of Housing sensitive to those needs. We do not need legislation for that; it should be Public Administration 101. I know enough about public housing to know that those authorities have the power to get people into a bigger home, and the Government has the capacity to assist in that regard. This is a fig leaf to further embed the Stolen Generation ethos into legislation under the banner of active efforts, which is defined—

Ms Sue Higginson: You are on your own.

The Hon. MARK LATHAM: I am on my own, and you cannot even say the words—

The CHAIR (The Hon. Wes Fang): Order!

The Hon. MARK LATHAM: —"child sexual assault". You are enabling this by neglecting it, pretending it does not exist.

The CHAIR (The Hon. Wes Fang): Order!

The Hon. MARK LATHAM: You cannot even say those words. I am happy to be on my own, because I am facing the reality of the horror.

The CHAIR (The Hon. Wes Fang): Order! The Hon. Mark Latham will address his remarks through the Chair.

The Hon. MARK LATHAM: Thanks, Chair, but sometimes interjections need to be responded to.

The CHAIR (The Hon. Wes Fang): And the honourable member can do so through the Chair.

The Hon. MARK LATHAM: I am happy to be on my own. If the honourable member's point is that I am on my own in raising these concerns, I am very happy to be on my own. I had one person with me on the trip through western New South Wales—the President. I would like to hear his contribution to this debate. But, if it is left to me, I wear that as a badge of honour in representing vulnerable children. The whole idea of "active efforts" is defined self-evidently in section 9A (2) "The principle of active efforts", which states:

(a) ... making active efforts to prevent the child or young person from entering out-of-home care.

So if in doubt leave them in the home, no matter the reality of children being assaulted or raped every night, or the evidence that is available on the ground. The unspeakable thing that really gets my goat is that the Leader of the Opposition and Ms Sue Higginson cannot even say those words or mention them as a reality. It is happening today, was happening yesterday and will happen tomorrow.

The Hon. Penny Sharpe: You know that that is not true. I have talked about this a lot.

The Hon. MARK LATHAM: You do not mention it in this debate. It should be the primary concern. I do not see a Labor policy to deal with it or overcome it. I would have thought that, for all rhetoric about social justice, this is the number one thing we do—all the time, every day. We should try to find solutions to what is by far the worst social problem in New South Wales. I am not swallowing for a moment the way in which "active efforts" is being dressed up as a safety measure. It is not; everyone knows. It embeds the Stolen Generation ethos further.

Every child protection officer, social worker, welfare worker, judicial officer and police officer knows that if they remove kids for safety reasons they will be demonised under the banner of Stolen Generations, and those kids are left at risk. That is why the problem exists. If the kids were taken to safe places, I would not have police officers in Bourke telling me that every single one of them has been sexually interfered with. I would not have child protection officers saying that the figure is 50 per cent. Self-evidently, the horror of it is perpetuated because of the wilful neglect by those who pretend that it is not happening and who write this rubbish into the law.

The CHAIR (The Hon. Wes Fang): I will reiterate that interjections are disorderly at all times and contributions should be heard in silence. Particularly in debates of this nature, where there is much passion in the Chamber, interjections can derail what is a meaningful and appropriate debate.

Three amendments are before the Chair. Ms Sue Higginson has moved The Greens amendments Nos 1 and 2 on sheet c2022-172-D and the Hon. Mark Latham has moved One Nation amendment No. 1 on sheet XOX54. The question is that One Nation amendment No. 1 be agreed to.

The Committee divided.

Ayes2
Noes35
Majority.....33

AYES

Latham (teller)

Roberts (teller)

NOES

Amato
Barrett (teller)
Boyd
Buttigieg
D'Adam
Donnelly
Faehrmann
Farlow (teller)
Farraway
Field
Franklin
Graham

Higginson
Houssos
Hurst
Jackson
MacDonald
Maclaren-Jones
Mallard
Martin
Mason-Cox
Mitchell
Mookhey
Moriarty

Moselmane
Nile
Pearson
Poulos
Primrose
Rath
Searle
Secord
Sharpe
Taylor
Ward

Amendment negatived.

The CHAIR (The Hon. Wes Fang): According to sessional order, it being midday, I will now leave the chair and report progress.

The PRESIDENT: The Committee reports progress. Further consideration of business before the Committee is set down as an order of the day for a later hour. According to sessional order, business is now interrupted for questions.

Questions Without Notice

CHILD PROTECTION

The Hon. PENNY SHARPE (12:03): My question without notice is directed to the Minister for Families and Communities, and Minister for Disability Services. In the past 12 months how many children and young people at risk of significant harm have had their case plan closed due to current competing priorities?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:03): I thank the honourable member for her question. Most importantly, I acknowledge the tremendous work of all our caseworkers across New South Wales, who do an amazing job, particularly over the past couple of years in relation to COVID, where it has been quite difficult for them. Throughout that time they made every effort to continue to have face-to-face meetings where it was safe to do so and to engage with families and children. I place on record—and I have said this before—that every time I meet with our caseworkers, it is an opportunity to hear firsthand about the work that they are doing, some of the challenges they face and where there are opportunities to do more. One of the things that we have been working with our caseworkers on is providing that additional support in training to ensure that they are able to engage with families and children.

The Hon. Penny Sharpe: Point of order: I have been listening carefully to the Minister's answer. She is not being directly relevant. It is a very straightforward question: In the past 12 months how many children who have been at risk of significant harm have had their case closed because of current competing priorities? This is data that is reported.

The PRESIDENT: I understand. I uphold the point of order. The Minister has given important context and she will now directly answer the question.

The Hon. NATASHA MACLAREN-JONES: I outline that, when it comes to reports that are made about children, there are a number of mechanisms, including that Department of Communities and Justice caseworkers will directly engage with the family. In other cases it may be that support is provided through non-government organisations [NGOs]. When a case is closed off, it could be that the family has actually been referred directly to an NGO, which will work with them to provide that support. It will ensure that not only is the family supported but the child is given the assistance and support to either remain with their family where it is safe to do so or potentially move to out-of-home care if that is required.

The Hon. PENNY SHARPE (12:05): I ask a supplementary question. Will the Minister elucidate her answer and tell the House how many children have had their case closed due to current competing priorities? She has touched on what might happen in terms of referrals. But we want to know the number of children that this has happened to.

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:06): As I explained to the honourable member, there are a number of reasons why cases are closed off. I refer to my previous answer.

STATE TRANSPORT NETWORK

The Hon. SHAYNE MALLARD (12:06): My question is addressed to the Minister for Metropolitan Roads. Will the Minister update the House on how the Perrottet-Toole Government is delivering Sydney's future motor network?

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (12:06): I thank the honourable member for his question. He is a fantastic member who knows the roads really well. He is a great advocate for them. The Perrottet Government is delivering on its visionary plan for Sydney's future road network. We have made our vision clear: We will make it easier for people to move around the city, reduce their time in traffic and spend more time doing the things that they love.

The PRESIDENT: Order! The Clerk will stop the clock. I am having a little trouble hearing.

The Hon. NATALIE WARD: It is a deliberate strategy from those opposite. They do not want to hear good news.

The PRESIDENT: Order!

The Hon. NATALIE WARD: I am responding to them.

The PRESIDENT: It takes two to tango. As members know and as I have said a number of times, we are not in a church; we are in a parliamentary Chamber. Obviously, there will be some moments when members wish to express themselves—appropriately—but at the end of the day, we have to make sure that Hansard is able to hear the contribution that the member at the lectern is making. Members should be respectful to the Minister, who is giving an answer to a question that is important to the House. The Minister has the call.

The Hon. NATALIE WARD: We have made our vision clear: We will make it easier for people to move around our city, reduce their time in traffic and spend more time doing the things that they choose to do, because this is a government that gives them choice. A major part of our vision is the Sydney Gateway project, which will transform the way motorists travel to and from the Sydney Airport precinct. Sydney Gateway will get people to and from the Sydney Airport faster, supporting more than 4,000 construction and manufacturing jobs while modernising our road network. Sydney commuters are another step closer to faster and more reliable trips to and from the Sydney Airport as this transformative project hits the halfway mark. It is so exciting because we will deliver it. Workers will soon embark on putting together the 3,000 tonnes of 100 per cent locally made Australian steel to form those eye-catching bridges. The first 10 massive concrete—

The Hon. Sarah Mitchell: Point of order—

The Hon. NATALIE WARD: I ask that you stop the clock, Mr President.

The PRESIDENT: Order! I call the Hon. Sarah Mitchell on a point of order.

The Hon. Sarah Mitchell: The interjections from those opposite are completely disorderly. They are so loud that I can barely hear the Minister, even though I am sitting right next to her. Those opposite should be called to order.

The PRESIDENT: I uphold the point of order. I call the Hon. Daniel Mookhey to order for the first time. A few members were saying a few things, and I am noting those things. The Minister has the call.

The Hon. NATALIE WARD: The first 10 of 17 massive concrete headstocks, each weighing more than a full Boeing 737, have been installed at Mascot. The headstocks each stand more than six metres tall and will support an 800-metre flyover road, connecting motorists to Sydney Airport with a toll-free connection. That is not just good news for the future of New South Wales; it is good news right now for businesses in western Sydney and in regional New South Wales. The headstocks are manufactured in Picton using steel made in western Sydney, all to support 34-metre-long steel and concrete girders made in Maitland.

The Hon. Damien Tudehope: Point of order: I am loath to take this point of order—

The Hon. John Graham: Particularly since you were interjecting earlier.

The Hon. Damien Tudehope: —but I have accepted the admonition on behalf of Hansard that this side of the House ought to allow the Minister to be heard in silence. But the Hon. Courtney Houssos has flouted your ruling time and again, Mr President.

The PRESIDENT: I understand the point of order, but the Hon. Damien Tudehope might have misled the House in the sense that I did not say "in silence". I made it clear that I understand the uncontrollable urges that members sometimes have, but I also understand that they come from both sides of the House. There have been a number of interjections of "Hear, hear!" and various other comments from my right. When the order of the House is at risk, rest assured that I will intervene. The Minister has the call.

The Hon. NATALIE WARD: I anticipate I may ask for an extension of time. This is not just good news for New South Wales. Supported by WestConnex, drivers using Sydney Gateway will bypass 26 sets of traffic lights between Parramatta and Sydney Airport's domestic terminals. That is the difference between the Perrottet-Toole Government and the Minns Opposition. While the Perrottet Government continues to deliver a brighter future for New South Wales, with world-leading infrastructure, those opposite have yet to commit to a single infrastructure project—just one. It shows they have learned nothing in opposition. This city was at a standstill in 2010, following 16 long years of Labor. [*Time expired.*]

CHILD PROTECTION

The Hon. JOHN GRAHAM (12:12): My question without notice is directed to the Minister for Families and Communities, and Minister for Disability Services. In the past 12 years how many children at risk of significant harm in New South Wales have had their case plan closed due to current competing priorities and have subsequently died?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:13): I thank the member for his question. As I outlined before, there are a number of reasons a case can be closed. I will go through them in detail. If a report of significant harm is lodged, it is looked at in detail and an assessment is made by the triage officers. I acknowledge the fantastic work that they do, having spoken to a number of them. They do an amazing job of dealing with some very difficult situations. Some of the referrals may be for a Department of Communities and Justice caseworker to engage directly with the child and the family, or the case could be referred to a number of NGOs to work with that family.

That is why our Government has been investing significantly in family preservation programs—to ensure that that wraparound support is provided to families so that a child can stay with their family, with their parents, where it is safe to do so. More than 4,500 families and placements have been supported in the past financial year. That is vital to ensuring that the child stays with their family where it is safe to do so and that, most importantly, we are providing the care that the child needs and that meets the needs of—

The Hon. John Graham: Point of order: The point of order is on direct relevance. These are important issues, and the Minister has given some important context. But the figures are known, and the Minister should report them to the House.

The PRESIDENT: As members know, I am willing to allow some leeway for the Minister to provide some context. I generally leave it in the hands of the member who asked the question to make a judgement if that is appropriate, and if it is not then I will make that judgement for them. In this case, given the very clear and precise nature of the question that was put, I now ask the Minister to directly answer it.

The Hon. NATASHA MACLAREN-JONES: It is true that these matters are very sensitive. The death of any child in this State—or, in fact, in this country or internationally—is a tragedy. That is why any death is appropriately investigated and reported, as the member would know.

TAMWORTH GLOBAL GATEWAY PARK

The Hon. MARK BANASIAK (12:15): My question without notice is directed to the Hon. Sarah Mitchell, representing the Deputy Premier. The New South Wales Government has spent a total of \$55 million in enabling works for the Tamworth Global Gateway Park, the main drawcard of which is the intermodal. That includes \$35 million from the Department of Regional NSW for rail upgrades, even though the freight was not there to support it due to another intermodal 33 kilometres away. Given that Qube, which was to build the intermodal, has now predictably walked away from the project, who is responsible for that National Party Ponzi scheme unravelling?

The Hon. Wes Fang: Point of order: That question clearly contained argument, and I ask that it be ruled out of order.

The Hon. Mark Banasiak: To the point of order: The local council, run by a National Party member, is selling land on the promise that there is an intermodal. There is no argument; it is a Ponzi scheme.

The PRESIDENT: Order! There is no point of order.

The Hon. Wes Fang: Point of order: Not only was the question out of order, but the contribution of the member to the point of order was an abuse of a point of order. I ask that he be called to order.

The Hon. Daniel Mookhey: To the point of order: I make no reflections on the Hon. Wes Fang's second point of order. With respect to the first point of order around the use of certain terms in argument, I submit that terms like "Ponzi scheme" are a colloquialism and that does not necessarily imply argument. But even if it did, the question is still clear enough that it is capable of being answered with that term omitted. Therefore, it should be ruled in order.

The PRESIDENT: The Hon. Mark Banasiak was not being helpful in his contribution to the point of order, so I counsel against that in the future. Regarding the question, enough detail was presented by the member for it to be answered by the Minister in the way she sees fit. It is argumentative, but the Minister is well and truly able to answer the question and put the argument to the side as appropriate. I encourage the Minister to do that. The Minister has the call.

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:18): The shooters are obviously a bit worried about regional New South Wales if they have to make inferences about The Nationals in their questions. The member has asked me about a project in Tamworth on behalf of the Deputy Premier, and he has asked for some specific information regarding where that project is up to. I will refrain from commenting on the part of his question that was both argumentative and incredibly insulting. As you said, Mr President, that part was not appropriate. I will take the question on notice. My understanding is that it was also raised during budget estimates hearings, but I will speak to the Deputy Premier and his team and come back to the member with a response.

CHILD PROTECTION

The Hon. PETER PRIMROSE (12:19): My question without notice is directed to the Minister for Families and Communities. How does the Minister respond to community concerns that the latest data shows that, to December 2021, there was a record number of children at risk of serious harm, with 116,446 children reported?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:20): I thank the honourable member for his question. Since 2011, under the Coalition Government, there has been a significant drop in the number of children in out-of-home care. When the Government came to power the number was close to 19,000. We are now down to just over 15,500 children in out-of-home care. That is because of the significant investment and work that has been done over a number of years to ensure that support is provided to families and children. We are investing in caseworkers and in programs, with over \$3.1 billion invested in the child protection system. That means working directly with families and individuals, particularly on early intervention.

Right across the State, we have targeted programs run through a number of organisations to work with families. We also have a number of joint initiatives across a variety of agencies, working with NSW Health and the Department of Education and with a number of broader organisations to provide direct support and early intervention so that children do not need to enter the out-of-home care system.

The PRESIDENT: Order! I call the Hon. John Graham to order for the first time. He has been consistently interjecting. This is a very serious matter. The Minister has the call.

The Hon. NATASHA MACLAREN-JONES: The other thing I highlight in relation to our investment in early intervention is that it is also about permanency. We have seen that New South Wales is leading the country—

The Hon. Penny Sharpe: Point of order: My point of order is about direct relevance. We have had a record number of children—almost 120,000—reported as at risk of serious harm, and the Opposition is asking what the Government is doing about it. This is not about permanency planning. That is not what the question is about. How is the Government getting the number down?

The PRESIDENT: Order! The Minister was being directly relevant to community concerns and how the Government might respond. But I am listening carefully. The Minister should not stray too far from the direct intent of the question. The Minister has the call.

The Hon. NATASHA MACLAREN-JONES: How are we reducing the number of children being reported? It is all about early intervention. As I was saying, the Government is working not only with families directly but also through and across government agencies. Programs like Kids Early Years are being run at Westmead, where we are working with the NSW Health and the Department of Education. We are using various mechanisms, with the approach that there is no wrong door.

A family or a child might be identified as being at potential risk, even before a report is made. For example, they might have housing issues. It could be that a parent is undergoing medical treatment, which means that the child might have challenges going to school. It is an opportunity for those agencies to work together to refer the child and the family to the support that they might need. It could be as simple as counselling. It could mean providing additional on-the-ground support so that the child can be supervised while the parent gets medical treatment. It could be about housing. But it is about having a multitude of approaches to early intervention to ensure that children are not entering the system and, more importantly, that we are keeping numbers down.

The Hon. PETER PRIMROSE (12:24): I ask a supplementary question. Will the Minister elucidate part of her answer? Given the policies that she went through in great detail, what are the reasons that the number of children at risk of serious harm was 116,446, which is a record, as of December 2021?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:24): I thank the honourable member for his supplementary question. As we all know, over the past couple of years there has been COVID. There have been a number of challenges. I welcome and encourage people coming forward and reporting children that they believe might be at risk. There is obviously mandatory reporting through the Department of Education, NSW Health, police and others. But it is important that we all take responsibility as members of the community. If we feel that a child might be at risk, that should be reported so that it can be investigated appropriately.

NATIONAL CARERS WEEK

The Hon. AILEEN MacDONALD (12:25): My question is addressed to the Minister for Families and Communities, and Minister for Disability Services. Will the Minister update the House on National Carers Week?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:25): I thank the honourable member for her question. This week is National Carers Week, which is an opportunity to recognise, celebrate, say thank you and raise awareness amongst all Australians about the diversity of Australia's 2.65 million carers and the role that they play. This year National Carers Week runs from Sunday 16 to Saturday 22 October. In New South Wales there are more than 854,000 carers from different backgrounds and walks of life. Almost 80,000 of them are young carers under the age of 25. The theme of the week this year is "Millions of Reasons to Care", which is testament to the endless hours of support that carers provide.

It is estimated that carers collectively provide eight million hours of support per week. If that was given a monetary value, it would amount to around \$25 billion per year. Carers can be a family member or a friend who provides unpaid care and support for someone who has a disability, a chronic condition, a terminal illness, is frail, is ageing, who has a mental health illness, or who has drug- and alcohol-related issues. Anyone can be a carer, but many people do not identify as one. They see themselves more as a husband, a wife, a partner, a mother, a son, a daughter, a friend, or someone who just wants to reach out and help.

There is no clear job description for a carer, but we know that they provide support with the activities of daily living, including dressing, showering and arranging medical appointments—things that we quite often take for granted. At some stage in our lives, many of us will take on the role of carer. Members in this room might actually be doing that already. Carers Week is an opportunity for all of us to recognise that carers themselves need

support and to be able to take a break from their caring role to look after their own health and wellbeing. It is an opportunity for us all to reach out and ask a carer we know if they are okay and if they need a hand.

Over this week, the Government is funding more than 440 events being run through Carers NSW to say thank you to carers for the selfless support they provide and the work they do throughout the community. For example, the Carers Day Out held yesterday at the Redfern Community Centre was a great day for carers to connect with one another and enjoy a range of entertainment, wellbeing and relaxation activities. The Government is also investing \$4.9 million to support carers through the NSW Carers Strategy, Carers NSW, and other direct grants and support. The strategy is the Government's 10-year plan for a whole-of-community commitment to better recognise and support the 854,000 unpaid carers across New South Wales. This Government is committed to supporting carers and ensuring that they get the recognition and the thanks they deserve.

TAMWORTH GLOBAL GATEWAY PARK

The Hon. MARK BANASIAK (12:28): My question without notice is directed to the Minister for Education and Early Learning, representing the Deputy Premier. What was the exact date that the Deputy Premier, his office and the Department of Regional NSW was informed that Qube was withdrawing from the building of the intermodal at Tamworth, rendering \$55 million in taxpayer funds worthless?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:29): As I did with the previous question from the honourable member about that specific project, which he has asked me on behalf of the Deputy Premier, I will take that question on notice and come back to him with a response.

STRONGER TOGETHER GRANTS PROGRAM

The Hon. LOU AMATO (12:29): 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 providing support to community festivals and events that promote community harmony?

The Hon. John Graham: Hear, hear!

The Hon. Daniel Mookhey: Good, we wanted a song.

The Hon. Penny Sharpe: Do you have money for Parramasala? Do you have money for Ramadan night markets?

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:29): They have already started interjecting. I draw the President's attention to the high-range interjection levels.

The PRESIDENT: Order! The Minister has the call.

The Hon. DAMIEN TUDEHOPE: Next Monday I will be joining the Premier and my colleague Mark Coure, the great Minister for Multiculturalism, at the Opera House, where for the ninth year in a row Diwali will be marked.

The Hon. Daniel Mookhey: Where is my invite? That's a very good point. I'll give you a blessing.

The Hon. DAMIEN TUDEHOPE: If you want an invite, you've got to be a lot better than you are at the moment. Diwali, the festival of lights which celebrates freedom, the triumph of good over evil and the renewed hope of a brighter future—under a Coalition Government—will be marked by the illumination of the sails. The people of New South Wales—our Aboriginal people, the First Australians, to our most recent arrivals, who come from all the lands on earth—together represent a rich mosaic of cultures. Community festivals are an important way for people from each of these cultures to celebrate together while providing an opportunity for others to learn something about cultures different from their own. The vibrancy and colour of community festivals and events demonstrates our diversity, while promoting harmony, mutual respect and understanding. I congratulate the Hon. Shaoquett Moselmane on a significant number of the observations he made in his valedictory speech last night.

Recently the Minister for Multiculturalism announced another \$500,000 round of grants under the fantastic Stronger Together Grants Program for festivals and events. The program has previously helped fund events such as Little India Harris Park Business Association's 2022 Deepavali Festival in Parramatta, the Australian Korean Association's Korean Festival in Strathfield and Buddha's Light International Association's Moon Festival in Willoughby. Applications are currently open for grants of between \$5,000 and \$15,000 towards the running of celebrations held between February and June 2023. These grants are designed to help communities celebrate cultural diversity as a precious part of our identity and way of life and to support events that foster community harmony by providing occasions for us to "get together and feel all right". With apologies to Bob Marley:

One Love! One Heart! Let's get together—

should I dance at this point?—

and feel all right.
Hear the children cryin' (one love)
Hear the children cryin' (one heart)
Sayin' give thanks and praise to the Lord and I will feel all right
Sayin' let's get together and feel all right.

The Hon. Mark Buttigieg: Apology not accepted.

The Hon. DAMIEN TUDEHOPE: Mark, you've got to get a better disposition.

The PRESIDENT: The Hon. Emma Hurst has the call. It is a hard act to follow.

ANIMAL WELFARE FUND GRANTS PROGRAM

The Hon. EMMA HURST (12:33): My question is directed to the Leader of the Government, representing the Treasurer. Since 2012 the Victorian Government has operated an animal welfare fund grants program which distributes much-needed funding to charitable organisations that rehome surrendered and lost companion animals. By contrast, most rescue and rehoming groups in New South Wales, other than the RSPCA and the Animal Welfare League, do not receive any government funding whatsoever and operate largely through volunteer networks and public donations. Will the Government consider establishing a grants program to support animal rescue organisations?

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:33): I may be wrong on this, but I thought we had just funded a rescue van program. To suggest that New South Wales has done nothing—

The Hon. Emma Hurst: That's not the question.

The Hon. DAMIEN TUDEHOPE: No, I'll come back to the point.

The Hon. Penny Sharpe: You're not doing anything for the rescuers. It makes a difference to the rescuers.

The Hon. DAMIEN TUDEHOPE: Sorry?

The PRESIDENT: Order! This is not helping the Minister. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: It is important if there are funding programs available of the sort that the member is seeking to get particulars. I refer the question to the Treasurer to answer because I cannot.

CHILD PROTECTION

The Hon. ROSE JACKSON (12:35): My question without notice is directed to the Minister for Families and Communities, and Minister for Disability Services. Why is it that 71 per cent or 82,700 children at risk of significant harm never saw a caseworker in 2021?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:35): Obviously the member was not listening to the previous comments I made. When it comes to a report of a child at risk of significant harm [RoSH], a number of mechanisms are in place as to whether the child is directly seen by a caseworker or referred to an NGO. A variety of programs and support are provided to funded organisations, whether it is through family preservation or early intervention, to provide that wraparound support for the child. As I said, when a RoSH report is made, an assessment and triage is done as to the most appropriate care that is needed for that child.

The Hon. ROSE JACKSON (12:36): I ask a supplementary question. I ask the Minister to elucidate her answer in relation to the triaging of some children to NGO care. How many of the children referred to NGOs by the Department of Communities and Justice [DCJ] received support via face-to-face intervention?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:36): I thank the honourable member for her supplementary question. I make it very clear here. Having come from a health and nursing background—I worked as a community nurse for a period of time—I say that when you engage with what the referral might be, you assess the situation. When a RoSH report is made, the triage staff will assess whether it is a referral directly to DCJ or to the NGO, depending on location, depending on—

The PRESIDENT: Order! The Minister has the call.

The Hon. NATASHA MACLAREN-JONES: Then whether it is a caseworker from DCJ or from the NGO, they will work out what is in the best interests for that child and for that family. They will then engage and provide the wraparound support. I trust our caseworkers. I have confidence in our NGOs that they are doing their job. Those opposite may not but—

The Hon. Wes Fang: Point of order: I am trying extremely hard to hear the answer from the Minister but the Hon. Rose Jackson continually interjects over the Minister, and I would ask you to call her order.

The PRESIDENT: The Minister has the call.

The Hon. NATASHA MACLAREN-JONES: As I have said before, our NGO staff and the DCJ staff are working tirelessly to support children who might be reported at risk of harm, providing that wraparound support.

The Hon. Rose Jackson: Point of order: The point of order is direct relevance. I asked the Minister how many of the children referred to NGOs received a face-to-face consultation. It is a very direct question. Either the Minister knows the answer to that or she does not. The Minister should provide it and stop waffling if she does not.

The PRESIDENT: Order! It does not help the situation when members who take points of order editorialise them and cast reflections. That is not within the purview of raising a point of order. I caution the Hon. Rose Jackson in that regard for future reference. The Minister has indeed provided a range of context in her reply and at this stage should directly answer that question. If there is nothing more to add, then the Minister should resume her seat or take the question on notice.

The Hon. NATASHA MACLAREN-JONES: I have answered the question and gone through the detail. I reiterate the support that is provided to not only families but also children at risk.

REGIONAL INFRASTRUCTURE

The Hon. PETER POULOS (12:39): My question is addressed to the Minister for Regional Transport and Roads. Will the Minister update the House about how the Government is building what matters to secure a brighter future for the communities on the South Coast?

The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (12:39): I thank the member for that fantastic question. The Coalition Government is building what matters to make the daily lives of people easier and to secure a far brighter future for New South Wales than those opposite could ever offer. Since 2011, \$5.15 billion has been committed to the Princes Highway to transform and improve local, tourist and freight travel from Albion Park right through to the Victorian border. I am proud to tell the House that in the past couple of weeks we have delivered a number of significant achievements to communities on the South Coast as part of that upgrade project. These achievements matter. They will improve daily life and secure a brighter future. First and foremost is the brand-new \$148 million Nelligen Bridge, which will open one year ahead of schedule.

The Hon. Wes Fang: A year!

The Hon. SAM FARRAWAY: That is right, one year ahead of schedule. Members will remember the Opposition's Iron Cove Bridge duplication debacle. I am sure anyone on the South Coast will remember what an absolute debacle that was. It was delivered two years later than originally announced and \$75 million over budget. If we "compare the pair", it is an easy choice for the people of New South Wales when they want a brighter future and infrastructure built to secure and support their communities moving forward. The Nelligen Bridge replacement project will provide a two-lane bridge on the Kings Highway over the Clyde River at Nelligen. It will be wider, smoother and certainly safer for motorists travelling on that bridge and will be a welcome relief for travellers during the upcoming school holidays.

We are also delivering the \$19.4 billion infrastructure pipeline in regional New South Wales, which is in stark contrast to the delays, cost blowouts and \$30 billion backlog that was left for this Government. That is not all that we are doing for South Coast communities. We are working away on the Nowra Bridge project. As part of that project, we have just opened the brand-new Shearwater Way, which is a better and far safer way to connect South Nowra to the Princes Highway. Works will now commence on widening the Princes Highway in preparation for the new bridge.

The PRESIDENT: Order! The Leader of the Opposition is pushing the envelope.

The Hon. SAM FARRAWAY: Obviously members opposite do not like the answer. We saw during those 16 long, cold, hard years when they were in government that they delivered very little. The Liberals and The Nationals are securing a far brighter future for regional New South Wales.

CORRECTIONAL CENTRES

Ms SUE HIGGINSON (12:42): My question is directed to the Minister for Families and Communities, and Minister for Disability Services, representing the Minister for Corrections. Earlier this week the Government denied access to UN officials to conduct inspections of all New South Wales jails, including women's prisons, youth detention centres, immigration detention centres, police cells and mental health institutions. New South Wales was the only jurisdiction to do that. Did the Government make the decision to deny UN inspectors access to prisons because the Minister is worried that the standard at which we are holding prisoners does not meet the United Nations Standard Minimum Rules for the Treatment of Prisoners? If that is not the reason, what possible reason is there?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:43): First up, the answer is no. This Government is not opposed in principle to correctional facilities being inspected. However, the New South Wales Government has ongoing operational security and funding issues with the Commonwealth in relation to some of the unresolved matters regarding how the UN inspections are done. The first and foremost priority for our Government is the safety and security of our staff, partners and visitors at youth justice centres. Any visit by an external body to any of our centres should not disrupt the safety and security of management of the centre. As I said, we are not opposed to the UN visits, but it is about ensuring that those are actually scheduled in line with the safety of our personnel.

Ms SUE HIGGINSON (12:44): I ask a supplementary question. Will the Minister elucidate that part of her answer where she suggests that currently it is not safe to have such inspections undertaken and that our security is not fit for purpose?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:45): I thank the honourable member for her question. When I talk about "safety", it is my understanding that one of the UN's requirements was unplanned visits, which means it could have been in the middle of the night. From a Youth Justice point of view, having someone come through in the middle of the night would disrupt the routine of young boys and girls in those centres. From a correctional point of view, having people turn up in the middle of the night can put the safety of staff at risk.

ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

The Hon. SHAOQUETT MOSELMANE (12:45): My question is directed to the Minister for Families and Communities, and Minister for Disability Services. Given that Aboriginal children are less likely to be placed with kin or an Aboriginal carer compared to a decade ago, why is New South Wales failing to comply with the Aboriginal and Torres Strait Islander Child Placement Principle?

The Hon. Natasha Maclaren-Jones: Point of order: The Children and Young Persons (Care and Protection) Amendment (Family is Culture Review) Bill 2022, which refers to the Aboriginal and Torres Strait Islander Child Placement Principle, is currently before the House. Accordingly, it cannot be debated.

The PRESIDENT: I uphold the point of order under Standing Order 65 (4). The question is out of order.

SYDNEY OPERA HOUSE

The Hon. SCOTT FARLOW (12:47): My question is addressed to the Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism. Will the Minister update the House on the recently announced plans for the Sydney Opera House to celebrate its fiftieth anniversary?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:47): I wish the Hon. Scott Farlow a happy birthday—a birthday he shares with another Australian icon, the Sydney Opera House. It is globally synonymous with vibrant and dynamic Australian arts and culture. Breathtaking and ahead of its time, the building is not only a symbol of modern Australia but also the nation's most visited tourist destination and one of the world's busiest performing arts centres. Today the beloved icon reaches a milestone. On this day in 1973 the Opera House raised its curtains for the first time. Some 49 years ago the New South Wales Government sent a message to the world that arts and culture is important, meaningful and central to who we are as a nation.

As we race towards the half century, the Sydney Opera House and this Government have launched a year-long program of performance and events, commencing last night with an epic sails projection of historic and contemporary Opera House footage, which will shine brightly over Sydney's CBD for the next 10 days. That is just the start. Over the next 12 months we will reflect on the significant contribution of the Sydney Opera House and its enduring relevance to our evolving creative community. The fiftieth anniversary program includes over 200 performances and events, with which two million people from New South Wales and abroad will engage, reinforcing the building's relevance to Australia and the world.

We understand that arts and culture are universal in their appeal and should be available to everyone, regardless of age, gender, geography or personal circumstances. The fiftieth anniversary program does just that. There is truly something for everyone. The program will also bring additional benefits to the State. The program is a great example of how supporting world-class events will lure visitors back to the State and reinforce New South Wales as Australia's cultural capital. It will also encourage participation in a broad range of cultural activities. With an unmissable line-up of First Nations storytelling, orchestral music, pop music, dance music, theatre and visual arts, the diverse program will ensure that everyone can be part of the celebration. What better way to participate in this broad range of experiences than in the newly refurbished Sydney Opera House?

The New South Wales Government is incredibly proud to have invested \$239 million in the Sydney Opera House's recently completed Decade of Renewal. The building is now better equipped than ever to present this ambitious line-up of events, with improved acoustics, state-of-the-art theatrical systems and enhanced accessibility. As the Sydney Opera House throws open its doors, I cannot wait to see Sydneysiders and people from across the State, the nation and the globe coming to the Sydney Opera House to acknowledge and experience this icon's extraordinary and ongoing contribution to Australian culture.

COALMINING ROYALTIES

Mr JUSTIN FIELD (12:50): My question is directed to the Hon. Damien Tudehope, representing the Treasurer. Is the Treasurer aware of modelling showing that if New South Wales implemented a progressive royalty regime for coal exports in response to the unprecedented windfall profits currently being enjoyed by coal companies, it would raise as much as \$2 billion a month in additional coal royalties? With the Queensland Government recently making this move, has the Treasurer considered a similar windfall profits royalty regime for New South Wales? If not, why not?

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:50): I thank the member for his question. The New South Wales Government has a strong record of responsible fiscal management. Since coming into government, it has introduced several targeted strategies, reforms and efficiency savings aimed at managing expense growth and building fiscal resilience. This approach has provided the capacity to effectively direct resources to priority areas, invest in productivity-enhancing reforms and jobs—3.3 per cent in New South Wales—deliver a record infrastructure program, and grow the frontline workforce. The recent budget contained \$2 billion in budget improvement measures over the four years to 2025-26 to help meet the Government's fiscal targets, including \$1.4 billion in revenue increases for measures such as increasing the point-of-consumption tax and the foreign investors' land tax surcharge, as well as \$645.8 million in expense-saving measures such as efficiency dividends and limiting the increase of senior executives' remuneration to 2 per cent in 2022-23.

In the recent budget, mining royalties have been revised to be \$1.8 billion higher for 2022-23 and are expected to be \$3.8 billion higher, or 51.9 per cent, over the four years to 2025-26. The upgrade is mostly due to significant upward revisions to thermal coal price forecasts. Russia's invasion of Ukraine has disrupted global energy markets and driven thermal coal prices to an at or near record level. Relative to the 2021-22 half-yearly review forecast, the thermal coal price forecast has effectively doubled for 2022-23 and is almost 50 per cent higher on average over the following three years to 2025-26.

I am aware of media reports in *The Guardian* on modelling done by the consultancy firm Climate Energy Finance that replicates the Queensland Labor Government's scheme and applies it to New South Wales. This Government's policies are very clear. Coalmining has played an extremely important role in the New South Wales economy. This Government is dedicated to expanding the mining industry to unearth the process and critical minerals that will build the technologies of the future. It has done this by investing \$130 million to grow investment in mining and exploration by implementing the Critical Minerals and High-Tech Metals Strategy, which provides enabling infrastructure and develops skills in critical minerals mining and processing. I thank the member for his question.

Mr JUSTIN FIELD (12:53): I ask a supplementary question. Will the Minister elucidate the part of his answer where he claimed that the Government exercises responsible fiscal management? Is it responsible fiscal management to allow coal companies to make massive windfall profits of two to three times the anticipated coal price forecasted by Treasury as a result of mining and exporting a public resource, when a progressive tax could help fund the climate action needed as a result of the mining and burning of fossil fuels?

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:54): I thank the member for his supplementary question. I repeat that the Government has put in place various measures to ensure that it is headed for a surplus in 2024-25. We will see what happens when we are told about the policies of those opposite at a later point. The member's question seems to target one specific area: responsible fiscal management. There is a range of things that the Government does to ensure that it manages resources and

the responsibility of the State properly. One thing that the Government is very focused on is a short-term plan to be back in surplus.

The member identifies Queensland as the model for introducing a taxation regime. We saw how that went in relation to the proposed land tax regime that it wanted to introduce and impose upon the taxpayers of New South Wales. That is the Queensland Government's idea of responsible fiscal management. That was its strategy for raising additional revenue from the people of the State. In one sense, I look forward to seeing what revenue-raising mechanisms the Queensland Government engages in. If it can increase the revenue coming from its mining industry, perhaps it might pay the amount that it owes this Government. The Queensland Government might find some money and pay it to this Government. I say to the member that this Government is not devoid of policy for fiscal responsible management.

The Hon. WALT SECORD (12:56): I ask a second supplementary question. Will the Minister elucidate the part of his answer where he referred to the protracted conflict in the Ukraine? Has NSW Treasury done any modelling or studies on the impact it has had on the New South Wales economy, the resources sector and the State's finances?

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:57): I repeat what I said. The comments made about the impact on resource prices as a result of the conflict in the Ukraine is evident. I say to the member that the Government owes an obligation on a regular basis to make sure that it is taking into account all global circumstances—

[Opposition members interjected.]

The PRESIDENT: Order! The Minister has the call.

The Hon. DAMIEN TUDEHOPE: One thing that I noted today is that Labor's greatest Treasurer supported the property tax.

The Hon. Daniel Mookhey: Not your one.

The Hon. DAMIEN TUDEHOPE: Yes, he did.

The Hon. Daniel Mookhey: Wayne Swan—

The Hon. John Graham: We have had two greatest Treasurers.

The Hon. DAMIEN TUDEHOPE: They were really good. In other words—

The Hon. Daniel Mookhey: Ben Chifley—

The Hon. Rose Jackson: Ben Chifley—

The Hon. Penny Sharpe: They are taunting you.

The Hon. DAMIEN TUDEHOPE: They are taunting me. They should not do this.

The PRESIDENT: The Minister will resume his seat.

The Hon. Daniel Mookhey: You were around for the Chifley Government, weren't you?

The Hon. DAMIEN TUDEHOPE: Point of order: I call on the shadow Treasurer to withdraw his ageist remark.

The Hon. Daniel Mookhey: To the point of order: In the name of amity, I unconditionally withdraw my comment.

The PRESIDENT: A breakout of humility in this place should always be recognised. If members want to have a conversation about certain things, they should perhaps take it outside of the Chamber. It is important that the Minister directs his answer to the question. Let us keep it focused on that front. This sort of behaviour only takes time away from Opposition and crossbench members to ask questions.

CHILD PROTECTION

The Hon. MARK BUTTIGIEG (12:59): My question without notice is directed to the Minister for Families and Communities. Given that some areas of the State have significant child protection caseworker vacancy rates—for example, southern New South Wales is 14 per cent and northern Sydney is 15 per cent—what is the Government doing to recruit and retain caseworkers in those areas?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (13:00): I thank the honourable member for his question. I am going to, again, give a

shout-out to the fantastic child protection caseworkers across the State. They do amazing work. One of the key things I highlight is that the casual vacancy rate across the past six successive quarters has remained at zero. Increased work is being done to ensure that we are not only retaining and supporting our caseworkers but also looking to recruit where needed. The department has provided our caseworkers additional support and, particularly, a six-monthly reach-out—I think it is six-monthly, it could be 12-monthly; I will correct that—to ensure that the caseworkers have the counselling support that they need because, as we know, they do have a very tough job.

Particularly during the past two years of COVID, we have talked about our frontline staff. Our child protection caseworkers are also part of that cohort. We are providing that wraparound support to them, making sure that they are okay. We are also looking at opportunities to recruit more staff, including through additional academic and education support. The work done to recruit more Aboriginal and Torres Strait Islander caseworkers and our additional investment into the sector to support children has also been great.

The Hon. MARK BUTTIGIEG (13:01): I ask a supplementary question. Will the Minister elucidate that part of her answer where she said that the Government is providing "wraparound services" and that there are actions being taken to reduce vacancy rates? Does the Minister have a target for how quickly those vacancy rates will come down and, if so, what is that target?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (13:02): I clarify that my advice is that the caseworker annual net vacancy rate for 2020-21 was zero, with over 2,333 funded caseworkers. But when I talked about wraparound support, it is about supporting the staff that are currently there—the retention of them. But, in addition, it is also about ensuring that if there is a vacancy—and, obviously, people sometimes leave and others come in—the department has been actively engaging, through a number of mechanisms, to fill that vacancy. That includes job expos, career fairs, information evenings, as well as, obviously, through normal advertising mechanisms.

As I touched on briefly about the engagement through extra training, we provide the Caseworker Development Program and the Caseworker Support Worker pathway as well. I also mentioned the support that is being given to increase the recruitment of Aboriginal and Torres Strait Islander caseworkers through the Aboriginal pre-employment program. Overall, the support that is being provided to our caseworkers will continue, because it is about knowing that they undertake challenging work and providing the assistance and support that they need to keep them in the profession, where their great expertise is vitally needed.

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

Supplementary Questions for Written Answers

CHILD PROTECTION

The Hon. PENNY SHARPE (13:03): My supplementary question for written answer is directed to the Minister for Families and Communities. Will the Minister elucidate her answer given today to also provide the number of children found to be at risk of serious harm whose cases were closed due to competing priorities in the past 12 months?

COALMINING ROYALTIES

Mr JUSTIN FIELD (13:04): My supplementary question for written answer is directed to the Treasurer. Has the Treasurer requested Treasury advice about the implementation of a progressive royalty regime for coal in New South Wales?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. PENNY SHARPE: I move:

That the House take note of answers to questions.

CHILD PROTECTION

The Hon. PENNY SHARPE (13:04): Today the Opposition sought answers from the Government on the shocking data that continues to come through about dealing with children at risk of serious harm. I agree with the Minister for Families and Communities that caseworkers who work in child protection are extraordinary, and we thank them for their work every day. But we are asking them to do a job that, clearly, they are really struggling to do. The Opposition is trying to make that point to the Government today. When someone picks up the phone—whether it is a teacher, a neighbour or a family member—and makes a report to the helpline, which is the way

that cases enter the system, that person is seriously worried about what is happening to a child. They are worried that a child is being abused, sexually assaulted and/or neglected or has not been fed for a week. It is no small thing to do that.

The children then enter the system, where there are thousands of reports. We found out today that there are over 116,000 reports of children at risk. Those are not children who people are just a bit worried about or have been out without a bike helmet on; those are kids that people have taken the time and effort to look out for by calling the helpline and who have been assessed as being at risk of serious harm. We have record numbers of them—over 116,000. It is more worrying that over 70 per cent of them never see a caseworker. That has been stubbornly the case for over 12 years. The Government has made zero dent in that. It has had 12 years, and we have less than 30 per cent of kids at risk being seen by a caseworker. The Minister tries to hide behind the idea that they get referred to a non-government organisation. But the fact that she cannot tell us how many of those children got a phone call, got some eyes on them, got anything at all to support them, is simply unacceptable.

The Opposition asked a very hard question today: Given the competing priorities and the lack of resources that child protection workers face every single day, how many of the cases are being closed altogether and no-one is seeing anyone? The Minister could not or would not tell us. That is unacceptable. More importantly, we know that there are child death reports. They are tragic. I read every single one of them and have done so every time they have been released in the 17-plus years that I have been in this Parliament. If the Minister cannot tell us how many kids have died when they have been at risk of serious harm and their case has been closed, then this is a system in crisis and it is putting children at harm every single day.

COALMINING ROYALTIES

Mr JUSTIN FIELD (13:07): I take note of the answer to my question today about coalmining royalties. There has been an extraordinary increase in the spot price of export thermal coal in the past few months, in part driven by the conflict in Ukraine and in part driven by the fact that there is a massive transition going on globally from fossil-fuel powered energy to renewables. It is changing the energy market and it is something that we all should have expected. But coal companies in Australia today are making massive windfall profits to such an extent that, compared with the estimates by Treasury in the most recent budget of a spot price for thermal coal—and I will use US dollars, because it is how we can compare—of about US\$194 per tonne, currently coal companies are enjoying a spot price of over US\$400 per tonne. That compares with the past 10 years, during which the spot price has averaged between US\$50-US\$100 per tonne. That is 400 per cent over the top.

Our royalty regime in New South Wales was never based on an idea that that amount of money was going to be made by private companies digging up and selling what is a public resource. We were anticipating around \$50 to \$100 when we set our flat royalty regime of 6 per cent to 8 per cent, depending on the mining type. This is an issue because Queensland has seen an opportunity and it introduced a progressive royalty regime. It will not take away from the base profits of coal companies. It will not change the royalty regime for profits of up to \$100 per tonne. But it introduces a progressive tax regime for profits in excess of that amount, scaling up to 40 per cent of the value when it is over \$300 a tonne.

The analysis conducted by the Climate and Energy Finance Group takes the estimates from Treasury for the amount of coal dug up and sold in New South Wales, and the Queensland royalty regime. It anticipates that taxpayers in this State could benefit to the tune of an extra \$2 billion per month if we implemented that regime. I am not saying that we should, but I am saying that the Treasurer needs to explain why we would not look to get better value from this public resource for taxpayers. Imagine what the Government could do with \$2 billion. The Climate and Energy Finance Group says that we would see the difference between the \$4 billion estimated by Treasury in the next financial year and \$26.9 billion. That \$23 billion difference would see a surplus in 2023, not the forecast \$11.3 billion deficit. Members opposite talk about fiscal management. Imagine what they could do with the transition plan for the Hunter Valley or the resilience requirements of communities impacted by floods and fires. The Government is missing an opportunity and it needs to explain why.

SYDNEY OPERA HOUSE

The Hon. SCOTT FARLOW (13:10): I take note of the answer given by the Hon. Ben Franklin to my question on the Sydney Opera House. I have always been privileged to share my birthday with the Sydney Opera House. As a child I was excited to read "What Happened This Day In History" in *The Daily Telegraph* and learn that I shared my birthday with the Sydney Opera House, the end of the Long March with Mao Zedong in China and the Louisiana Purchase. So it is of significant note. We are celebrating 50 years of the Sydney Opera House, which has transformed art and culture in this city and put it on the world stage. It is also showing what a great contribution that art infrastructure can make to New South Wales. I do not doubt that we will see that again with the completion of the Sydney Modern project later this year.

I acknowledge the impressive array of free community programs the Minister has spoken about. It means that everyone in this city, this State and all of Australia can share in the fiftieth anniversary of the Opera House. The first event is Light Years, a nightly projection on the sails. The second is the forecourt concert series, including a vibrant night of Yolngu music and culture with *Wanha! Journey to Arnhem* and ARIA award-nominated and future soul artist Ngaiire and the Sydney Symphony Orchestra. More free and ticketed events will be announced in coming months, including a new birthday-themed tour for kids, dining experiences, exhibitions and a landmark First Nations artwork that will transform the Opera House precinct in October 2023. All this has been made possible by the decade of renewal, which has improved public access with new lifts, passageways and seating.

The fiftieth anniversary program continues this ambition to open the Opera House to the community through a diverse range of programming that extends well beyond the physical stage. I went on a run this morning past the Opera House and saw that the works are not finishing there. So much more is to be done to ensure that the Opera House can serve Sydney and Australia for at least another 50 years. I am proud that the Government has continued to invest in the Sydney Opera House inside to make sure that it is a true icon of arts and culture in Australia. It continues to be a shining light for all the world and arts and culture here. We hope to see more people coming back to Sydney and New South Wales to enjoy the festivities at the Opera House as we celebrate its fiftieth year.

CHILD PROTECTION

The Hon. PETER PRIMROSE (13:13): I take note of the non-answers provided by the Minister for Families and Communities, and Minister for Disability Services. The Leader of the Opposition has outlined our concerns about the non-answers that were provided to specific questions asked. The last supposed answer was that there were no vacancies. I have looked at the Department of Communities and Justice caseworker dashboard, which specifically says that the current full-time equivalent vacancy rate is 2,292. But that might be a matter for the Minister to report back to the House.

I asked a specific question about children at risk of serious harm, of whom 116,446 have been reported. The Minister told us, as she did in relation to all of the questions we asked, about the good things and the pressures on the caseworkers in the system. I know how difficult it is to be a caseworker. I used to be one when I worked as an operations manager for Youth and Community Services. It is a difficult and tough job, which is why we asked those questions. We asked specific questions of the Minister such as, "What are the problems? What are the gaps?" So we know how it is going. We do not need the Minister to tell us, "It's a tough job. We are really grateful for the work people are doing. We're doing good stuff." She should tell us specifically how that good stuff is reflected in the statistics and the data that her department keeps.

I know that the department keeps voluminous data and that it is available to the Minister. Therefore, she should be able to answer our questions. The Minister has 300 staff members sitting here with voluminous documents full of statistics. We do not ask for statistics that are not readily available. These are very reasonable questions to ask, and the Minister just will not answer them. I do not know why. If things are as good and as glowing as the Minister says, she should tell us the details. If the Minister was to provide the statistics that I know she has and said, "Here are the statistics. This is what the case is. This shows how things are really improving"—good on the system. But the Minister must understand that we are very concerned because she will not provide that information. [*Time expired.*]

CORRECTIONAL CENTRES

Ms SUE HIGGINSON (13:16): I take note of the answer provided by the Minister for Families and Communities on behalf of the Minister for Corrections. The answer she gave about some weird security concern for prisoners, leading to denying UN inspectors inspecting our jails, is quite outrageous. The law as it currently stands is contrary to international standards. We are allowing children as young as 10 years old to be put into detention. On a daily basis I field so many horror stories from families of inmates who are mistreated in the prison system. I heard from a father whose son suffers from Crohn's disease. When he entered prison, he was denied the basic right to use the bathroom as he needed and as his condition requires. He is forced to regularly soil himself in his cell. When he was transported to another facility, which took four hours, he had to do his business in a plastic bag while handcuffed. When he arrived he was denied access to his glasses, so he could not even see the facility he had been transferred to.

In the Goulburn Correctional Centre, inmates are denied the basic right to shower. If they are allowed to shower, they must do it outside where temperatures are often below seven degrees. Inmates spend 18 hours a day in their cells, with no privacy. Many of those inmates have experienced sexual violence, so the trauma of going to the bathroom in front of another inmate is very significant. Staff members refuse to take extra blankets to inmates in winter. In summer the facilities are marked by the stench of sewage of inmates forced to go to the bathroom in their cells.

When we sanction imprisonment, we sanction the deprivation of liberty and freedom. We do not sanction the callous, careless and brutally harsh conditions in which we incarcerate people. We have a duty of care, and this Government is failing in its duty of care when it does not allow UN inspectors to witness this. It is a concern. When UN inspectors want to inspect premises—randomly or however those inspections are undertaken—they ought to be facilitated. The fact that New South Wales is the only jurisdiction in this country that said "no" tells us something very wrong is happening. It is time to shine a light on what is happening in New South Wales prisons. This Government needs to flick the switch, turn the light on and show us and the world what it is doing to people whose liberty it has taken. [*Time expired.*]

STATE TRANSPORT NETWORK

The Hon. CHRIS RATH (13:19): I take note of the answer given today by the Hon. Natalie Ward, the Minister for Metropolitan Roads. As Minister Ward said during question time today, the Perrottet Government is delivering on its world-leading plan for Sydney's future motor network. The \$2.6 billion Sydney Gateway project is at 50 per cent completion. This major milestone means that road users are one step closer to transforming the way they travel to and from Sydney airport precinct. This project will help slash travel times from Parramatta to Sydney airport by up to 40 minutes in the morning peak, bypassing 26 sets of traffic lights. The Sydney Gateway project supports more than 4,000 construction and manufacturing jobs while modernising our road network. One of the key features of Sydney Gateway is the landmark Australian steel bridge—

The Hon. Mark Buttigieg: But you don't like that.

The Hon. CHRIS RATH: —connecting to the international terminal. It will be wider than the Sydney Harbour Bridge. We have an excellent steel manufacturing industry in this State and in Australia.

The Hon. Mark Buttigieg: But we're no good at that, are we? I thought we were no good at that.

The Hon. CHRIS RATH: I acknowledge the interjections. I think that we do not need to make everything in Australia, but we also do not need to import everything from the rest of the world.

The Hon. Mark Buttigieg: Comparative advantage.

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! The Opposition Whip will come to order.

The Hon. CHRIS RATH: It is called comparative advantage and we do have a very strong steel manufacturing industry in this country. I know that, coming from Wollongong.

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! This is the last warning before I call members to order.

The Hon. CHRIS RATH: I know that because of BlueScope Steel. We have an excellent steel manufacturing industry. Some of that steel will be used on this very important project. Businesses in western Sydney and regional New South Wales have been integral to this project, with the headstocks manufactured in Picton using steel made in western Sydney, all to support the 34-metre-long steel and concrete made in Maitland. This is another example of the Perrottet-Toole Government's commitment to delivering city-shaping projects as part of the \$76.7 billion transport infrastructure investment across New South Wales over the next four years.

I conclude on procurement. It is very important with this project—and all of the projects that the New South Wales Government funds—that we think about value for taxpayers. It is all about that because if we are spending more and more money on projects, that is wasting taxpayers' money. We need to use our taxpayers' money very efficiently. We should not be wasting it. When it comes to procurement, we will use Australian when it makes sense to use Australian. We, unlike those opposite, are not going to use it if it spends taxpayers' money inefficiently. [*Time expired.*]

CHILD PROTECTION

The Hon. ROSE JACKSON (13:22): I take note of answers given by the Minister for Families and Communities, and Minister for Disability Services. The issues that were raised in question time today about how we look after the most vulnerable young people in our community are important. They do not necessarily get a lot of coverage in our public discourse and are not covered readily in the media unless in a very sensationalist or, often, tragic way. That is a shame because it makes it difficult to have a serious conversation about them. They are not things that the Government necessarily would want to tout. I am not even knocking it for that. When there are big ribbons to cut and infrastructure projects to talk about, governments do not necessarily want to discuss how many kids in our society are at risk of significant harm and what we are doing about it. Sometimes it is important that we bring this conversation into the Parliament and that is what we tried to do today.

Unfortunately, the Minister was incapable of engaging in that conversation. Obviously, she had a list of very basic dot points about what the Government is doing in this area. She repeatedly read them out, despite the fact that our questions were quite specific. We were asking for specific numbers and specific information. The question of how many children were reported to the department and were known to the department as being at risk of significant harm and subsequently died is incredibly important. It is a hard question. I find talking about kids dying really difficult. But how important is it that we know that? If the answer is zero, that tells us something good and that something is working. But if the answer is not zero, which I suspect it is not, that tells us something important too.

Someone told the Government that a child was at risk and, for some reason, there was a system failure and that child died. We need to know what has happened even though it is a hard conversation to have. None of this is a criticism of the incredibly difficult work done by caseworkers in this area; it is a criticism of the fact that those people are incredibly under-resourced. Seventy-one per cent of 116,000 children reported at risk of significant harm never saw a caseworker. We know that there are kids who are at risk of harm and the systems are not in place to give them the support that they need. That is why we tried to ask some questions today. It was disappointing that more information was not forthcoming. [*Time expired.*]

TAMWORTH GLOBAL GATEWAY PARK

The Hon. MARK BANASIAK (13:25): I take note of the answers given today regarding the Tamworth intermodal. I note the Government objected to the term "Ponzi scheme", so I thought I might elucidate what a Ponzi scheme is. It is a mechanism to attract investors with the promise of future returns. If we look at the history of this project—

The Hon. Scott Barrett: Sounds like the Shooters.

The Hon. MARK BANASIAK: Let us allow the members of the public to make up their own minds about that. In 2014 Crawfords Freightlines approached the Tamworth chamber of commerce with the idea of an intermodal. It was met with a negative response. In 2016 Crawfords presented a proposal to Tamworth Regional Council including commercially sensitive information about their own freight volumes, plans and sidings. In April 2017 Tamworth Regional Council released an expression of interest [EOI] including all that commercially sensitive information that Crawfords had given to it. Not even a month after that EOI was released, the then National Party mayor of Tamworth Regional Council, Col Murray, told Crawfords, "Sorry, we are gifting it to Qube." The EOI had not even run its course and the council—led by Col Murray, National Party member—gifted it to Qube, knowing full well that Qube did not have the freight.

It gets better. The Deputy Premier rolls in and throws all this money at enabling works to upgrade the train lines to get into the business park, which has no business at this point in time. Tamworth Regional Council starts selling lots in the business park with a promise of an intermodal. Sounds great, sounds like a good opportunity. Meanwhile, the other National Party member in the area, Barnaby Joyce, is running around offering \$20 million for a roundabout near the airport to help with this intermodal. The roundabout does not comply with national standards but he does not worry about that. There is money being thrown around left, right and centre. They are still selling the idea of the intermodal.

Now, I have looked at the commodity forecast data from Transport for NSW. I have looked at the freight volumes. I have seen what is coming out of Tamworth. I know what is coming out of Crawfords at Werris Creek, which is 30 kilometres away. It built its own intermodal. The freight is not there. I have raised it with the 14 transport Ministers and the two Deputy Premiers. I have raised it with every Minister I can think of who will actually listen, and they are just burying their heads in the sand, saying, "Oh, it's council." Meanwhile, council is selling this idea that the intermodal is still going to happen. But Qube has left town. Qube is packing up shop. It is going. The question is: How long has the Government known that Qube is leaving town and is not going to build this intermodal? I don't know, it sounds like a Ponzi scheme to me.

STRONGER TOGETHER GRANTS PROGRAM

The Hon. SCOTT BARRETT (13:29): Regional New South Wales is getting better every day. One of the reasons for that is the wonderful, spectacular and fun community events and festivals that we heard the Minister talking about today in question time. I recently attended one of those, the Narromine Dolly Parton Festival, which was held for the first time over the long weekend. Well done to everyone that got that up. It was such a good event, supported by the State Government and in particular the local member, Dugald Saunders, who did a great job advocating for the event. His support was acknowledged many times by many people throughout the day and night.

The whole town got behind the wonderful, fun event throughout the whole week. Butterflies and pink streamers adorned the streets, and Dolly Parton cut-outs were everywhere. The constant beat of Dolly Parton

music came from the shops. Festivalgoers also got into the spirit, with many people dressing up as either Kenny Rogers or Dolly Parton for the event. I did not stray too much further than double denim and a plaid shirt, which is possibly not too far from my normal dress anyhow. One of the businesses that got right into it was the Narromine Rockwall Tourist Park, where I stayed for the event. It had a photo booth, karaoke and decorations. Even the bathrooms, instead of being for ladies and gents, were Dollies and Kennies. Kerry and Dean, who are new to that place, need to be congratulated on their efforts out there.

It was a great example of why those events are important to regional towns. The caravan park was heaving, with Dolly Parton blaring from tents, vans and trailers that had travelled from all across the State and the country to be part of the event and to spend money in the town. It is a similar story to all of those events. The Mundi Mundi Bash has been held twice this year in Broken Hill. From Narromine and Trangie all the way out to Broken Hill, not a spot on the side of the road did not have a van or trailer parked on it—all the pull-over stops. They were also pulling in at places like Hermidale, Topar, Nyngan and Nevertire, and the service stations and the pubs were all packed.

The visitors that support those festivals also support the tills in the towns, which keep ringing. Along with the music of the festivals, the beat of the town increases. That is just one of the reasons The Nationals support those events, not just by attending with our families and friends but also through programs such as the \$25 million Community Events Program. It supports things like the Ivanhoe truck and tractor show, the White Cliffs Gem Fest, the Lake Cargelligo Long Lunch, the Tottenham gymkhana and the Dolly Parton Festival. All of those wonderful events contribute to the spirit of regional New South Wales and make it by far the best place to live, work and raise a family, and also to visit on any occasion that one possibly can.

STATE TRANSPORT NETWORK

The Hon. MARK BUTTIGIEG (13:32): I was not going to contribute to the take-note debate, but after the contribution of the Hon. Chris Rath regarding domestically manufactured steel—

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! Pursuant to standing orders debate is interrupted to allow the Parliamentary Secretary to respond.

The Hon. MARK BUTTIGIEG: You are off the hook this time, comrade.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. PETER POULOS (13:32): I close the take-note debate and reflect on some of the answers provided by the Minister for Metropolitan Roads, the Minister for Regional Transport and Roads, the Minister for Families and Communities, and Minister for Disability Services, and the Leader of the Government. First and foremost, it is a clear and very outstanding matter of fact that this Government is transforming the infrastructure network of Sydney and regional New South Wales—\$2.6 billion invested in the Sydney Gateway project, and it has hit 50 per cent completion. Today those projects are happening as a result of this Government.

When western Sydney residents consider why so many projects rely on tunnels, that set of circumstances goes back to the Wran era. Neville Wran offloaded a lot of the corridors that were once identified by engineers as opportunities to facilitate growth centres as they evolved. The Sydney Gateway project is connecting western Sydney with the Sydney Airport and on to Port Botany. As has been indicated by the Minister, it will help slash travel times from Parramatta to Sydney Airport by up to 40 minutes in the morning peak, bypassing 26 sets of traffic lights. That is an extraordinary and transformative contribution. Since 2011 some \$5.15 billion has been committed to the Princes Highway, as outlined by the Minister for Regional Transport and Roads, which has transformed the corridors from Albion Park to the Victorian border. [*Time expired.*]

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

Motion agreed to.

Written Answers to Supplementary Questions

BOURKE YOUTH SUPPORT SERVICES

In reply to **the Hon. MARK LATHAM** (19 October 2022).

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services)—The Minister provided the following response:

I am advised:

- A number of stakeholder meetings were scheduled with the Minister during her visit to Bourke on 26 August 2022.
- Some stakeholders withdrew from these scheduled meetings with the Minister at late notice on the same day due to competing priorities.

- The Department of Communities and Justice [DCJ] Bourke Community Service Centre [CSC] responds to child protection reports received from the Helpline from mandatory reporters and community members.
- DCJ staff attend a daily check-in facilitated by police and held at the Maranguka Community Hub to discuss matters arising in the previous 24 hours and coordinate service responses as required. Police have not raised specific concerns with DCJ staff at these meeting in regard to child sexual assault.
- Bourke CSC works together with partner government and non-government agencies to support children, young people and families at risk in Bourke. DCJ also funds a range of family preservation and support services to promote parenting and life skills, child development and positive family functioning.
- The need to protect children is an issue for all communities. Professionals who have a formal role in working with or supporting children occupy positions of trust and authority and are well placed to recognise and respond to concerns for children and young people. In New South Wales mandatory reporting is a legislative requirement and is regulated by the Children and Young Persons (Care and Protection) Act 1998. Mandatory reporting aims to protect children from alleged abuse and neglect and also aims to increase the awareness of child abuse and neglect in professionals who work with children and overcome any reluctance these professionals may have to report this abuse.
- In New South Wales, police are mandatory reporters.

RECRUITMENT BEYOND NSW

In reply to **the Hon. COURTNEY HOUSSOS** (19 October 2022).

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

Two teachers commenced on 10 October 2022 and one is commencing on 24 October 2022.

As at 19 October 2022, 95 per cent of shortlisted expressions of interest for the program are from overseas applicants.

As at 19 October 2022, 17 teachers are in the offer stage and 11 teachers are in the visa stage. All teachers in these stages are overseas applicants.

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

Bills

CRIMES LEGISLATION AMENDMENT (COERCIVE CONTROL) BILL 2022

Received

Bill received from the Legislative Assembly.

The DEPUTY PRESIDENT (The Hon. Chris Rath): According to the resolution of the House of 18 October 2022, as the message on the bill has been received from the Legislative Assembly, the bill now stands referred to the Standing Committee on Social Issues for inquiry and report. According to the resolution of the House of 19 October 2022, the committee is to report by Friday 4 November 2022.

Documents

TABLING OF PAPERS

The Hon. NATASHA MACLAREN-JONES: I table the following paper:

- (1) Personal Injury Commission Act 2020—Annual report of the Personal Injury Commission for year ended 30 June 2022.

Bills

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

In Committee

Consideration resumed from an earlier hour.

The CHAIR (The Hon. Wes Fang): Before I call the Hon. Mark Latham, I remind members of where we are at this stage of the debate. Two amendments have been moved. Ms Sue Higginson has moved The Greens amendments Nos 1 and 2 on sheet c2022-172D. I will put the question before I ask other members to move the rest of their amendments.

The Hon. Mark Latham: That is acceptable. I would like to assist the Committee with a procedural notification. It was a lively discussion this morning. I feel like I have made all the points that I legitimately need to make, and I have no intention of holding the Committee up on a Thursday. I would be happy for the Committee

to deal with my amendments Nos 2 to 10 in globo. I recognise that this morning, in heavy defeat, we did not even have the Shooters riding in as cavalry over the hill. I will do this to assist the Committee.

The CHAIR (The Hon. Wes Fang): With the agreement of the Committee, I will put the question on Ms Sue Higginson's amendments. Ms Sue Higginson has moved The Greens amendments Nos 1 and 2 on sheet c2022-172D. The question is that the amendments be agreed to.

The Committee divided.

Ayes34
Noes4
Majority.....30

AYES

Amato	Higginson	Moselmane
Barrett	Houssos	Pearson
Boyd	Hurst	Poulos
Buttigieg (teller)	Jackson	Primrose
D'Adam (teller)	MacDonald	Rath
Donnelly	Maclaren-Jones	Searle
Faehrmann	Mallard	Secord
Farlow	Martin	Sharpe
Farraway	Mason-Cox	Taylor
Field	Mookhey	Tudehope
Franklin	Moriarty	Ward
Graham		

NOES

Banasiak	Latham (teller)	Roberts (teller)
Borsak		

Amendments agreed to.

The Hon. MARK LATHAM (15:14): By leave: I move One Nation amendments Nos 2 to 8 and No. 10 on sheet XOX54 in globo:

- Page 5 lines 8 to 9: Omit all words after "up" and insert "free from sexual assault and other forms of family violence."
- Page 5 lines 15 to 17: Omit all words after "placement is to" and insert "free from sexual assault and other forms of family violence."
- Page 5 line 23: Insert after "country" the words "in a way that protects their physical safety and wellbeing."
- Page 5 lines 24 to 28: Omit subsection (3)
- Page 5 lines 34 to 36: Omit subsection (a)
- Page 6, after line 29: Insert "(iii) the physical safety and wellbeing of children."
- Page 7 lines 15 to 16: Omit subsection (c)
- Page 8 after line 16: Add subsection "(1a) The primary objective of permanency plans shall be the physical safety, wellbeing and school education opportunities of Aboriginal or Torres Strait Islander children."

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (15:14): I appreciate the Hon. Mark Latham moving the amendments in globo. I speak to a couple of key points. One is around the Secretariat of National Aboriginal and Islander Child Care placement principles, which have been embedded in the bill. They are national principles agreed to by all States and Territories, including New South Wales. We also agreed that we would legislate them and any changes would have broader implications. Also of note is amendment No. 7, which obviously the Government does not support. It is unnecessary, as there is already provision that safety, welfare and wellbeing are paramount and prevail

over all other principles and considerations. Physical safety is only one element of harm that the statutory system considers relevant in the concept of harm. The Government will not support the amendments.

The Hon. PENNY SHARPE (15:15): Labor does not support the amendments. There has been extensive negotiation to get to the amendments that are before us that we have been able to support. We do not support these amendments.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Latham has moved One Nation amendments Nos 2 to 8 and No. 10 on sheet XOX54. The question is that the amendments be agreed to.

The Committee divided.

Ayes4
Noes33
Majority.....29

AYES

Banasiak
Borsak

Latham (teller)

Roberts (teller)

NOES

Amato
Barrett (teller)
Boyd
Buttigieg
D'Adam
Donnelly
Faehrmann
Farlow (teller)
Farraway
Franklin
Graham

Higginson
Houssos
Hurst
Jackson
MacDonald
Maclaren-Jones
Mallard
Martin
Mason-Cox
Mitchell
Mookhey

Moriarty
Moselmane
Poulos
Primrose
Rath
Searle
Secord
Sharpe
Taylor
Tudehope
Ward

Amendments negatived.

The CHAIR (The Hon. Wes Fang): I advise members to stay in their places while the last two sets of amendments are moved.

Ms SUE HIGGINSON (15:25): By leave: I move The Greens amendments Nos 1 to 12 on sheet c2022-171C in globo:

No. 1 Principles for administration of Act

Page 3, Schedule 1. Insert after line 15—

[1A] Section 9 Principles for administration of Act

Insert after section 9(2)(g)—

- (h) In deciding what action it is necessary to take in order to protect an Aboriginal or Torres Strait Islander child or young person from harm, it is to be presumed that removing an Aboriginal or Torres Strait Islander child or young person from the child or young person's family causes harm.

No. 2 Aboriginal or Torres Strait Islander children or young people not to be adopted

Page 5, Schedule 1. Insert after line 28—

[7A] Sections 12B and 12C

Insert before section 13—

12B Aboriginal children and young people cannot be adopted

Adoption must not be considered as an option for an Aboriginal child or young person.

Note— See the *Adoption Act 2000*, section 33.

12C Torres Strait Islander children and young people cannot be adopted other than cultural adoption

- (1) Adoption must not be considered as an option for a Torres Strait Islander child or young person.

Note— See the *Adoption Act 2000*, section 37.

- (2) Despite subsection (1), the parental rights and responsibilities for a Torres Strait Islander child or young person may be permanently transferred to a cultural parent of the child or young person in accordance with a scheme prescribed by the regulations for the purposes of this section.

- (3) In this section—

cultural parent, of a Torres Strait Islander child or young person, is a person who, in accordance with customary child rearing practices in the Torres Strait, agrees with the child or young person's birth parents to accept the permanent transfer of the parental rights and responsibility for the child or young person from the birth parents.

No. 3 **Aboriginal and Torres Strait Islander family support**

Page 5, Schedule 1. Insert after line 28—

[7B] Sections 13A–13C

Insert after section 13—

13A Aboriginal and Torres Strait Islander family support

- (1) It is acknowledged that the placement of Aboriginal or Torres Strait Islander children or young persons in out-of-home care can have serious negative consequences for the children or young persons concerned, their families and the indigenous community as a whole.
- (2) Consequently, it is a principle to be applied in the administration of this Act that the Secretary is to take active efforts to reduce the need for Aboriginal or Torres Strait Islander children and young people to be removed from their families and placed in out-of-home care.
- (3) Without limiting the general application of the principle in subsection (2), the Secretary must take active efforts to reduce the need for Aboriginal or Torres Strait Islander children and young people to be removed from their families and placed in out-of-home care, when exercising functions and powers under this Act including, but not limited to functions and powers under section 17, 37, 63 or 85.
- (4) Active efforts, for the purposes of this section, must be tailored to the circumstances of the individual child or young person and their family and include, but are not limited to—
 - (a) the provision of family support services that are—
 - (i) accessible, and
 - (ii) adequately resourced, and
 - (iii) culturally appropriate, and
 - (iv) so far as is practicable, designed and delivered by Aboriginal or Torres Strait Islander community controlled organisations, and
 - (b) considering the use of—
 - (i) parent responsibility contracts as provided for in Chapter 4, Part 3, Division 2, and
 - (ii) parent capacity orders as provided for in Chapter 5, Part 3, and
 - (iii) temporary care arrangements as provided for in Chapter 8, Part 3, Division 1, and
 - (c) other steps prescribed by the regulations.

13B Declaration by Children's Court

- (1) A relative of an Aboriginal or Torres Strait Islander child or young person may apply to the Children's Court for a declaration that the Secretary has failed to take active efforts under section 13A to reduce the need for the child or young person to be removed from the child or young person's family and placed in out-of-home care.
- (2) If the Children's Court is satisfied that the Secretary has failed to take active efforts under section 13A to reduce the need for the child or young person to be removed from the child or young person's family and placed in out-of-home care, the Children's Court may make a declaration to that effect.
- (3) A declaration by the Children's Court under this section may include the following—
 - (a) the ways in which the Secretary has failed to take active efforts in relation to the particular child or young person,
 - (b) other things the Secretary could have done to fulfil their duty to take active efforts in relation to the particular child or young person.
- (4) An application may be made under this section—
 - (a) in connection with proceedings for—
 - (i) a care order under Chapter 5, Part 2, or

(ii) a parent capacity order under Chapter 5, Part 3, or

(b) at another time.

13C Reporting responsibilities of Minister

- (1) Within 12 months after the commencement of section 13A, the Minister is to table in both houses of Parliament a plan that sets out the following—
 - (a) the active efforts that will be taken under section 13A to provide family support services to Aboriginal and Torres Strait Islander families and communities,
 - (b) how the active efforts to be taken under section 13A will be delivered,
 - (c) how the active efforts to be taken under section 13A will be funded.
- (2) On or before 1 April and 1 October each year, the Minister is to table a report in both houses of Parliament setting out the following for the preceding reporting period—
 - (a) the Government's achievements in relation to the plan required by subsection (1),
 - (b) the Aboriginal community controlled organisations that have been funded to deliver services under the plan required by subsection (1) and the amount of funding each organisation has received,
 - (c) the actions the Minister has taken to engage with Aboriginal and Torres Strait Islander people to negotiate and agree on the implementation of programs and strategies that promote self-determination as provided for in section 11,
 - (d) the means approved by the Minister under section 12 for Aboriginal and Torres Strait Islander families, kinship groups, representative organisations and communities to participate in—
 - (i) decisions made concerning the placement of Aboriginal and Torres Strait Islander children and young persons in out-of-home care, and
 - (ii) other significant decisions made under this Act that concern Aboriginal or Torres Strait Islander children and young persons,
 - (e) the Minister's assessment of the effectiveness of the actions and means reported under paragraphs (c) and (d),
 - (f) each declaration given by the Children's Court under section 13B.
- (3) In this section—

preceding reporting period means the period of 6 months ending on 30 June or 31 December immediately before the report is to be tabled in Parliament.

No. 4 Evidence of active efforts to take alternative action

Page 6, Schedule 1[8], lines 13–19. Omit all words on the lines.

No. 5 Aboriginal or Torres Strait Islander children and young people—special considerations

Page 7, Schedule 1. Insert after line 17—

[11A] Section 79AB

Insert after section 79AA as inserted by Schedule 1[11]—

79AB Aboriginal or Torres Strait Islander children and young people—special considerations

- (1) Before making an order under section 79(1)(b), (e) or (f) for an Aboriginal or Torres Strait Islander child or young person, the Children's Court must be satisfied that the Secretary has taken active efforts under section 13A to provide support services to the family of the child or young person.
- (2) If the Children's Court is considering making an order under section 79(1)(b) for an Aboriginal or Torres Strait Islander child or young person, the Children's Court must, for the purpose of determining if there are special circumstances under section 79(10), take the following matters into account—
 - (a) the steps the Secretary has taken under section 13A to provide support services to the family of the child or young person,
 - (b) the availability of other support services that are reasonably required to support the restoration of the child or young person to the child or young person's parents.

No. 6 Permanency planning for Aboriginal or Torres Strait Islander children and young people

Pages 7 and 8, Schedule 1, line 18 on page 7 to line 9 on page 8. Omit all words on the lines. Insert instead—

[12] Section 83 Preparation of permanency plan

Omit section 83(5)–(9). Insert instead—

- (5) In this section—
- parent*, in relation to a child, means—
- (a) the birth parent of the child or young person, or
 - (b) if the child or young person has been adopted—the adoptive parent of the child or young person.

No. 7 Permanency planning for Aboriginal or Torres Strait Islander children and young people

Page 9, Schedule 1[17], lines 15–18. Omit all words on the lines. Insert instead—

- (2A) If a child or young person the subject of application is an Aboriginal or a Torres Strait Islander, the Children's Court must—
- (a) consider the effect of the order on the relevant Aboriginal or Torres Strait Islander community, and
 - (b) provide an opportunity to be heard to—
 - (i) a representative of the relevant community, or
 - (ii) a member of a recognised Aboriginal community controlled organisation with a relevant connection to the relevant community, and
 - (c) be satisfied that the Secretary has complied with the principle of active effort in relation to the child or young person.
- (2B) Regulations may be made, for the purposes of subsection (2A)(b), for—
- (a) the remuneration of individuals who are heard by the Children's Court, and
 - (b) the payment of the reasonable expenses incurred by an individual who is heard by the Children's Court.

No. 8 General principles for proceedings

Page 9, Schedule 1. Insert after line 30—

[19A] Section 93AA

Insert after section 93—

93AA General principle for proceedings concerning Aboriginal or Torres Strait Islander children or young people

- (1) In any proceedings before the Children's Court concerning Aboriginal or Torres Strait Islander children or young people, the Children's Court must—
 - (a) presume that the removal of a child or young person from their family or community causes harm including the serious harm arising from disrupting the child or young person's connection to the child or young person's culture, and
 - (b) actively consider the Aboriginal and Torres Strait Islander Children and Young Persons Principle.
- (2) The presumption in subsection (1)(a) is rebuttable.
- (3) When giving its reasons for a decision under Chapter 5 that involves an Aboriginal or Torres Strait Islander child or young person, the Children's Court must set out the following—
 - (a) how the presumption in subsection (1)(a) has been considered,
 - (b) if the presumption in subsection (1)(a) has been rebutted—the grounds for the rebuttal,
 - (c) how the following have been applied—
 - (i) the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles, and
 - (ii) the principle of self-determination as provided for in section 11,
 - (iii) the principle of participation as set out in section 12.

No. 9 Publication of names and identifying information

Page 9, Schedule 1. Insert after line 30—

[19B] Section 105 Publication of names and identifying information

Insert after section 105(5)—

- (5A) Despite subsection (5), it is a defence to prosecution for an offence under subsection (2) if it is proved that the person who published or broadcast the name of a child or young person acted in good faith and—
- (a) to promote the safety, welfare or well-being of the child or young person, or
 - (b) in the public interest.

No. 10 Collection of information by Secretary and Children's Court

Page 10, Schedule 1. Insert after line 18—

[22A] Section 248A Collection of information by Secretary and Children's Court

Insert after section 248A(3)—

- (4) If information is made publicly available in accordance with regulations made under subsection (2)(c), the information must be made available in a way that ensures the identity of a person to whom the information relates must not be readily ascertainable.

No. 11 No adoption of Aboriginal or Torres Strait Island children

Page 12, Schedule 2. Insert after line 1—

2.1A Adoption Act 2000 No 75

[1] Section 24 Who can be adopted?

Insert at the end of section 24(1)—

Note— Sections 33 and 37 provide that an adoption order must not be made in relation to an Aboriginal or a Torres Strait Islander child.

[2] Section 33

Omit sections 33–36. Insert instead—

33 No adoption of Aboriginal children

An adoption order must not be made in relation to an Aboriginal child.

[3] Section 37

Omit sections 37–39. Insert instead—

37 No adoption of Torres Strait Islander children

- (1) An adoption order must not be made in relation to a Torres Strait Islander child.
- (2) Despite subsection (1), a Torres Strait Islander child or young person may undergo cultural adoption, as provided for in the *Children and Young Persons (Care and Protection) Act 1998*.

No. 12 Long title

Insert "*the Adoption Act 2000*," after "and to amend".

The Hon. MARK LATHAM (15:26): I move One Nation amendment No. 9 on sheet XOX54:

9. Page 7 lines 37 to 42: Omit subsection (b).

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (15:26): The Government does not support The Greens amendments Nos 1 to 12 on sheet 2022-171C and One Nation amendment No. 9 on sheet XOX54.

The Hon. PENNY SHARPE (15:26): The Opposition shares the Government's view regarding The Greens amendments Nos 1 to 12 on sheet 2022-171C and One Nation amendment No. 9 on sheet XOX54.

The CHAIR (The Hon. Wes Fang): As the amendments clash, I will put the question on The Greens amendments first. Ms Sue Higginson has moved The Greens amendments Nos 1 to 12 on sheet 2022-171C. The question is that the amendments be agreed to.

Amendments negated.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Latham has moved One Nation amendment No. 9 on sheet XOX54. The question is that the amendment be agreed to.

Amendment negated.

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

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES: I move:

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

Motion agreed to.

Adoption of Report

The Hon. NATASHA MACLAREN-JONES: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. NATASHA MACLAREN-JONES: I move:

That this bill be now read a third time.

Motion agreed to.

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO 2) 2022

Second Reading Speech

The Hon. LOU AMATO (15:29): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill (No 2) 2022 continues the Statute Law Revision Program, which has been in place for more than 35 years. As the provisions in the bill are minor and uncontroversial, the second reading speech given in the other place is substantially the same speech as the one that I would make.

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

Leave granted.

Statute Law bills have featured in most sessions of Parliament since 1984.

The bill is an effective method for making minor policy changes and maintaining the quality of the New South Wales statute book by removing typographical errors, updating cross-references and repealing redundant provisions.

Schedule 1

Schedule 1 to the bill contains policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of a separate amending bill.

The schedule contains amendments to 34 Acts and related amendments to four instruments.

I will outline of some of the amendments that are included in this schedule.

Schedule 1 includes amendments designed to ensure New South Wales legislation reflects contemporary practices in the service of documents.

These include amendments to the Animal Research Act 1985, the Exhibited Animals Protection Act 1986, the Food Act 2003, the Hemp Industry Act 2008, the Local Land Services Act 2013, the Plantations and Reafforestation Act 1999, the Poppy Industry Act 2016, the Rural Assistance Act 1989, the Stock Medicines Act 1989 and the Veterinary Practice Act 2003 within the portfolio of the Minister for Agriculture.

These amendments enable the service of particular documents under those Acts by electronic transmission. Previously, for several of these Acts, service was limited to personal service, postal service or service by email.

The Dams Safety Act 2015 is also amended to allow service of a document by email to an email address of a person or body corporate specified by the person or body corporate.

These amendments ensure New South Wales legislation provides for the evolving types of electronic methods that may be used for the service of documents, whether by email or another electronic method, depending on the type of document being served.

Amendments to the Fisheries Management Act 1994 continue the Government's commitment to deliver user-centred digital services by providing online access to the register of aquaculture permits.

Currently, that Act provides that a person may attend the place where the register is kept during ordinary business hours to inspect the register.

The amendments will make the electronic part of the register available on the website of the department.

This will ensure online access to the register in the same way the commercial fishery share register is currently available under that Act.

Similarly, the exhibition of documents for public consultation under that Act will take place online, replacing physical exhibition at departmental offices.

The public will continue to have the opportunity to make submissions on a range of matters, but materials will now be available on the Department's website, increasing accessibility.

Materials available for public comment on the website will relate to fisheries management plans, the making of fishing determinations by the Total Allowable Fishing [TAF] Committee and aquaculture industry development plans.

Other amendments to the Fisheries Management Act 1994 provide that a person may show a photo of their official receipt for payment of a recreational fishing fee for the purposes of complying with the requirement for a fisher to have the official receipt in their possession when taking fish.

The photo may, for example, be shown on a smartphone or other mobile device.

Amendments to the Companion Animals Act 1998 enable the disclosure of the address, as well as the name, of the owner of a companion animal if a person seeks the information for the purpose of bringing legal proceedings against the owner for the animal's behaviour.

This addresses an existing issue in which the disclosure of the name of the owner of a companion animal has been insufficient to institute proceedings against the owner.

This amendment supports the provisions of the Act that render the owner of a companion animal liable in damages for injury caused by that animal to persons, personal property and other animals.

An amendment made to the Mining Act 1992 will allow the department and the holder of an authority to clearly define land that the holder of an authority under that Act wishes to retain if the applicant intends to cancel part of the land to which an authority relates.

Currently, if the holder of an authority under that Act wants to cancel part of an authority, they are required to provide a description of the land which is to be cancelled.

The amendment will provide that the holder is required to provide a description of the area to be retained instead, allowing greater clarity between the department and the holder of the authority.

The Natural Resources Access Regulator Act 2017 is amended to increase the number of members that can be appointed to the board of the Natural Resources Access Regulator from three members to between three and five members.

The board of the Natural Resources Access Regulator is vitally important to the function of the Natural Resources Access Regulator, as any decision relating to the functions of the Regulator is to be made by or under the authority of the board.

The quorum for the board is also updated from all members of the board to three members, to ensure that the board is able to perform its functions if a member is unable to vote for any reason, and to safeguard against conflicts of interest.

Finally, the Public Holidays Act 2010 is being amended to reflect the change in name of the Queen's Birthday holiday to the King's Birthday holiday following the passing of Her Late Majesty Queen Elizabeth II and the accession of King Charles III. There will be no change to the day of the holiday and it will still be celebrated on the second Monday in June.

Schedule 2

Schedule 2 deals with matters of pure statute law revision consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill.

Examples of amendments in the schedule are corrections of grammatical errors, typographical errors and updating references to out-of-date Acts or instruments.

Schedule 3

Schedule 3 contains amendments to references in a number of Acts and regulations relating to machinery-of-government changes, arising from administrative changes orders.

These amendments update out-of-date references to the names of departments or reflect machinery-of-government changes.

Schedule 4

Schedule 4 continues the program of repealing Acts and instruments that are redundant or of no practical utility.

In this bill, the Stock Medicines Amendment Act 2004 is repealed, as it contains one remaining amendment which is not intended to be commenced.

The bill also repeals the City of Sydney Regulation 2016, as a result of an amendment made in schedule 1. The only provision that was contained in the regulation is moved to the City of Sydney Act 1988 by schedule 1 to the bill, meaning the regulation is no longer required.

Schedule 5

Schedule 5 contains general savings, transitional and other provisions.

This includes a provision that deals with the effect of amendments on amending provisions.

This schedule also includes a provision allowing for regulations to be made that are of a savings or transitional nature.

Each amendment included in the bill is explained in detail in explanatory notes, including at the beginning of the bill.

I hope that members will appreciate the uncontroversial nature of the provisions contained in the bill.

If any amendment causes concern or requires clarification, it should be brought to my attention. If necessary, I will arrange for Government staff to provide additional information on the matters raised.

If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill.

Withdrawn proposals can also be dealt with in a second bill (using the procedure for splitting bills in the Legislative Council), which can be dealt with in each of the Houses in the same way as an ordinary bill.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (15:30): I speak on behalf of the Opposition in debate on the Statute Law (Miscellaneous Provisions) Bill (No 2) 2022. Members would know that there are usually a few of these types of bills every year. The key principles with which statutory bills are dealt with is that the amendments reflect contemporary practice in the service of documents and other processes in legal proceedings, allow government processes to be more digitally friendly and provide flexibility around rigid board structures. There are some highly technical changes that amend references from "the Queen" to "the King", following the passing of Her Majesty Queen Elizabeth II. There is also the correction of typos. We deal with miscellaneous statute bills often. In this case, 34 Acts are being amended. There have been a lot of eyes on this, and nothing is controversial. Labor supports the changes.

The Hon. LOU AMATO (15:31): On behalf of the Hon. Sarah Mitchell: In reply: 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. LOU AMATO: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

CONSTITUTION AMENDMENT (APPOINTMENT OF LIEUTENANT-GOVERNOR AND ADMINISTRATOR) BILL 2022

Second Reading Speech

The Hon. LOU AMATO (15:33): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Constitution Amendment (Appointment of Lieutenant-Governor and Administrator) Bill 2022. The bill proposes amendments to the Constitution Act 1902 providing that the appointment of persons to the offices of Lieutenant-Governor and Administrator are to be made by the Governor of New South Wales. I note that Solicitor General advice relevant to the bill was tabled during the second reading speech for the bill in the other place. I seek leave to table Solicitor General advice SG 2022/14 entitled *Question of Appointment of Lieutenant-Governor*, dated 2 August 2022.

Leave granted.

Document tabled.

The Hon. LOU AMATO: I seek leave to have the remainder of my speech incorporated in *Hansard*.

Leave granted.

Before I deal with the issue that this bill will address, I will now briefly describe the offices of Lieutenant-Governor and Administrator.

Role of the Lieutenant-Governor and Administrator

As members would be aware, the Governor is the formal head of State in New South Wales and representative of the King.

The Governor performs an important constitutional role in the administration of the State, including appointing the Premier and Ministers of the Crown, presiding at meetings of the Executive Council and assenting to bills passed by this Parliament.

The Lieutenant-Governor or the Administrator may assume the administration of the State if there is a vacancy in the office of Governor, or the Governor is unavailable.

The Governor may also appoint the Lieutenant-Governor or Administrator to be the Governor's deputy during a short absence or illness to perform the powers and functions of the Governor.

Since 1891 it has been the practice in New South Wales to appoint the Chief Justice of the Supreme Court as Lieutenant-Governor.

The Constitution Act includes a deeming provision providing that the Administrator shall be the Chief Justice, or, if the Chief Justice is the Lieutenant-Governor or the Chief Justice is unavailable, the next most senior available judge of the Supreme Court. This

deeming provision applies where an Administrator hasn't otherwise been appointed and ensures that, in the event of a catastrophe, a surviving judge of the Supreme Court may administer the State.

Advice of the Solicitor General

Subsection 9B (2) of the Constitution Act provides for the appointment of the Lieutenant-Governor by the sovereign.

In contrast, subsection 7 (2) of the Australia Act 1986 (Cth) (Australia Act) provides that, with the exception of the appointment and termination of the Governor of a State and when the sovereign is personally present in a State, all powers and functions of the sovereign in respect of a State are exercisable only by the Governor of the State.

The Government has received legal advice from the Solicitor General advising that, under the terms of the Australia Act, the Lieutenant-Governor should be appointed by the Governor and not the sovereign, unless the sovereign is in the State at the time of the appointment.

The Solicitor General has also advised that subsection 9B (2) of the Constitution Act, providing for appointment by the sovereign, is inoperative due to its inconsistency with the Australia Act under section 109 of the Commonwealth Constitution and any commission by the sovereign appointing a person as Lieutenant-Governor is invalid.

The Solicitor General's advice refers to a joint advice given in 2006 by the solicitors-general of five States, which also expressed the view that any Lieutenant-Governor of a State must be appointed by the Governor and not the sovereign, unless the sovereign is in the State at the time of the appointment.

Legal uncertainty

In New South Wales, the Constitution Act was amended in 2009 to insert a new provision providing that any act by the Chief Justice in the capacity of Lieutenant-Governor is taken to have been done, and always to have been done, in the capacity of Administrator if for any reason the Chief Justice was not holding office as Lieutenant-Governor at the relevant time.

The second reading speech for the Constitution Amendment (Lieutenant-Governor) Act 2009 delivered on 11 November 2009 by the Hon. John Hatzistergos in the Legislative Council notes the legal uncertainty regarding the application of the Australia Act to the appointment of Lieutenant-Governors, and indicates that, for some years, New South Wales had been discussing with other States the possibility of approaching the Commonwealth Government with a proposal to amend the Australia Act to remove all uncertainty.

Thirteen years later, securing the consent of all States to amend the Australia Act seems unlikely, noting in particular that South Australia, Tasmania and Victoria have already taken steps to resolve inconsistencies with the Australia Act, and Queensland has not appointed a Lieutenant-Governor since 1949.

In light of the Solicitor General's advice, the Government has determined that a legislative amendment to the Constitution Act to provide that the appointment of the Lieutenant-Governor is to be made by the Governor is appropriate to ensure that its terms reflect the legal position under the Australia Act.

The bill

Accordingly, the bill proposes to amend subsection 9B (2) of the Constitution Act to provide, consistent with the provisions of the Australia Act, for the appointment of a person to the office of Lieutenant-Governor by the Governor.

The proposed amendment would bring New South Wales in line with Victoria, Tasmania and South Australia, jurisdictions where the Governor now appoints the Lieutenant-Governor. Only Queensland (which has not appointed a Lieutenant-Governor since 1949) and Western Australia (which has unique constitutional arrangements) have not taken steps to update their legislative frameworks to provide for appointments to be made by the relevant State Governor.

Subsection 9B (4) of the Constitution Act provides for the appointment of a person as Administrator by the sovereign. Although the Solicitor General did not consider the appointment of the Administrator in his advice, the issues identified by the Solicitor General would also apply to the appointment of the Administrator. The bill therefore proposes to also amend subsection 9B (4) to provide that the Governor may appoint a person as Administrator.

Conclusion

Before I conclude, I reflect on the life of Her Late Most Gracious Majesty, Queen Elizabeth II.

She was an admired Queen of Australia and a model of dedication, duty, and trust. True to her word, she devoted her whole life to our service. Her loss has been deeply felt across our State and nation.

This bill, consistent with amendments made in other Australian States, will ensure the appropriate appointment of persons to act for the Governor, being the King's personal representative in New South Wales.

I thank the former Chief Justice of New South Wales, the Hon. Thomas Bathurst, AC, KC, for his service as Lieutenant-Governor.

This bill will align the provisions of the Constitution Act with the terms of the Australia Act, and facilitate the appointment of a new Lieutenant-Governor.

I commend the bill to the House.

Second Reading Debate

The Hon. JOHN GRAHAM (15:34): Given the bill is non-contentious, I speak briefly on behalf of the Opposition to the Constitution Amendment (Appointment of Lieutenant-Governor and Administrator) Bill 2022. As the Parliamentary Secretary indicated, the bill clarifies the appointment of a person to the office of Lieutenant-Governor of the State. In practical terms, the bill omits references to "Her Majesty" to instead insert "the Governor". I acknowledge that the bill is in response to the legal advice that the Parliamentary Secretary tabled.

The bill will ensure that the Constitution Act 1902 reflects the existing legal position under the Australia Act 1986 with respect to the appointment of persons to the offices of Lieutenant-Governor and Administrator, and remove any legal uncertainty regarding appointments. The bill is consistent with amendments made in Victoria, South Australia and Tasmania. The only other States that have not updated their framework for appointing lieutenant-governors are Western Australia, which has its own unique constitutional arrangements, and Queensland, which has not appointed a Lieutenant-Governor since 1949. I commend the bill to the House.

The Hon. LOU AMATO (15:35): On behalf of the Hon. Sarah Mitchell: In reply: 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. LOU AMATO: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

ELECTORAL LEGISLATION AMENDMENT BILL (NO 2) 2022

Second Reading Speech

The Hon. LOU AMATO (15:36): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

The Electoral Legislation Amendment Bill (No 2) 2022 amends the Electoral Act 2017 to make important amendments to facilitate the upcoming 2023 State general election and improve the administration of the NSW Electoral Commission. These include changes to postal voting, flexibility to extend telephone voting to electors who may be required to self-isolate due to COVID-19, clarifications to authorisation requirements for automated telephone calls and amendments to facilitate overseas declaration voting. The bill allows the Electoral Commissioner to appoint an acting Electoral Commissioner outside an election period. The bill also amends the Government Sector Finance Act 2018 to make the commissioner the accountable authority for the NSW Electoral Commission. Amendments included in the bill have been recommended by the NSW Electoral Commission, largely to support the delivery and integrity of the State general election in March of next year.

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

Leave granted.

Amendments to the Electoral Act

Moving to the details of the bill, and first to the amendments to the Electoral Act. The bill makes a number of amendments regarding postal voting to facilitate the timely production and dispatch of postal voting materials, in preparation for potentially higher volumes of postal votes in upcoming elections, specifically, the 2023 general election, and any by-elections held after March 2023 and before the 2027 general election.

At the May 2022 Federal election, record numbers of electors in New South Wales voted by post. Based on these figures, high numbers of postal votes are expected for the 2023 State election. The NSW Electoral Commission has advised that no supplier in New South Wales is able to print and dispatch sufficient quantities of postal vote materials in the form currently required by the Electoral Act to meet the anticipated demand in the time frames required. In response to these issues, the NSW Electoral Commission has proposed an alternate form of postal vote materials, consistent with the postal vote pack used at the Federal election.

The bill provides that the Electoral Commissioner may determine to adopt the alternate method of postal voting for the 2023 general election or any by-elections between March 2023 and the 2027 general election. The alternate method consists of the Electoral Commissioner providing to electors voting by post (1) a ballot paper, (2) a postal vote certificate, and (3) an envelope for return to the Electoral Commissioner. The Electoral Commission proposes to use an envelope that is specifically designed to protect the secrecy of the ballot. The envelope is designed with a rear window, protected by a removable flap. When the flap is peeled back, provided the postal vote certificate and the ballot paper have been inserted correctly, the postal vote certificate can be viewed by scrutineers without revealing the ballot paper. This envelope protects the secrecy of each vote by allowing the postal vote certificate and the ballot paper to be scrutinised separately. The bill amends clause 15 of schedule 7 to the Act to enable the Electoral Commissioner to "switch on" the alternate method by a determination in writing published on the Electoral Commission's website.

The bill introduces a new schedule 8 to the Electoral Act, which modifies the existing postal vote provisions in the Act if the Electoral Commissioner determines that the alternate postal vote method is to be used. In particular, the bill amends sections 144 and 145 of the Electoral Act to require that the postal vote certificate, ballot paper and an envelope for the return of the certificate and ballot paper to the Electoral Commissioner, is provided to the elector. The bill also amends section 149 of the Act to remove the requirement that a postal vote certificate must be printed on an envelope.

There are two key savings provisions included to protect the validity of a postal vote. Firstly, the bill provides that a ballot paper is not to be rejected for scrutiny merely because the ballot paper and postal vote certificate were sealed in an envelope other than the envelope provided by the Electoral Commissioner. This will apply if a voter uses a different envelope to the one supplied by the Electoral Commissioner. In this situation, if the Electoral Commissioner cannot read the postal vote certificate without opening the envelope because of the envelope used, the Electoral Commissioner must open the envelope, withdraw the postal vote certificate, and, if the relevant scrutiny criteria for the postal vote certificate has been satisfied, the Electoral Commissioner must accept the envelope for further scrutiny.

Secondly, the new section 149 (1A) included in schedule 8 allows the Electoral Commissioner to open a postal vote envelope if the postal vote certificate is not visible through the rear window but the Electoral Commissioner considers it likely the postal vote certificate is in the envelope. In that event, the Electoral Commissioner may open the envelope, withdraw the documents, and, if the postal vote certificate is inside the envelope, replace the documents in the envelope correctly without further inspecting them or allowing anyone else to, and reseal the envelope. If the postal vote certificate is not inside the envelope, the envelope must be rejected from further scrutiny. This will address situations where an elector has placed the postal voting materials incorrectly in the envelope provided by the Electoral Commissioner.

The bill also amends section 144 of the Electoral Act to change the requirement for the Electoral Commissioner to deliver or post postal vote packs to registered early voters (postal) within 1 business day after the ballot papers for an election have been prepared and printed, to require them to be delivered or posted as soon as possible after the ballot papers for an election have been prepared and printed. This more closely aligns with the time frame for the dispatch of postal vote packs that currently applies to postal vote applicants, which is as soon as possible once the Electoral Commissioner is satisfied that the applicant is entitled to vote by post.

I move now to amendments to the Electoral Act that relate to telephone voting. I note that from 14 October 2022, self-isolation due to COVID-19 will no longer be mandatory in New South Wales. However, should circumstances change, and self-isolation again becomes necessary or advisable, the bill sets up a two-step process for making telephone voting available to electors self-isolating due to COVID-19. The bill inserts a regulation-making power in the Electoral Act to enable a regulation to be made which would authorise the Electoral Commissioner to then make a determination that telephone voting is permitted for electors who are self-isolating due to COVID-19 in accordance with a public health order or a current guidance document issued by the Chief Health Officer and published on the Ministry of Health's website. The NSW Electoral Commission is continuing to explore whether telephone voting could be made available, from a practical perspective, if electors are in self-isolation due to COVID-19. The bill provides flexibility should it be required closer to the 2023 election.

The Electoral Legislation Amendment Bill 2022, which is currently before the Parliament, contains a prohibition on technology-assisted voting (except for telephone voting for vision impaired or blind electors) for the 2023 general election and any by-elections held before that date. Other than including some flexibility for telephone voting to be made available for electors isolating due to COVID-19, the bill otherwise retains this prohibition.

The bill also includes a savings provision in the Electoral Act to provide that the results of an election are not invalid merely because telephone voting was not available even though it was permitted under clause 14 of schedule 7 to the Act.

Another element of the bill is that it clarifies authorisation requirements for automated telephone calls (otherwise known as robocalls). Under section 186 of the Electoral Act, a person is currently required to "legibly show" on electoral material that they are printing, publishing, distributing or publicly displaying during the regulated period, the name and address of an individual on whose instructions the material was printed, published or distributed and the name or the printer and address at which it was printed (if applicable). There are limited exceptions to this. However, it is not clear how authorisation details can be "legibly shown" on robocalls. The bill therefore makes amendments to clarify that for automated telephone calls containing electoral matter, the call must contain, in a clear voice, spoken in English, the name and address of an individual on whose instructions the call was made. A person must not, during the regulated period, cause, permit or authorise an automated telephone call containing electoral matter to be made to another person, without satisfying these requirements.

The bill also makes amendments to better facilitate declaration voting at overseas early voting centres for the 2023 general election. The NSW Electoral Commission has advised that postal votes sent from overseas are not always able to be returned in time to be included in the vote count. To facilitate the Electoral Commissioner making declaration voting available overseas more easily for the 2023 general election, the bill makes a number of amendments to the Electoral Act. The bill gives the Electoral Commissioner the power to appoint a place outside Australia as an early voting centre for all electoral districts if the Electoral Commissioner is satisfied it would enhance the convenience of a large number of electors. The bill provides that only voting under sections 135 and 136 of the Electoral Act is permitted to take place at these appointed overseas early voting centres. This means that only declaration voting by absent electors and absent silent electors is permitted to take place. The bill also enables the Electoral Commissioner to appoint people who the Electoral Commissioner considers has the appropriate skills and experience, as election officials for the appointed early voting centres. The other eligibility criteria in section 81 (1) and (2) of the Electoral Act does not have to be met for these election officials. This will provide the Electoral Commissioner with increased flexibility to engage election officials to assist with declaration voting at these centres.

To improve the administration of the NSW Electoral Commission, the bill enables the Electoral Commissioner to appoint an Acting Electoral Commissioner outside an election period in certain circumstances. Currently schedule 2 to the Electoral Act allows the Electoral Commissioner to appoint a member of staff of the Electoral Commission to act as Electoral Commissioner only during an election period and only in limited circumstances. For brief, unexpected periods of leave outside the election period, such as sick leave or carer's leave, the Minister may appoint a person to act as Electoral Commissioner. The bill amends clause 5 of schedule 2 to the Electoral Act to enable the Electoral Commissioner to appoint a member of staff of the Electoral Commission as Acting Electoral Commissioner outside an election period while the Electoral Commissioner is ill or absent. Consistent with current requirements, the bill ensures that a person appointed by the Electoral Commissioner as Acting Electoral Commissioner during an illness or absence may only do so until an acting appointment is made by the Minister. Other safeguards include a limit of 30 days for any acting appointment made by the Electoral Commissioner outside an election period and an existing requirement that the Electoral Commissioner must advise the Minister of any acting arrangements.

Amendments to the Government Sector Finance Act

Turning now to the amendments to the Government Sector Finance Act. The bill amends section 2.7 to provide that the accountable authority for the NSW Electoral Commission is the Electoral Commissioner. The accountable authority is responsible to the relevant

Minister for the financial management of the agency. Currently, the accountable authority for the NSW Electoral Commission under the Government Sector Finance Act is the governing body of the Electoral Commission. The Electoral Commission has recommended that the Act be amended to prescribe the Electoral Commissioner as the accountable authority. This will make the type of accountable authority prescribed for the Electoral Commission more consistent with the type of accountable authority prescribed for other integrity agencies, such as the Ombudsman's Office, the Law Enforcement Conduct Commission and the Audit Office.

I commend the bill to the House.

Second Reading Debate

The Hon. JOHN GRAHAM (15:38): The Opposition does not oppose the Electoral Legislation Amendment Bill (No 2) 2022. As the Parliamentary Secretary has indicated, it makes necessary amendments for the administration of the 2023 State general election. I do not mean to alarm anyone, but that is just five months away. The bill will also have impacts on the administration of the NSW Electoral Commission. It includes a range of changes. Firstly, the bill provides that the Electoral Commissioner must deliver all postal ballot papers to registered early voters as soon as possible, rather than within one business day after the documents have been prepared and printed. In the view of the Opposition, that is a practical amendment in response to advice from the commission.

The Opposition has been informed that the Electoral Commission considered alternative options, including using multiple suppliers, but did not progress these due to the duplication of the quality-control process that would be required as well as some of the supply chain risks. For those reasons, the Opposition is persuaded this is a necessary measure. In relation to robocalls containing electoral matter, the bill introduces authorisation requirements appropriate for that medium and a penalty for contravening the requirements. Sensibly, the bill amends the Electoral Act to enable the Electoral Commissioner to appoint an Acting Electoral Commissioner in appropriate circumstances.

The bill also contains special provisions for the 2023 election. Firstly, technology-assisted voting must not be used, except by electors who are blind or have low vision and, in certain specified circumstances, by electors affected by COVID-19, to ensure that voters are not disenfranchised. Secondly, an alternate method of postal voting may be used. The alternate method consists of a ballot paper, a separate postal vote verification certificate and an envelope designed to protect the secrecy of the ballot. That is consistent with the method used at the 2022 Federal election. The Opposition has been briefed directly by the Electoral Commission on this issue. I thank the Government and, in particular, Peter Phelps for making arrangements for that briefing, so we can understand what is proposed. It has been most helpful.

I indicate that the Opposition—and I think all political parties—will be monitoring this change very closely. We want to see that it works in practice. While the Opposition is prepared to support these changes, in our view, it is very much a test run. I also encourage the Electoral Commissioner to consult widely with all parties who are contesting the ballot as these changes roll out. I think that is a helpful way to engage on this change, which will impact on a number of voters. Having said that, the Opposition is supportive of these changes, and we will monitor them as they are rolled out.

There is a further special provision where the Electoral Commissioner may establish voting centres outside Australia for the 2023 general election if satisfied that it would enhance the convenience of a large number of electors. That, again, appears to be a sensible amendment. As the Parliamentary Secretary has indicated, this would also amend the Government Sector Finance Act 2018 to make the Electoral Commissioner the accountable authority for the NSW Electoral Commission. Again, this was recommended by the Electoral Commission. It will make the type of accountable authority prescribed for the Electoral Commission more consistent with the type of accountable authority prescribed for the other integrity agencies.

Finally, I place on record again—I do think it is worthy of repeating—the Opposition view about the way changes to the electoral law should occur. We believe they should be well considered, dealt with in a considered and timely manner and, where possible, be bipartisan. That is the only way that we can deal with the rules of the electoral game that we all have to contest. It is very important. I appreciate the efforts made by the Electoral Commission and by the Government to make sure that is the case with the bill. That is one of the reasons why the Opposition is prepared to vote for it today. I commend the bill to the House.

The Hon. LOU AMATO (15:42): On behalf of the Hon. Sarah Mitchell: In reply: 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. LOU AMATO: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

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

That Government business notice of motion No. 5 be postponed until a later hour.

Motion agreed to.

Bills

CONFISCATION OF PROCEEDS OF CRIME LEGISLATION AMENDMENT BILL 2022

Second Reading Speech

The Hon. SHAYNE MALLARD (15:44): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Confiscation of Proceeds of Crime Legislation Amendment Bill 2022. The bill introduces significant amendments to legislation governing the confiscation of proceeds of crime and unexplained wealth—namely, the Confiscation of Proceeds of Crime Act 1989, the Crime Commission Act 2012, the Criminal Assets Recovery Act 1990, the Criminal Assets Recovery Regulation 2017, the Criminal Procedure Act 1986 and the Unexplained Wealth (Commonwealth Powers) Act 2018. The bill represents the final important component of our comprehensive and far-reaching reforms to tackle the scourge of organised crime operating in this State.

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

Leave granted.

Organised crime poses some of the most serious crime threats to our community and imposes significant economic cost upon the taxpayer. It cannot and will not be tolerated by this Government.

This Government has already introduced three bills targeting money-laundering operations, improving law enforcement access to digital devices investigations and eliminating the use of dedicated encrypted criminal communication devices in connection with serious crime. This bill strikes at the heart of serious criminal enterprise by targeting and confiscating the profits of crime and unexplained wealth that fuel organised crime. Those who engage in criminal activity have no legal entitlement to the proceeds of their crimes or wealth. Accordingly, there is a rightful expectation among the community that illegitimate assets will be swiftly confiscated by law enforcement agencies. Whilst the Confiscation of Proceeds of Crime Act 1989 and the Criminal Assets Recovery Act 1990 are valuable tools for law enforcement agencies, both Acts have proven to be complex, resource intensive and inefficient in enabling law enforcement agencies to effectively seize and recover the proceeds of crime and unexplained wealth.

This bill overcomes these law enforcement challenges by introducing strong, efficient and streamlined processes to effectively confiscate the profits of crime and unexplained wealth from serious criminals. This includes automatic forfeiture of restrained or property subject to a confirmed freezing notice following conviction of a serious offence; forfeiture of property from declared drug traffickers unless it is established that property was lawfully acquired, providing that, in certain circumstances, the Crime Commission can confiscate property connected to serious criminal activity which has been seized by or is in the possession of an investigative agency without the need for a court order; and amending the existing grounds for making an unexplained wealth order to provide that the Supreme Court must make an unexplained wealth order if the court finds there is a reasonable suspicion that a person's current or previous wealth is greater than the value of the person's lawfully acquired wealth by \$250,000 in currency—including cash, money held in bank accounts and digital currency—or \$2 million in assets other than money.

To support these provisions, the bill bolsters associated powers of the NSW Police Force, the New South Wales Crime Commission and the courts to identify, seize and restrain suspected proceeds of crime and unexplained wealth. By introducing pragmatic legislation to enable the effective confiscation of proceeds of crime and unexplained wealth, the bill is critical in the fight against organised crime. Confiscating proceeds of crime and unexplained wealth undermines and disrupts the profit motive of serious criminal enterprise and prevents reinvestment of those assets into further criminal ventures. These reforms target serious criminal activity, particularly senior organised crime figures who profit from crime while not personally or directly being linked to the commission of specific offences. At the same time, these reforms ensure procedural fairness for defendants and third parties with lawfully acquired interest. Additionally, the amendments in this bill will implement the recommendations of the Statutory Review of the Crime Commission Act, which was tabled in December 2020.

I now turn to the details of the bill. On the amendments to the Confiscation of Proceeds of Crime Act 1999 in relation to automatic forfeiture, schedule 1 [7] to the bill inserts a new division into the Confiscation of Proceeds of Crime Act to enable the automatic forfeiture of property that is subject of a restraining order or a confirmed freezing notice after the person is convicted of a serious offence. This removes the need for law enforcement authorities to apply to the court for a forfeiture order for restrained or frozen property following conviction of a serious offence. It follows suit with the Commonwealth and many other Australian jurisdictions which already have similar provisions. Under new section 17B the relevant property of the person convicted of a serious offence will

be forfeited at the end of the relevant period, which is defined in section 4 of the Act and generally refers to six months after conviction.

If an application is made to exclude property from automatic forfeiture or to vary or set aside the relevant restraining order or the confirmed freezing notice, forfeiture will not occur until the application is finally dismissed, including any associated appeal process. Forfeiture will take effect in the same way as if a court had made a forfeiture order in relation to the relevant property. The automatic forfeiture scheme only applies to persons convicted of a serious offence. This is defined in section 7 of the Act and includes offences which may be prosecuted on indictment. The scheme also applies only to property that was restrained or frozen prior to the conviction, as made clear in the proposed definition of "relevant property". To ensure procedural fairness, new section 17C requires the authority that applied for the restraining order or the confirmation of the freezing notice in relation to the property, known as the "relevant authority", to give notice of the upcoming automatic forfeiture to anyone who is known or reasonably suspected to hold an interest in the property as soon as it is reasonably practical and no later than 28 days before the end of the relevant period.

New section 17D provides that a person can apply to the court for an order excluding property from forfeiture on grounds that the property was not tainted or was lawfully acquired. If the application is dismissed, the person can appeal to the Supreme Court under new section 17E. New section 17G also allows for a person who claims to have an interest in the property to apply to the court for recovery of the forfeited property within six months of the forfeiture occurring. New section 17H allows a dependent to apply to the court for relief from hardship.

On amendments to the Confiscation of Proceeds of Crime Act 1989 in relation to drug trafficker declarations, schedule 1 [9] to the bill inserts a new division into the Confiscation of Proceeds of Crime Act to enable confiscation of a declared drug trafficker's property unless the person can establish the property was lawfully acquired. Under new section 34, the Director of Public Prosecutions or a police prosecutor can apply to an appropriate court for a drug trafficker declaration against a person convicted of a serious drug offence. The court must make the drug trafficker declaration upon an application being made if it is satisfied the person subject to the application has been convicted of at least three serious drug offences in the previous 10 years, or a serious drug offence involving a commercial quantity of a prohibited drug or prohibited plant, or a serious drug offence and the person is or was a member of a criminal group as defined under the Crimes Act 1900.

"Serious drug offence" has the same meaning as in the Drug Supply Prohibition Order Pilot Scheme Act 2020, which generally relates to supplying or manufacturing drugs at indictable or higher quantities. New section 34A provides that within 12 months of the declaration, an appropriate officer may apply for a forfeiture order in relation to property that either belongs to, or is in the effective control of, the person who is subject to the drug trafficker declaration. Unless the court is satisfied the property has been lawfully acquired, the forfeiture order must be made. The burden of proof will lie with the person to prove that the property in question was lawfully acquired. Property is lawfully acquired if it is not unlawfully acquired, which the bill defines as property that is in whole or part the proceeds of unlawful activity, or proceeds of the disposal or dealing in property derived from unlawful activity, or property acquired using property derived from unlawful activity.

These reforms are targeting serious drug trafficking, which is harming our community. These are measures designed to make sure convicted drug traffickers are not reaping the profits of their crimes or, even worse, investing those profits back into further criminal enterprises and ensnaring even more victims. The bill provides for third parties with interest in the property to be notified and participate in the forfeiture proceedings. They can also apply to the court under section 20 of the Act for an order in respect of their interest after a forfeiture order has been made. New section 43A will allow an appropriate officer or member of the Police Force to apply to the Supreme Court for a restraining order in relation to property reasonably suspected of belonging to or being in the effective control of a person against whom a drug trafficker declaration has been made, or who has been charged with a serious drug offence and could be a declared drug trafficker on conviction. This is consistent with other provisions in our existing legislative framework under both the Confiscation of Proceeds of Crime Act and the Criminal Assets Recovery Act, which prevents property liable to be forfeited from being disposed of ahead of forfeiture proceedings.

Under existing section 45 of the Act, a person may apply to the Supreme Court to have the order varied or set aside. The court has wide discretion to vary or set aside an order and will be able to consider evidence that the restrained property was lawfully acquired. To support enforcement of the new provisions, schedule 1 to the bill also expands existing search and seizure powers under a search warrant in sections 36 and 37 of the Act to include property reasonably suspected of being unlawfully acquired and belonging to, or in the effective control of, a declared drug trafficker, or a person who has been charged with a serious drug offence and could be a declared drug trafficker on conviction.

On amendments to the Crime Commission Act 2012, schedule 2 [8] makes important amendments to section 39 of the Crime Commission Act to enable answers, documents or things produced by a witness at a hearing before the commission to be admissible in confiscation proceedings under the Criminal Assets Recovery Act. This will not apply to proceedings which have already commenced or are imminent. This will improve the ability of the Crime Commission to bring forfeiture proceedings with the best available evidence in order to disrupt and financially disrupt and dismantle organised crime groups. New section 45AA in schedule 2 to the bill provides that the Crime Commission may direct evidence given before the commission by a witness to be disclosed to other agencies. These agencies may apply for a confiscation order under the Criminal Assets Recovery Act or an interstate order as well as relevant courts and defendants in confiscation proceedings. In determining whether to give a direction, the commission must consider the real risk of prejudice to the fair criminal trial of the person subject to the order. Evidence may not be disclosed if proceedings for the relevant confiscation order have already commenced, or are imminent, which is defined in the bill.

Schedule 2 [12] to the bill revises and replaces the existing section 80 of the Crime Commission Act to give effect to a recommendation of the statutory review. Under section 80 (2) of the Crime Commission Act, it is a criminal offence for a person to make a record of information, or to divulge or communicate information to another person if that information was acquired because of, or in connection with, the exercise of functions under the Crime Commission Act. The statutory review found that amendments were required to ensure that this provision remains fit for purpose.

The statutory review concluded that if such an interpretation of "person" was applied to section 80 (2) it would exempt the disclosure of information to a court, which the commission is otherwise entitled not to disclose in response to a subpoena or other compulsory legal process from the scope of the provision. Excluding a court from the meaning of "person" would mean that a person, including current and former officers of the commission, could voluntarily and lawfully reveal operationally sensitive methodology in legal proceedings, compromising the effective performance of the commission's functions or exposing the commission to spurious claims

without the commission's consent. Similarly, adopting this interpretation could potentially allow for upload of information to a website, which might be interpreted as not a disclosure to a person.

The bill gives effect to the recommendation of the statutory review by removing the requirement that the prohibited disclosure be to "any person" in the revised offence at section 80 (1). Instead, disclosure of commission information generally is an offence, and the provision explicitly states this disclosure includes disclosure to a court. The draft bill also revises and clarifies the relevant people to which these secrecy requirements apply at section 80 (4). Additionally, the Supreme Court has found that the secrecy provision relates only to information connected with the Crime Commission's special investigative functions, and not with its ordinary corporate functions. The bill amends section 80 to enshrine this distinction for the avoidance of doubt. It explicitly states that only information which relates to the Crime Commission's corporate capacity is not captured by the provision. All other information is therefore required to be kept secret. The bill also extends the time in which proceedings for an offence against the secrecy provision can be brought from six months to three years, as recommended by the statutory review.

Importantly, none of the amendments proposed are designed to circumvent the capacity for people to report misconduct or maladministration within the Crime Commission. Rather, these amendments are targeted at those who may seek to maliciously or mischievously disclose confidential information, and to provide clarity and certainty to all those who work with the Crime Commission. The rights of whistleblowers would remain unaffected and are protected by the Public Interest Disclosures Act 1994 and the Law Enforcement Conduct Commission Act 2016. The statutory review of the Crime Commission Act also recommended amendments to improve the operation of the Act. Schedule 2 [11] implements the recommendation of the statutory review that the contempt provisions should be strengthened. Currently, contempt of the commission is dealt with by prosecuting the alleged contemnor in the Local Court under section 47 of the Act.

As a case may take months to come before a court, the provision does not have an immediate effect on a witness who displays contempt of the commission. The bill introduces a more comprehensive contempt scheme which allows the commission to refer contempt to the Supreme Court. These provisions are aligned to the contempt provisions in place for bodies such as the Law Enforcement Conduct Commission and the Independent Commission Against Corruption. I also note that schedule 2 [14] makes a minor amendment to the Act to remove legislative barriers limiting the Crime Commissioner and Assistant Crime Commissioners from taking leave.

Schedule 3 [7] amends the Criminal Assets Recovery Act to introduce a scheme for the administrative forfeiture of certain property connected to serious criminal activity to the State. Development of such a scheme was a recommendation of the statutory review of the Crime Commission Act. When investigating and taking action in relation to organised crime, the NSW Police Force and the Crime Commission may seize or obtain property suspected of being derived from, or capable of facilitating, serious criminal or illegal activity—for example, cash, luxury vehicles and jewellery. Currently, the only way this seized property can be forfeited to the State is under an order from the Supreme Court under the Criminal Assets Recovery Act. In most cases, proceedings for such orders are uncontested, as persons who identify themselves to the commission as owners of property run the risk of being investigated by the commission for involvement in criminal activity.

These processes are clunky and the need to commence uncontested proceedings for forfeiture wastes the time and resources of the Crime Commission and the Supreme Court. The bill enables property to be confiscated without a court order to streamline these processes. Similar schemes are referred to as administrative forfeiture schemes. Of course, such powers are significant impositions on private property, and the bill includes a number of strict processes, thresholds and safeguards to ensure that administrative forfeiture is only available in appropriately limited circumstances.

I will briefly touch on three key features. Firstly, the administrative forfeiture scheme will only apply to property, other than real property, which has been seized by or is in the possession of an investigative agency, which includes police. This means that administrative forfeiture cannot be initiated on property still in the possession of a private individual, or over land, both of which represent more complex circumstances for forfeiture. The existing court order based scheme in part 3 of the Act will still be available for such property. Secondly, administrative forfeiture can only be commenced by the Crime Commission issuing notices to any person with a known or suspected beneficial interest in the relevant property. A notice must also be published in the Gazette and in a daily newspaper circulating throughout New South Wales. Such notices may only be issued if the commission is reasonably satisfied that the property is of a kind for which they would be able to seek a court forfeiture order.

Thirdly, people will have 60 days from the issuing of notices to lodge a dispute claim in writing to seek the recovery of some or all of the property by outlining why they have a legitimate and lawful interest in the property. As I noted before, it is unlikely that many claims will be made as potential claimants run the risk of exposing their connection to criminal activity for which they may be investigated. If no dispute claim is received within 60 days then the property is forfeited to the State as if a court had made a forfeiture order and existing processes for the sale or disposal of that property would apply. If a dispute claim is received, the commission must assess it within 60 days and if it reasonably believes it is more probable than not that the claimant has a legitimate and lawful interest in the property, administrative forfeiture must be discontinued and the property returned to the claimant.

If the commission dismisses the dispute claim, this dismissal can be appealed by the claimant to the Supreme Court. Even if forfeiture has taken place, an individual may apply to the Supreme Court to recover the property if they can provide a reasonable excuse for failure to lodge a claim in the dispute period. The features of the administrative forfeiture scheme provide a significant number of safeguards and avenues for forfeiture to be contested and appealed while also facilitating swift and effective forfeiture outside of costly court processes where that forfeiture is uncontested. Schedule 3 [14] makes consequential amendments relating to the powers and protections of the NSW Trustee and Guardian when exercising powers under the Criminal Assets Recovery Act in relation to administrative forfeiture. They also modernise these provisions to bring the Act in line with current drafting standards and to enhance clarity.

Schedule 3 [31] amends the Criminal Assets Recovery Act to align section 63, which governs stays of proceedings, with section 319 of the Commonwealth Government's Proceeds of Crime Act 2002 (Commonwealth). This was another amendment recommended from the statutory review and it seeks to clarify the grounds on which proceedings under the Criminal Assets Recovery Act may be stayed, subject to courts having power to address the risk of prejudice to a defendant in criminal proceedings without having to stay proceedings.

Schedule 3 [8] amends the grounds on which the Supreme Court can make an unexplained wealth order under section 28A of the Criminal Assets Recovery Act. Under section 28A (1) of the current Act, the Crime Commission may apply to the Supreme Court for an unexplained wealth order to pay the amount assessed by the Court as the person's unexplained wealth. The Supreme Court

currently can make an unexplained wealth order against a person only if it finds there is a reasonable suspicion the person has engaged in serious crime-related activity or acquired serious crime-derived property.

This threshold for making an unexplained wealth order makes it difficult to initiate forfeiture proceedings to confiscate the unexplained wealth from the heads of criminal networks, who are often removed from the actual commission of the serious criminal offence but who orchestrate the criminal activity and reap the benefits of the ill-gotten gains. For this reason, in addition to the existing grounds for making an unexplained wealth order, schedule 3 [8] to the bill amends section 28A (2) of the Act to provide that the Supreme Court must make an unexplained wealth order if the court finds there is a reasonable suspicion that a person's current or previous wealth exceeds the value of the person's lawfully acquired wealth by \$250,000 in cash or \$2 million in assets other than cash. Under the updated section 28B (2), the court must assess the unexplained wealth of the person as the whole or part of their current or previous wealth, which the court is not satisfied on the balance of probabilities is not illegally acquired property or proceeds of an illegal activity.

Under the current section 28B (3) of the Act, the burden of proof, in proceedings against a person for an unexplained wealth order to prove a person's current or previous wealth is not illegally acquired property or the proceeds of an illegal activity, lies on the person. The high threshold for making an unexplained wealth order under these new grounds ensures that these reforms are targeting serious organised criminals who have accumulated significant amounts of wealth which they cannot explain the origins of. The existing safeguard under section 28A (4) of the Act will apply, which provides that the Supreme Court can refuse to make the order or reduce the amount payable, if it is in the public interest to do so.

Additional safeguards have been included. Schedule 3 [9] to the bill inserts a new section 28A (6) which provides that amounts payable under an unexplained wealth order will not be taken into account as part of a person's means in determining their entitlement for legal aid. Schedule 3 [12] to the bill also inserts new section 28C (1) (1A) to provide that in assessing the amount payable under an unexplained wealth order, the Supreme Court may deduct the reasonable necessities of life for the person and their dependants. This new ground on which unexplained wealth orders can be made is supported by an amendment to section 10A of the Act in schedule 3 [4] to provide for the Supreme Court to make a restraining order on application from the Crime Commission where there are reasonable grounds for suspecting that the person's unexplained wealth is at least \$250,000 in money or \$2 million in other assets.

Under the current Act, "money" is defined as money in the form of cash. In schedule 3 [2] the bill amends the definition of money in section 4 (1) to mean money that is held by or is in the effective control of a person, including in the form of cash or digital currency. This will ensure that money held in bank accounts and cryptocurrency are captured by the definition. "Digital currency" has the same meaning as in the Anti-Money Laundering and Counter Terrorism Financing Act 2006 of the Commonwealth.

The bill contains additional powers under both the Confiscation of Proceeds of Crime Act and the Criminal Assets Recovery Act. This enables the NSW Crime Commission and the NSW Police Force to more effectively investigate persons and premises that are reasonably suspected of harbouring unlawfully acquired wealth and proceeds of crime. Schedule 3 items [15] to [18] to the bill amend sections 38 and 39 of the Criminal Assets Recovery Act to extend existing search and seizure powers under warrant to include property reasonably suspected of being unexplained wealth. An authorised officer also will be able to apply for a search warrant if they have reasonable grounds for believing property reasonably suspected of being unexplained wealth is or will be in the possession of a person.

Additionally, schedule 3 [2] to the bill expands the definition of "property tracking documents" to include documents relevant to determining or identifying the current or previous wealth of a person who might reasonably be suspected of having unexplained wealth. Sections 44 and 45 of the Act are amended by schedule 3 [20] and [21] to allow an authorised officer to apply to the Supreme Court for a search warrant to search a person reasonably suspected of being in possession of property tracking documents. This extends the current provisions which allow search warrants in respect of premises where there are reasonable grounds for suspecting there may be property tracking documents present.

Schedule 3 [22] to the bill revises and replaces the existing section 47 of the Act to clarify that the powers of authorised officers exercising property tracking search warrants also extend to making copies of or taking extracts of documents, and to give a direction to a person to assist the officer to access data held in, or accessible from, a computer. The privilege against self-incrimination is not a reasonable excuse for refusing to comply with such a direction. Schedule 1 [16] to the bill makes similar amendments to the Confiscation of Proceeds of Crime Act in relation to search warrants for property tracking documents.

The bill supports the enforcement of these new search and seizure powers by amending both the Confiscation of Proceeds of Crime Act and the Criminal Assets Recovery Act at schedule 1 [16] and schedule 3 [19] to increase the maximum penalty for obstructing a person executing a search warrant to five years imprisonment or 1,000 penalty units. The higher penalties are proportionate to the grounds upon which the person or premises is being investigated in that the person is likely to hold a significant amount of illegal wealth. The bill prescribes these offences for obstruction of a search warrant in table 2 of schedule 1 to the Criminal Procedure Act 1986 as an indictable offence that is to be dealt with summarily unless the prosecutor elects otherwise.

Schedule 3 [25] to the bill inserts a new section 48A in the Criminal Assets Recovery Act under which the Crime Commissioner may issue a "freezing notice" to a financial institution in relation to a person's financial account, requiring the immediate freezing of funds in the account for a period of two business days. This is an important provision to prevent the disposal or transfer of funds from an account before the Supreme Court has the opportunity to make a restraining order over that account. The Crime Commissioner must reasonably suspect the funds will be withdrawn, transferred or otherwise disposed of before the commission has applied for a restraining order in relation to those funds, or before the restraining order application has been determined by the Supreme Court. The Crime Commissioner may issue a freezing notice only if the commissioner is satisfied the person has engaged in serious crime-related activity, or acquired serious crime derived property or has unexplained wealth exceeding a value of \$250,000 in money or \$2 million in other assets. Contravention of a freezing notice will be punishable by 1,000 penalty units, which is the same as the penalty under the Act for contravening a monitoring order.

Schedule 1 [17] and schedule 3 [28] to the bill insert new provisions in both the Confiscation of Proceeds of Crime Act and the Criminal Assets Recovery Act to enable the Police Commissioner and the Crime Commissioner, under the Criminal Assets Recovery Act, to give notice to a financial institution requiring the financial institution to provide information about the transactions or assets of a person, if it is reasonably required to determine whether to take action under the Act, or in relation to proceedings under the Act. Financial institutions will have 14 days to comply with the notice, or three business days if it is an emergency. Financial institutions can also seek an extension of time to comply, if required. Unlike existing provisions which allow authorised officers to request information from financial institutions, the bill would compel compliance through the creation of a new offence punishable by a

maximum penalty of 1,000 penalty units. However, it will be a defence if the financial institution took all reasonable steps to provide the information within the required period and provided it to the agency as soon as practicable after the end of the period.

Schedule 1 [17] and schedule 3 [28] to the bill provide further protections for financial institutions, including that an action or suit does not lie against the financial institution or their employees for providing the information in compliance with a notice. Financial institutions are also protected from suit under schedule 3 [28] to the bill for compliance with the new freezing notice. Schedule 1 [1] and schedule 3 [2] to the bill amend the definition of "account" in both the Confiscation of Proceeds of Crime Act and the Criminal Assets Recovery Act to enable these notice powers to be used against registerable digital currency exchange services within the meaning of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 of the Commonwealth in light of the evolving crime threat where organised criminals use cryptocurrency to avoid law enforcement scrutiny. The amendments proposed in schedule 1 and schedule 3 to the bill will be subject to a statutory review after two years of its commencement, after which a report on the outcome of the review must be tabled in Parliament within 12 months of the end of that period.

I turn to the amendments relating to the maximum allowable costs for legal expenses. Schedule 4 to the bill amends the Criminal Assets Recovery Regulation 2017 to specify that the maximum allowable costs for legal expenses that may be paid from restrained property are to be the rates for legal representation set by the Attorney General. Under section 10B (3) (b) of the Criminal Assets Recovery Act, Australian property may be released for the payment of reasonable legal expenses incurred in defending forfeiture proceedings or criminal charges.

Such a release is subject to the conditions specified in section 16A of the Act. Further, section 16B provides a regulatory power to cap the allowable costs for legal expenses; however, to date no prescribed rates have been set. The bill sets the rates for maximum allowable costs for legal expenses to provide certainty and reduce the need for all contested proceedings in relation to reasonable rates. Schedule 4 also contains consequential amendments including to the Unexplained Wealth (Commonwealth Powers) Act 2018 as a result of the updated definition of serious criminal offence within the meaning of the Criminal Assets Recovery Act.

These reforms make significant amendments to existing legislation to ensure that our law enforcement agencies, including the NSW Police Force and the New South Wales Crime Commission, have the cutting edge of legislative tools necessary to confiscate the profits of criminal enterprise in this State. These reforms target the core of criminal networks by striking at their profit base. They send a strong message that this Government does not tolerate serious and organised criminals operating in this State. They are a crucial step in our plan to disrupt and dismantle organised crime in New South Wales. I commend the bill to the House.

Second Reading Debate

The Hon. TARA MORIARTY (15:45): I lead for the Opposition in debate on the Confiscation of Proceeds of Crime Legislation Amendment Bill 2022. I speak on behalf of my colleagues in the other place, the shadow Minister for Police, Paul Scully, and the shadow Attorney General, Michael Daley. It is about time we dealt with this issue. The bill before the House today has been needed for a very long time. The Government certainly talked a big game on this for a very long time, but did nothing—until now. It has long been promised and, in fact, it was based on action taken by the Labor Opposition when we introduced our bill on this topic. That prompted the Government to finally get its act together and take action on this issue. The Opposition supports the bill that is before the House today. I acknowledge my colleague the Hon. Walt Secord for his previous work on this issue.

By way of background, in May this year NSW Labor leader Chris Minns publicly called on the Government to make good on its promise to introduce unexplained wealth laws. Those laws were promised by the Government back in March 2021. At the time, the Government announced that it would increase the powers of the New South Wales Crime Commission to confiscate assets derived from serious criminal offences. Here we are nearly 600 days later with the proposed legislation finally before us. It is almost four months since NSW Labor introduced our bill in relation to unexplained wealth. We are happy to support the Government bill, but thanks should go to the Opposition for making sure that the Government finally acted.

It is important legislation because at the heart of organised crime, ruthless gangland violence and killing that has occurred and continues on Sydney's streets, and within the drug trade, there is money. Inexplicable amounts of wealth are generated by people who simultaneously claim that they do not have a job. We have seen numerous reports of family members of well-known criminal gangs, some of whom appear to be living in public housing and have no obvious or declared legal income streams, and yet their homes are protected like fortresses, with tens of thousands of dollars invested in elaborate security systems. Those homes appear to have more security and protection systems than many Australian embassies and consulates. For example, during a police raid for a COVID breach in last year's lockdown, a member of the Alameddine family proclaimed:

All three police combined, I make more than them in a week than they make in a year.

That is an extraordinary comment. And he apparently does not have a job. It is quite a big boast, especially given that Mr Alameddine was, as far as I am aware, accepting unemployment payments and listed as unemployed at the time. We have seen suspected organised crime figures who are unable to explain their fancy cars and toys and pictures of them boasting in designer outfits but again live in public housing without any obvious employment or means of generating a legal income. Money and unexplained wealth supercharge organised crime. If you generate money from being involved in criminal activities, particularly at the volumes at which some alleged organised crime figures are obtaining it, you should not get the opportunity to keep the proceeds of your criminal enterprise. You should be in jail. There is a perversion of the justice system in this State. The bill accounts for some criminal

enterprises having taken to using digital currencies in order to retain their wealth, making that wealth as portable as possible and as out of reach of law enforcement authorities as they can get away with.

The bill amends the Criminal Assets Recovery Act 1990, the Criminal Assets Recovery Regulation 2017, the Confiscation of the Proceeds of Crime Act 1989, the Criminal Procedure Act 1986, the Unexplained Wealth (Commonwealth Powers) Act 2018 and the Crime Commission Act 2012. The aim is to replace the existing systems under the Confiscation of Proceeds of Crime Act 1989 and Criminal Assets Recovery Act 1990 with a more efficient process to confiscate the profits and unexplained wealth from serious criminals. In many parts this bill reflects the Labor bill currently before the Legislative Council, so we are happy to support it. We support it also because the police seek these powers in order to tame these criminals and we support the police.

The changes include the automatic forfeiture of restrained property or property subject to a freezing notice following a serious conviction and the forfeiture of property from declared drug traffickers unless it is established that the property was lawfully acquired. It amends the grounds for making an unexplained wealth order to provide that the Supreme Court must make an unexplained wealth order if the court finds that there is reasonable suspicion that a person's current or previous wealth is greater than the value of the person's lawfully acquired wealth, by \$250,000 in currency—which includes cash, bank accounts and digital currency—or \$2 million in assets other than money. To support those provisions, the bill increases the powers of the Police Force, the Crime Commission and the courts to identify, seize and restrain wealth suspected to be proceeds of crime, and unexplained wealth. Legislation that enables the effective confiscation of proceeds of crime and unexplained wealth is critical in the fight against organised crime. Confiscating proceeds of crime and unexplained wealth disrupts the profit motive of organised crime and stops the use of those funds in other activities.

Additionally, the amendments in the bill will implement the recommendations of the statutory review of the Crime Commission Act, the report on which was tabled in December 2020. The amendments in relation to drug trafficker declarations to the Confiscation of Proceeds of Crime Act 1989 provide for confiscation of a declared drug trafficker's property unless the person can establish that the property was lawfully acquired. The Director of Public Prosecutions or a police prosecutor can apply to an appropriate court for a drug trafficker declaration against a person convicted of a serious drug offence. The court must make the drug trafficker declaration upon an application being made if it is satisfied the person subject to the application has been convicted of at least three serious drug offences in the previous 10 years, or a serious drug offence involving a commercial quantity of a prohibited drug or prohibited plant, or a serious drug offence and the person is or was a member of a criminal group as defined under the Crimes Act 1900.

"Serious drug offence" has the same meaning as in the Drug Supply Prohibition Order Pilot Scheme Act 2020, which generally relates to supplying or manufacturing drugs at indictable or higher quantities. New section 34A provides that, within 12 months of the declaration, an appropriate officer may apply for a forfeiture order in relation to property that either belongs to or is in the effective control of the person who is subject to the drug trafficker declaration. Unless the court is satisfied the property has been lawfully acquired, the forfeiture order must be made. The burden of proving that the property in question was lawfully acquired will lie with the subject person.

Again, NSW Labor does not oppose the bill. I welcome that the Government is finally getting on with this. I thank my colleagues in Labor for pushing the Government to get on with this. Let us make sure that we take down drug traffickers. Organised crime gangs and bosses who are profiting from the misery of people in our community need to be dealt with. They should be in jail.

The Hon. ROD ROBERTS (15:54): On behalf of One Nation, I take pleasure in saying that we support the Confiscation of Proceeds of Crime Legislation Amendment Bill 2022. Organised crime exists for only one reason, and that is to make money. Organised crime is a big business. By its very name, it is organised. Various people play their specific roles in the organisations to facilitate their operations. It is a business, but one that is ruthless and unlawful. Although unlawful, due to lax sentencing provisions applied by some courts, it is an attractive proposition to those so inclined. They get caught, do some small amount of time, and come out and enjoy the spoils of their crimes. It is literally the cost of doing business. With the introduction of this bill, that will stop. Like all small business owners, criminals operate to generate a profit. They do not do it for the fun. Those illegal profits will be curtailed with the passing of this bill.

We have seen with our own eyes the excessive flaunting of wealth by these criminals. If members have not seen it personally, they must be aware. These criminals cannot help themselves. They love to show off. Social media is their worst enemy. We have seen the flash cars, the gold jewellery and the designer clothing they possess while living in public housing, with no job and no visible means of support. That is a slap in the face to hardworking law-abiding citizens and makes the criminal lifestyle an attractive proposition to some. Let us take the money away and see how attractive it is.

This bill is an improvement on its predecessors in that it does not require a criminal conviction to be in play. I will not go through the bill in detail, because that has been covered by others, but it should be noted that this is targeting high-wealth criminals, targeting cash and cryptocurrency in excess of \$250,000 and other assets exceeding \$2 million. The bill in this format is long overdue and will go a long way in assisting our police and other law enforcement bodies such as the Crime Commission to curtail organised crime by hitting it where it hurts most: in the proverbial hip pocket.

Ms SUE HIGGINSON (15:57): On behalf of The Greens, I indicate that we do not support the Confiscation of Proceeds of Crime Legislation Amendment Bill 2022. We understand the arguments made in this place and the other about the intent of the bill. But, from a scientifically informed perspective, it is clear that this bill will not achieve that intent. Organised criminals who are the intended targets of this new legislation will not be hit as hard as the Government seems to think. The reality is that these organisations, particularly in the higher echelons, are highly organised—enough to respond to these new powers and to protect themselves from these law and order tactics of the Government. These syndicates make huge profits from the production, distribution and sale of illicit drugs. These profits do not exist because of the product or because of people purchasing drugs. These profits exist because of the prohibition and criminalisation of drugs.

Drugs can be dangerous. Nobody disputes that, and The Greens would never dispute that. Our argument has been and will continue to be that the dangers of drugs come about primarily as a result of the lack of regulation and the lack of adequate access to a health-based response. That is the crux of the issue. If the Government were willing to act boldly and in accordance with the science of modern drug theory, we could remove the largest source of illegal profits for these organisations almost overnight. That is an exciting possibility. If this place were serious about tackling unregulated and criminal drugs, the simplest answer would be to regulate, decriminalise and provide support from a health perspective.

Organised criminal activity, particularly that funded by proceeds of the illicit drug trade, can and should be combated by a harm-minimisation and public health response that attacks revenue streams. We could simultaneously tackle the profits of organised crime and treat people living with drug dependency under a compassionate and non-punitive model. Other jurisdictions are forging ahead. They are pioneering this. The evidence has come in. Those models are more successful than this punitive colony State. The effects of the bill will also disproportionately land on the heads of people who are not benefiting from the proceeds of the crime. The legislation will almost certainly lead to some families and dependants of organised criminals being made homeless.

The bill will also disproportionately hit other people who are vulnerable to coercion by organised criminals, whether through personal relationships or under the threat of harm and violence. These people are the victims of both organised crime and the ludicrously out-of-date war on drugs. Although a cursory glance might suggest that these people are profiteering from crime, the truth is, more often than not, quite the opposite. We accept that the legislation will help enforcement agencies police criminal organisation operations, but there are inadequate protections for vulnerable people who are adversely affected by actions taken by others that are outside of their control. Australia is a long way behind some parts of the world that have realised that prohibition creates social, health and economic problems without meaningfully reducing the activities of organised criminals. We should—I know one day we will—move to a harm-minimisation model for drug use that removes incentives for the production, cultivation or sale of unsafe or unregulated drugs where the purpose is to protect users.

Reverend the Hon. FRED NILE (16:01): I speak briefly in support of the Confiscation of Proceeds of Crime Legislation Amendment Bill 2022. I put on record my total rejection of the arguments of The Greens, which I have heard all the years I have been in Parliament. They have been a total failure. I do not support legalising drugs as a trial either. I am pleased that the Government has brought on this bill. I am sure the legislation will give muscle to our law enforcement agencies and support them in their roles in eliminating the impact of drug crime in our State—hopefully totally. I fully support the bill before the House.

The Hon. SHAYNE MALLARD (16:02): On behalf of the Hon. Sarah Mitchell: In reply: I thank members for their contributions to this debate. I welcome the support which all the members except for The Greens gave, particularly that of the Labor Opposition. I note for the Hon. Tara Moriarty that, whilst it was good that the Hon. Walt Secord brought forward his own simple bill, the Government was well advanced in its bill. One suspects that maybe the Opposition somehow heard about that. This bill amends six Acts and has been three years in the making. It was comprehensively consulted on, including with the Commonwealth Government in regard to its powers, with the legal profession and with law enforcement. The Government did not consult the bikie gangs or the organised criminals, though.

I thank the Hon. Rod Roberts from One Nation for sharing his perspective from a law and justice background. I appreciate the contribution and support of Reverend the Hon. Fred Nile, with all his years of experience. I will leave it to Ms Sue Higginson to explain to the community at the election why she supports

criminals keeping the proceeds of crime. That is up to her. The bill appropriately gives effect to its principal policy objective—that is, to assist our law enforcement members to effectively deter, disrupt and respond to damaging and serious organised crime in the State. With those few words, 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. SHAYNE MALLARD: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

ELECTRONIC CONVEYANCING ENFORCEMENT BILL 2022

Second Reading Speech

The Hon. PETER POULOS (16:05): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

I am pleased to introduce the Electronic Conveyancing Enforcement Bill 2022. The bill provides important powers that will allow the New South Wales Registrar General to properly regulate the flourishing electronic conveyancing ecosystem. The bill will implement New South Wales specific enforcement powers that will operate alongside the national eConveyancing regime so that land transactions completed in New South Wales are as secure and seamless as the people of New South Wales expect them to be. As much of the bill has been already expanded upon in the Legislative Assembly, I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

Why broader, more robust enforcement powers are needed in New South Wales now

eConveyancing has been a national success story. Since 2010 all Australian States and Territories have worked together to develop a national system that allows land transactions to be settled and lodged for registration in a secure, digital environment. The efficiency of the system brings cost and time savings for users. The national consistency of the reform provides additional benefits for the wider Australian economy, reducing red tape for those businesses that operate across borders.

New South Wales has been a consistent champion of the national reform and is the host State for the Electronic Conveyancing National Law. In May—as members will remember—the Government brought legislation before this House to amend the national law. That bill heralded a new phase in the electronic conveyancing marketplace, allowing interoperability between the Electronic Lodgment Network Operators (known as ELNOs).

As electronic conveyancing, and the regulation around it, has progressed and matured it has become obvious that there is one key component missing—a fit-for-purpose enforcement regime.

At a national level, the Australian Registrars' National Electronic Conveyancing Council, known as ARNECC, is developing a comprehensive enforcement package that will apply to ELNOs and the subscribers who use the system. But implementing a national regime is difficult, with each jurisdiction having different requirements around things like the judicial process and the manner of imposing or collecting fines. Resolving these differences nationally takes time, but the longer it takes, the longer New South Wales is left without appropriate enforcement powers.

New South Wales cannot sit idly by in the interim. We must give the NSW Registrar General real enforcement powers to protect the people of New South Wales now.

The existing enforcement powers are totally inadequate to regulate the sophisticated electronic conveyancing system that we have in New South Wales. Currently, the only power that the Registrar General has to prosecute any bad behaviour of an ELNO is to revoke or suspend the ELNO's approval to operate. This is a last resort power with limited application.

In the New South Wales context, where all land dealings must be lodged electronically, a range of more nuanced powers are needed.

With the total value of property recorded in the NSW Torrens Register being more than \$1.8 trillion, compliance with and enforcement of eConveyancing obligations is critical to the New South Wales economy.

This bill is about responsible and proactive regulation. To promote compliance with the legislative framework, the Registrar General needs appropriate enforcement powers and tools. New South Wales cannot wait for breaches to occur before introducing a stronger enforcement regime.

For these reasons, New South Wales proposes to introduce a standalone enforcement regime for the protection of New South Wales conveyancing transactions until an agreed national enforcement regime is in place.

How this regime will fit in with the national regime

The passage of the bill will not lessen the Government's commitment to national consistency or slow the progress of further amendments to the Electronic Conveyancing National Law. In fact, the New South Wales eConveyancing enforcement regime will

run parallel to the developing national regime and has been designed to minimise impact on national consistency, in the following ways:

- The New South Wales regime is intended to operate on an interim basis, until a suitable national regime comes into effect. This will minimise any inconsistency or overlap between the New South Wales and national regimes.
- The New South Wales regime is a targeted, pared-back version of the national enforcement proposal, designed to ensure regulatory consistency and minimal disruption when New South Wales transitions to the national regime. New South Wales continues to be an active contributor to the national regime, through ARNECC.

Some stakeholders have asked why subscribers (such as law firms, conveyancing practices and financial institutions) are not addressed in this bill.

It is not only ELNOs that are subject to the requirements of the electronic conveyancing national law. Subscribers also have obligations, and appropriate enforcement tools to manage subscriber compliance are also important. However, the NSW Registrar General is utilising an existing effective compliance process for subscribers. This process will continue until it can be enhanced by the enforcement reforms at a national level.

The enforcement options currently used by the NSW Registrar General for subscribers, include:

- A well-developed subscriber compliance program that is consistent with the national approach developed through ARNECC.
- Informal mechanisms, including subscriber guidelines and education, to support and encourage subscriber compliance.
- For sufficiently serious noncompliance, a subscriber's access to electronic conveyancing services can be suspended or terminated, which is an appropriate and necessary response that helps to ensure the security and integrity of the conveyancing process. A subscriber's access to an electronic lodgment network can be suspended or terminated—and if appropriate, reinstated—without significant disruption to the electronic conveyancing system.

While subscriber enforcement will be enhanced through the national regime, it is currently achieving satisfactory regulatory outcomes.

This is not the same story for ELNOs. With only one incumbent ELNO enjoying a monopoly market share while a second ELNO emerges, the regulator cannot suspend or terminate an ELNO's approval to operate for non-compliance. This would have significant and widespread consequences for all property transactions across New South Wales.

The proposed New South Wales regime will allow the Registrar General to ensure compliance with the legislative framework, without the significant disruption that would be caused by suspending or terminating an ELNO's approval to operate.

Support for a stronger compliance and enforcement framework

There have been calls for stronger enforcement powers for some time.

In December 2019, Dench McClean Carlson undertook a review of the Intergovernmental agreement for the Electronic Conveyancing National Law and recommended that an enforcement regime be developed that included penalties rather than only the existing suspension or termination in the case of a breach. They acknowledged that the current sanctions of suspension and termination were clearly not useful where electronic conveyancing is mandated, being highly disruptive to both the government and to the wider industry.

The Australian Competition and Consumer Commission [ACCC] has consistently expressed support for a stronger eConveyancing enforcement regime, recommending a robust compliance and enforcement framework for a monopolised market. As we move to more competition in the electronic conveyancing market, the ACCC has emphasised that an effective enforcement regime will be critical to stakeholders' overall confidence in the regime and their willingness to participate in an interoperable eConveyancing market.

In response to these calls, in April 2021 ARNECC published a position paper that proposed additional enforcement powers for registrars, including enforceable undertakings, binding directions, financial penalties and stronger investigative powers.

Key stakeholders all expressed in principle support for the proposal.

The revamped enforcement provisions were to have been included with other amendments that were also being proposed for the National Law. But last year, with the support of most stakeholders, the enforcement proposals were decoupled from the Electronic Conveyancing (Adoption of National Law) Amendment Bill. This was done to allow for further development of the national enforcement framework, but without delaying the earlier bill, which was vital to ensuring delivery of a major market reform that has mandated a requirement for all ELNOs to interoperate.

The decoupling of the reforms was supported by stakeholders as a pragmatic way of achieving the major reforms needed to the electronic conveyancing environment, with the understanding that further amendments would be made to provide the enforcement powers that are also so critically needed. As I mentioned earlier, ARNECC is continuing to finalise details of the anticipated national response.

In July 2022 the NSW Office of the Registrar General notified stakeholders of the proposal to provide put in place interim enforcement powers for New South Wales, pending implementation of the anticipated national enforcement reform. An outline of the proposal was provided to the ELNOs (Property Exchange Australia Ltd and Sympli Australia Pty Ltd), the ACCC, the Law Council of Australia, NSW Law Society, the Australian Institute of Conveyancers and the Australian Banking Association. Submissions on the proposal were received and considered.

I thank all stakeholders for their valuable feedback, which has assisted the development of this important regime, and for their support of New South Wales's approach. Stakeholder feedback that has been incorporated into this bill includes:

- more detail in the issuing of remedial directions to ensure procedural fairness, for example, a requirement that before issuing a direction, the Registrar General must give a written notice to an ELNO within 14 days and consider any submissions from the ELNO within that time; and
- that appropriate decisions of the Registrar General be subject to the Supreme Court appeal process under section 28 of the ECNL.

I now turn to the detail of the bill itself, the intent behind its provisions and the reason for the chosen legislative framework.

Key changes and intention

The New South Wales enforcement powers will be implemented through a standalone Act of Parliament separate from the Electronic Conveyancing National Law. There will be no change to the law of other States and Territories and no impact on the national eConveyancing system or the future national eConveyancing enforcement regime.

The bill introduces three tailored enforcement mechanisms:

- enforceable undertakings which can be offered by an ELNO to the Registrar;
- remedial directions which can be given by the Registrar to an ELNO; and
- civil penalties for a contravention of an enforcement provision.

These enforcement measures are widely used by regulators of national industries such as telecommunications, or for competition and consumer protection—areas that bear similarities with the emerging ELNO market.

Enforceable undertakings

Sections 5 to 9 allow the Registrar General to accept a written undertaking (enforceable undertaking) given by an ELNO, to forestall other enforcement action, in relation to:

- a contravention of the ECNL;
- the operating requirements determined under the ECNL; or
- a condition of approval of the ELNO under the ECNL.

Enforceable undertakings are intended to provide a flexible, adaptive remedy that focuses on practical steps to resolve the "root cause" of any noncompliance, while also allowing the ELNO in breach to continue to operate. Undertakings will enable ELNOs to propose remedial actions that are practical and commercially feasible.

While the acceptance of an undertaking is at the discretion of the registrar, the terms of the undertaking are negotiated, with the ELNO being able to vary or withdraw the undertaking at any time, with the registrar's written agreement, and the registrar being able to withdraw their acceptance at any time, with the ELNO's written agreement.

This allows the parties to reach a commercially agreed position, but ELNOs are also kept accountable. If an ELNO contravenes an enforceable undertaking, the registrar may apply to the Supreme Court for an appropriate order to comply with the undertaking, discharge or vary the undertaking, and any costs orders.

The registrar cannot issue a remedial direction or commence proceedings to recover a civil penalty in relation to a contravention that is addressed by an enforceable undertaking, either in force or which has been fully discharged by the ELNO. Furthermore, if the registrar accepts an enforceable undertaking, the registrar must take reasonable steps to discontinue any civil penalty proceedings in relation to a contravention addressed by the undertaking. These provisions provide a level of assurance to ELNOs that when they enter into an enforceable undertaking and comply with its terms, they will not be subject to separate enforcement action for the same contravention.

Remedial directions

Sections 10 to 15 authorise the Registrar General to issue a remedial direction to an ELNO if the registrar reasonably believes that the ELNO has contravened or is contravening a requirement imposed by the ECNL.

For procedural fairness, the Registrar General must give the ELNO 14 days' written notice of the registrar's intention to issue the direction, and must give the ELNO the opportunity to make submissions within that period.

In emergency circumstances, the Registrar General may issue an interim remedial direction which is not subject to the 14-day notice period. This is to address urgent matters where the security or integrity of the eConveyancing system is at risk. Given the potential impact on ELNOs, interim remedial directions are subject to the additional safeguard that they can only operate for a period of 21 days before they must be superseded by an ongoing remedial direction, or otherwise lapse.

Another key safeguard is that a decision of the registrar to give a remedial direction can be appealed to the Supreme Court, in accordance with the appeal process at part 3, division 4 of the ECNL.

A requirement of a remedial direction is an enforcement provision. Therefore, if an ELNO fails to comply with a direction, the Registrar General may institute proceedings to recover a civil penalty.

Civil penalties

Sections 16 to 18 allow the Registrar General to apply to the Supreme Court for an enforcement order requiring an ELNO to pay to the State an amount not exceeding a specified maximum, if the ELNO contravenes the following enforcement provisions:

- the requirement to establish and maintain interoperability between Electronic Lodgment Networks (section 18A of the ECNL)—the maximum penalty being \$1.65 million, plus \$44,000 for each day the contravention continues;

- the requirement to cooperate with a compliance examination (section 34 of the ECNL)—the maximum penalty being \$110,000; and
- the requirement to comply with a remedial direction—the maximum penalty being \$1.65 million.

In setting penalty amounts, the penalty must be sufficient to operate as an effective deterrent for noncompliance—the penalty must be high enough to outweigh any commercial benefit that the ELNO might obtain from engaging in noncompliant conduct. ELNOs are sophisticated and well-resourced commercial entities.

In relation to interoperability, the penalty must be high enough to overcome the potential commercial benefit that PEXA could obtain from maintaining a de facto monopoly of the electronic conveyancing market. A failure by an ELNO to establish interoperability could have significant consequences for the industry and New South Wales citizens—a lack of competition and related benefits such as competitive pricing and choice of services for consumers.

The maximum amounts in the bill are relatively modest in comparison to civil penalty amounts applicable to obligations imposed by other regulated industries such as the competition, telecommunications, and energy industries.

The risk that a regulated entity may treat a civil penalty as a "cost of doing business" was identified by the ACCC in 2018 when penalty amounts were substantially increased for breaches of the Australian Consumer Law. In January 2021 the Australian Energy Regulator increased penalty amounts for breaches of the National Energy Laws to provide a greater incentive for businesses to comply with laws to protect consumers. I also note recent proposals of the federal Labor Government to increase maximum penalties for breaches of both competition and consumer laws five-fold—for corporations, the greater of \$50 million, 30 per cent of adjusted Australian turnover or three times the value of the benefits gained from the breach.

The Registrar General must commence enforcement proceedings within two years of becoming aware of a contravention. This promotes efficient exercise of enforcement powers, and provides a level of certainty to ELNOs about timeframes for enforcement proceedings.

As I mentioned earlier, it is the Supreme Court, not the Registrar General, that determines the penalty amount required to be paid under an enforcement order, up to the maximum provided by the bill. The bill also sets out criteria that the court must consider in determining the amount to be paid under an enforcement order, including:

- the nature and extent of the contravention, as well as any resulting loss or damage suffered, including by third parties;
- the circumstances in which the contravention took place; and
- the amount necessary to deter the ELNO from engaging in the contravening conduct in the future.

These factors are centred on the key purposes of this bill—upholding the security and integrity of the New South Wales land titles system, and deterring contraventions of the Electronic Conveyancing National Law to provide for seamless electronic conveyancing transactions.

The future of enforcement in eConveyancing

The introduction of this bill represents responsible regulation by this State.

It is vital that, as the eConveyancing system and market evolves, the regulatory tools remain current and fit for purpose.

This bill keeps ELNOs, on which the eConveyancing system relies, accountable and provides confidence to the industry and wider New South Wales public in this significant part of our economy.

While New South Wales supports the introduction of a national enforcement regime for eConveyancing, New South Wales recognises the immediate need for a robust regulatory framework to deliver a secure and efficient electronic conveyancing market for the people of New South Wales.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (16:06): I lead for the Opposition on behalf of my colleague the shadow Minister for Customer Service and shadow Minister for Digital, Yasmin Catley, in debate on the Electronic Conveyancing Enforcement Bill 2022. The bill seeks to establish and apply an enforcement regime for electronic network operators, known as ELNOs. The enforcement regime will be limited to New South Wales. Labor does not oppose the bill. In May the Parliament passed the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022, which further developed the national scheme for the electronic lodgement and processing of conveyancing transactions, along with enabling interoperability so new lodging network operators could more easily enter the market.

As the shadow Minister noted in debate in the Legislative Assembly, Labor is somewhat surprised that, having passed that bill earlier this year, we are back not six months later to pass legislation that the Minister, in his second reading speech, said "will allow the New South Wales Registrar General to properly regulate the flourishing electronic conveyancing ecosystem". That is especially so given that the Minister told the Parliament this during debate on the earlier bill:

I note that Labor supports interoperability but wants continued stakeholder consultation and a holistic regulatory framework—which is exactly what we are doing. The bill provides the powers that will allow a comprehensive regulatory package.

That does not appear to have been correct, because we are debating another bill today. During debate on the previous bill, Labor raised concerns over the crucial need for not just ongoing consultation with industry

stakeholders but also a holistic regulatory regime that would cover both ELNOs and subscribers. Labor is hopeful that, when the next bill is brought before the Parliament, it achieves that end. The Opposition finds it curious that six months ago the Government rejected a Labor amendment in line with the findings of the upper House committee inquiry that would have seen the Registrar General present a report to the Parliament detailing the readiness of the interoperable system before it was to go live. The Government argued against it on the basis that we must have a nationally consistent approach, yet here we are today. We think this is the Minister's victory lap as he is on his way out the door.

The Hon. Shayne Mallard: We will do victory laps for years.

The Hon. PENNY SHARPE: The Hon. Shayne Mallard told us we would not have to be here but here we are again, going it alone. The only thing that has changed is that Victor is going out the door. That is why we are here; let us be honest. As members in the Chamber would know, back in March the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022 was referred to an upper House committee that explored the way forward in developing both interoperability and the regulatory framework, along with future legislation in this space. The committee was made up of members of the Government, the Opposition, The Greens and the Shooters, Fishers, and Farmers Party. It is important to revisit the findings and recommendations of that committee in debating this legislation today. As the shadow Minister told the Legislative Assembly, Labor understands that the other States have held off introducing State-specific legislation, instead remaining committed to national uniformity. The committee made three key findings:

Finding 1

There is unanimous support for competition in the electronic conveyancing industry.

Finding 2

Stakeholders hold valid concerns around the resilience of the system. Further safeguards to protect consumers, including the industry code and an assessment of readiness by the NSW Office of the Registrar General, should be developed and finalised well in advance of the commencement of interoperability.

Finding 3

A second bill, foreshadowed for introduction later in 2022, has been suggested as a pathway for further amendment to the Electronic Conveyancing (Adoption of National Law) Act 2012 and for any outstanding details to be addressed.

The committee made two recommendations:

Recommendation 1

That the Legislative Council proceed to debate the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022, and that the concerns identified by stakeholders as set out in this report be addressed during debate in the House.

Recommendation 2

That the Legislative Council consider the second bill, referred to in Finding 3, only after the industry code has been finalised and the Legislative Council has received a report from the NSW Office of the Registrar General assessing the readiness of the system.

Regarding recommendation 1, we debated the bill, including amendments to address stakeholder concerns, before the bill was passed unamended in May. That was in line with the pathway forward that was laid out by the committee, which included Government members. Finding 2 outlines the need for further safeguards to protect consumers, which would include the development of an industry code and the assessment of readiness by the New South Wales Office of the Registrar General. The industry code has not yet been fully developed, and work remains underway.

Finding 3 and recommendation 2 of the inquiry outline the further issues to be addressed in the bill this year that would only be considered after the industry code had been finalised. The shadow Minister has been advised that the industry code will not be complete until 2023. Further, the committee heard evidence, which informed finding 3 and recommendation 2, that the second bill would be coming later this year. The Electronic Conveyancing Enforcement Bill 2022 will promote compliance with the ECNL but will be a standalone Act. I note the Minister's comments in his second reading speech. He stated:

... implementing a national regime is difficult, with each jurisdiction having different requirements around things like judicial process and the manner of imposing or collecting fines. Resolving these differences nationally takes time—but the longer it takes, the longer New South Wales is left without appropriate enforcement powers.

Labor looks forward to the second ECNL bill that will need to be brought before this House to further interoperability in the eConveyancing space. The bill we are debating today would empower the Registrar General to issue a written enforceable undertaking to an ELNO if it believes it is contravening the ECNL. The Registrar General will be able to apply to the Supreme Court to force the ELNO to comply with the order and potentially to pay for the costs of proceedings or of the Registrar General in monitoring compliance.

The bill will also allow the Registrar General to deliver a remedial direction to an ELNO, including interim remedial directions in emergency circumstances. An emergency direction would be given if the Registrar General considers that the operation, security, integrity or stability of an electronic lodgement network, the titles register or the land titles system are being or are likely to be jeopardised because of the occurrence of an event or the existence of particular circumstances. The interim remedial orders will last 21 days. The bill also establishes a civil penalties regime for a contravention of an enforcement provision. That includes where an ELNO fails to interoperate as required under section 18A of the ECNL Act, which has a maximum penalty of \$1.65 million plus \$44,000 each day. Fines also apply if an ELNO fails to cooperate with a compliance examination under section 34 of the ECNL Act, with a maximum fine of \$110,000, or if they fail to comply with a remedial direction, drawing a \$1.65 million fine.

As the shadow Minister detailed in the Legislative Assembly, the bill has undergone changes as a result of stakeholder feedback, and the stakeholders broadly support the bill. Opposition members strongly support competition and interoperability in this space. It is our preference to stick with the national model that New South Wales committed to, and we are disappointed the Government did not deal with the issue six months ago. Labor will not oppose this bill but looks forward to the Australian Registrars' National Electronic Conveyancing Council completing its work and creating a national regulatory framework.

The Hon. MARK BANASIAK (16:14): I make a short contribution as the chair of Portfolio Committee No. 4, which held the inquiry into the original bill. I do so with some mixed emotions, because the industry has now come on board to support this bill. But I note the Hon. Penny Sharpe's contribution and echo her reflections on this Minister's way with words in being a little bit liberal with the truth in his promises to this House and in budget estimates hearings. We asked that the user readiness report be tabled, and it has not turned up. We asked again in budget estimates hearings, and instead the Government gave us a two-page health check summary and an explanation that the full report is somehow confidential because we want the conversations and feedback to be frank. The Minister well knows that if something is confidential, this House has ways to protect that confidentiality by marking it as privileged so that only members can see it. He could have gone down that route, and many other Ministers have done that in budget estimates hearings when they do not want confidential reports or documents to be in the full view of the world but are happy for us to see them.

That is disappointing because it would probably have better informed debate on the bill before the House today. I am largely supportive now that the industry is on side. In the Parliamentary Secretary's reply, I would like him to explain where the money from the fines goes. My concern with the bill has always been about how the end user, the consumer, is looked after if things go wrong. Where do the fines go? Do they just go into Consolidated Revenue, to kick over the interest, or will there be a way to use that money to provide restitution to consumers that may be hurt by a mistake by an ELNO? It would provide me a bit of comfort to know that the fines were going to a good place and not necessarily just going into the coffers of the Government as another revenue stream. It would be great if the Parliamentary Secretary could elucidate what is happening there.

I note the last-minute amendments from The Greens. I am aware that some in the industry are concerned about the extent of the fines, and I echo those concerns. Some of them are perhaps a bit out of proportion. But I hear that some other members of this place are supportive, and I believe the Minister is so supportive that he decided to chuck a wobbly and threaten to leave the Government if The Greens amendments were not supported. I leave it there. The Shooters, Fishers and Farmers Party will not support the amendments, but I indicate that we will not be dividing or dying in a ditch over them.

Ms ABIGAIL BOYD (16:18): I indicate that The Greens support the Electronic Conveyancing Enforcement Bill 2022. The bill comes hot on the heels of the Electronic Conveyancing (Adoption of National Law) Amendment Bill 2022, and the clue to the bill is in the name—it is the enforcement element. The bill gives the New South Wales Registrar General the powers necessary to put in place the provisions and intent of that earlier piece of legislation. Assuring the timely delivery of the interoperability between electronic lodgement network operators [ELNOs], as was the intent of the earlier bill, is now really important.

I stress "now" because the management of the transfer and registry certificates of title is pretty core government business. It is a necessary public service and in our view should never have been moved to the private sector. It should have remained in public hands, which was vigorously articulated at the time by the Law Council of Australia, The Law Society of New South Wales, the Real Estate Institute of New South Wales and the Institution of Surveyors. If it had never been privatised, we would not need to create enforcement powers to break up a private monopoly that never should have been allowed to exist in the first place. Once again, we are left cleaning up the mess created by years of misguided ideology. But we are where we are, and this legislation is very important.

I also sat on the Portfolio Committee No. 4 inquiry, and I understand that this is an incredibly technical process. It can be difficult to get your head around exactly what is going on here. But that first bill set up the

expectation that we would be opening up this market to competition, and that the process of doing that was through interoperability. In order for the goals of that first bill to be realised, it is absolutely vital for the existing players to come to the table in a series of workstreams to implement what is required before we can get to the point where the Registrar General can say, "Yes, now we're okay to go live." We will never get to the point of having interoperability in place until we have done all of that incredibly technical work, including the work that will then be required from the financial institutions and everybody else.

Step one is ensuring that the existing players come to the table. Unfortunately, when you are making a huge amount of money and you have a lot to lose by allowing competition to enter into your market, fines and other things can just be a cost of doing business. It is really important that we introduce the enforcement part of the scheme at this point, because every day, every week, every month of delay is one step further from having competition in the market. The fact is that the smaller players cannot exist forever without being allowed to operate properly. One significant player in this market is a New South Wales based entity, and it employs a number of people. If this goes on for too long and everyone does not come to the table and do the work required to allow interoperability as soon as possible, it will have to start letting people go. That means New South Wales jobs will be lost, but there will also be the loss of real competition in the market. Again, it is not acceptable that we have a private player with a monopoly over something as vital as the transfer and registry of certificates of title.

The Greens wholly support this bill. We will move an amendment to make sure that it actually achieves its objectives, but we thank the Minister for bringing it. I understand we are going alone on the enforcement aspect, at least temporarily. An Australia-wide enforcement process will come eventually, but we have a special interest in this because it concerns New South Wales jobs and a New South Wales company. I believe that it is fair and reasonable for the Minister to take action to ensure competition in this space.

Reverend the Hon. FRED NILE (16:22): I support the Electronic Conveyancing Enforcement Bill 2022. This is a very important piece of legislation, and I thank the Government for persisting with it and presenting it to the Parliament today. I give it my full enthusiastic support and call on all members to give it their support as well. I think it is very important to have this legislation passed. It deals with electronic conveyancing, which is a complicated area of economic activity. It is not simple, but it can be done. I believe the bill gives the Government the machinery to enforce controls over electronic conveyancing, which is very important. I fully support the bill.

The Hon. PETER POULOS (16:24): On behalf of the Hon. Damien Tudehope: In reply: I take this opportunity to thank honourable members for their contributions to the debate on the Electronic Conveyancing Enforcement Bill 2022. In particular, I thank the Hon. Penny Sharpe for her observations and Reverend the Hon. Fred Nile. I thank Ms Abigail Boyd, who was part of the Portfolio Committee No. 4 inquiry and has a genuine interest in all matters pertaining to this bill. I also acknowledge the observations of the Hon. Mark Banasiak, who chairs Portfolio Committee No. 4.

In response to the questions posed by the Hon. Mark Banasiak, I am advised that the money does go to consolidated revenue, but the Torrens Assurance Fund already protects owners who lose an interest in land through fraud. The bill is vital to the continued, secure and seamless completion of land transactions in New South Wales. It will provide a strong regulatory foundation for both current conveyancing transactions and future interoperable conveyancing transactions by providing the Registrar General with important enforcement powers that the Electronic Conveyancing National Law currently lacks. 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. I have four amendments on sheet c2022-180 from The Greens.

Ms ABIGAIL BOYD (16:26): By leave: I move The Greens amendments Nos 1 to 4 on sheet c2022-180 in globo:

No. 1 Enforcement orders

Page 6, clause 16(6), definition of *maximum amount*, paragraph (a)(i), line 15. Omit "\$1,650,000". Insert instead "\$10,000,000".

No. 2 Enforcement orders

Page 6, clause 16(6), definition of *maximum amount*, paragraph (a)(ii), line 16. Omit "\$44,000". Insert instead "\$250,000".

No. 3 Enforcement orders

Page 6, clause 16(6), definition of *maximum amount*, paragraph (b), line 19. Omit "\$110,000". Insert instead "\$250,000".

No. 4 Enforcement orders

Page 6, clause 16(6), definition of *maximum amount*, paragraph (c), line 21. Omit "\$1,650,000". Insert instead "\$10,000,000".

The intent of these amendments is to ensure that being in breach of the law is not simply factored in as a cost of doing business. We understand that PEXA makes at least \$300 million each year and opening the market up to competition will impact its bottom line. That is just how business works. The current penalties in the bill would only lead to a \$17 million maximum penalty for an entity that was not complying with the interoperability steps. If you could delay a year and make sure that there is no competition as a result, that is really just a cost of doing business. The amendments would increase that cost—not unreasonably, but significantly.

The Office of the Registrar General [ORG] put out a white paper in July, shortly after the first Electronic Conveyancing National Law bill passed, testing the proposed enforcement regime. In it, the Registrar General considered the \$10 million amount as the acceptable upper limit, as well as an increased daily amount. That is what the amendments reflect. In setting penalty amounts, the key consideration is that the penalty must be sufficient to operate as an effective deterrent for noncompliance. The penalty must be high enough to outweigh any commercial benefit that the regulated entity might obtain from engaging in noncompliant conduct.

It is simple maths. The risk that a regulated entity may treat a civil penalty as a cost of doing business was identified by the Australian Competition and Consumer Commission in 2018, when penalty amounts were substantially increased for breaches of the Australian Consumer Law. More recently, in January 2021, the Australian Energy Regulator increased penalty amounts for breaches of the national energy laws, reflecting the need to provide this greater incentive for businesses to comply with laws to protect consumers. The Australian Energy Regulator changed its previous tier 1 breach penalty from \$100,000 plus \$10,000 per day for continuing breaches to the new amount of "the greater of \$10 million, three times the benefit obtained, or 10 per cent of the annual turnover of the company". The regulation is moving in this direction to ensure that these highly profitable companies are not just factoring in enforcement costs as the ordinary cost of doing business.

Our proposed amendment is commensurate with, or slightly less than, that enforcement regime under the AER but also completely consistent with what was recommended by the ORG. The proposed amounts are maximum amounts and smaller amounts can still be opted for if the ORG decides that is more appropriate. None of these penalties would be automatically applied. The ORG can waive requirements to whoever, for however long, it deems appropriate. This would protect against the banks not being ready, for instance, against third-party entrants being unfairly penalised and disincentivised, and for other act-of-God circumstances. ELNOs will still retain the rights of appeal contained in the legislation. They can contest the allegation made by the ORG and if the ORG still insists, they can then challenge in the courts. The only time an ELNO is likely to pay anything is if they are found to be in egregious breach of their interoperability requirements. I commend the amendments to the House.

The Hon. PETER POULOS (16:30): The Government will not oppose this suite of amendments from The Greens.

The Hon. PENNY SHARPE (16:30): Labor does not oppose these amendments either.

The CHAIR (The Hon. Wes Fang): Ms Abigail Boyd has moved The Greens amendments Nos 1 to 4 on sheet c2022-180. 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: On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

Motion agreed to.

BUILDING AND OTHER FAIR TRADING LEGISLATION AMENDMENT BILL 2022

Second Reading Speech

The Hon. PETER POULOS (16:33): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

I am pleased to introduce the Building and Other Fair Trading Legislation Amendment Bill 2022. This bill makes miscellaneous minor, but important, amendments to various Acts across the Fair Trading portfolio to ensure that these legislative schemes can continue to operate as Parliament intended.

To ensure that we progress this bill, I seek leave to have the remainder of the second reading speech incorporated into *Hansard*.

Leave granted.

I am pleased to introduce the Building and Other Fair Trading Legislation Amendment Bill 2022. The bill makes miscellaneous minor but important amendments to various Acts across the Fair Trading portfolio to ensure that these legislative schemes can continue to operate as Parliament intended. The amendments encompass regulatory functions relating to building and construction, explosives and data-sharing arrangements essential to facilitate data-driven regulatory activities. The amendments in the bill clarify the powers for the building regulator to address serious defects in residential apartment buildings; increase penalties for failing to comply with building notification requirements; identify the building regulator actions that can be made publicly available; enhance data- and information-sharing between government agencies, universities and engaged consultants and contractors; recognise decennial liability insurance as a critical consumer protection product; increase maximum penalties for explosives offences; clarify regulation-making powers in the Explosives Act 2003; and postpone the remake of the Explosives Act 2003 to 1 September 2024.

The bill continues to deliver on the New South Wales Government's commitment to implementing transformational reforms to New South Wales building regulation as part of its ongoing work to secure behavioural change in the industry. This comprehensive reform agenda is focused on improving building quality and restoring consumer confidence in the New South Wales construction industry. The Government's reform agenda to date includes the establishment of the Office of the Building Commissioner, the introduction of the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020, known as the RAB Act, and the introduction of the Design and Building Practitioners Act 2020. The amendments are informed by nearly two years of operation of the RAB Act and are necessary refinements that have been identified through the on-ground operation of the legislation.

Since September 2020 the building regulator has carried out 168 audits of residential apartment buildings under construction. As a result, over 700 serious defects have been identified and 29 building work rectification orders have been issued to resolve the serious defects. This work has ensured that serious defects are found during construction and rectified by the developer before completion, preventing thousands of apartment owners from incurring unnecessary costs. These amendments will provide further support to the work of the NSW Building Commissioner, David Chandler, whom I am a big fan of—as are many other members in this Chamber, such as the member for Swansea—and NSW Fair Trading, another outstanding agency, by ensuring the building regulator has the right powers and access to information to meet the Government's commitments in this space.

The work of the New South Wales Government in addressing serious defects in residential apartment buildings has been transformative for consumers in New South Wales, giving building owners confidence that the building regulator has the necessary tools it needs to hold those who cause building defects accountable. Our work over the past three years has allowed New South Wales to set new standards for building regulation, making us a leader in implementing the national Shergold Weir Building Confidence report. That report rightly called out that the Australian building industry had for too long taken for granted consumer and practitioner confidence in its business-as-usual approach to delivering noncompliant buildings.

The New South Wales Government's appointment of David Chandler as our first Building Commissioner and the bipartisan support of members on both sides of this House—for which I am grateful—to give him and the fantastic team at the Department of Customer Service the powers they need has seen New South Wales turn a corner. Consumer confidence is returning, defects are being picked up sooner and building owners are being given stronger support and confidence in the buildings they own and occupy. This has meant that the insurers and financiers, who are critical to supporting the pipeline of development New South Wales needs to meet its housing and property targets, want to work in New South Wales. They are now confident that work will be trustworthy, resilient and fit for purpose.

Our efforts have paid off, and we are now the first Australian jurisdiction where decennial liability insurance is being offered. This product provides a 10-year warranty over a building's critical elements, including structure, waterproofing, fire safety systems, enclosure and building services. Unlike other types of coverage in the market it provides full indemnity up to the original construction value, operates as a strict liability product of first resort and attaches to the building, not the developer. This means that where a defect manifests, there is a remedy available under the decennial liability insurance product to cover the costs of remediation. This is a game changer for building owners throughout the State. It is a signal that the market is backing the projects being designed and built in New South Wales and that homeowners can be confident that buildings will be compliant, safe and resilient going forward.

Much of the success of the building reforms can be attributed to the passion and strong leadership of the NSW Building Commissioner. I assure the people of New South Wales that Mr Chandler has agreed to stay in the role until September 2023, reaffirming this Government's commitment to maintain its work and momentum to transform the building and construction sector and address the problematic behaviours and practices that have compromised confidence in our industry in the past.

I now turn to the substance of the bill. The proposed change to section 98 of the Design and Building Practitioners Act 2020 requires that the Secretary of the Department of Customer Service, our outstanding Emma Hogan, make available on the department's website copies of all stop work orders currently in force. Stop work orders are an important remedial tool to address contraventions of the Act that could result in significant damage to property, or significant harm or loss to the public or occupiers of a building. Given the serious nature of stop work orders, there is a strong public interest to make these orders publicly available on the department's website. Making these orders publicly available serves both an educative role for the public, by giving the public an understanding of the circumstances that led to the issuing of a stop work order, and serving as deterrent for industry.

The bill also gives the secretary discretionary power to make publicly available copies or parts of written undertakings accepted by the secretary under the Design and Building Practitioners Act or the Residential Apartment Building (Compliance and Enforcement Powers) Act 2020. Written undertakings are another remedial tool available to the building regulator, but one where the person contravening the Act voluntarily agrees to carry out certain works or actions, or refrain from certain conduct, as opposed to being compelled by the building regulator. Because written undertakings involve similar circumstances and subject matter to other compellable remedial actions, such as building work rectification orders, it is consistent and reasonable for these to be made publicly available and have the same public availability and prominence as a person who was ordered to rectify a matter.

The secretary is given discretion in making these publicly available as they may contain sensitive or confidential matters that are not suitable to be made publicly available. Where a written undertaking is accepted by the secretary and a person undertakes to carrying out building work to eliminate, minimise or remediate a serious defect, the bill proposes a change to section 28 of the RAB Act for that work to not require development consent or approval under the Environmental Planning and Assessment Act. This is the same concession that a developer would receive where ordered to carry out the work under a building work rectification order and is an appropriate concession for those developers who volunteer to rectify serious defects. We want to make sure that we are encouraging developers to opt in to remediating defects expeditiously and this amendment supports that cause.

The bill makes other important amendments and clarifications to the Residential Apartment Building (Compliance and Enforcement Powers) Act 2020. Firstly, the bill increases the maximum penalty in section 7 of the Act for those developers who fail to provide an expected completion notice to the secretary. An expected completion notice sets out the date the developer expects to make an application for an occupation certificate for the building and must be provided at least six months, but not more than 12 months, before that application is made. The expected completion notice is an essential part of the Act as it gives the building regulator a line of sight to when buildings are nearing completion. This information is used to inform the work of the NSW Building Commissioner and the department in carrying out proactive audits of residential apartment buildings nearing completion.

There has been a reduction in serious defects in residential apartment buildings in New South Wales, in large part due to the two years of operation of this proactive audit program by the building regulator. Departmental audits of expected completion notices have identified unacceptable rates of noncompliance by developers with these obligations. While it is an offence to not provide an expected completion notice, the current penalty amount is not creating sufficient deterrent, particularly compared to the potential cost of an audit that finds serious defects. The proposed change will increase the maximum penalty for developers who fail to provide an expected completion notice to the secretary. For corporations, the maximum penalty will increase from \$110,000 to \$330,000, with the continuing daily offence increased from \$11,000 to \$33,000. For individuals, the maximum penalty will increase from \$22,000 to \$110,000, with the continuing daily offence increased from \$2,200 to \$11,000.

The second changes are important clarifications to the scope and powers available under a building work rectification order. The original and continuing intent of the building work rectification order scheme is to give the building regulator the power to require developers to rectify serious defects and potential serious defects before a building is handed over to the end owner. To remove doubt, changes are proposed to section 33 of the RAB Act to clarify that a building work rectification order can require a developer to take any action, including requiring the carrying out of building work, or the refraining from carrying out building work, that is for the purpose of eliminating, minimising or remediating a serious defect or potential serious defect.

This change addresses the fact that the actions required to resolve a serious defect or potential serious defect may not always be building work. For example, these actions could require temporary structural support works, testing of building elements or other investigative works. These changes ensure that the building regulator is not limited in how they can require a developer to resolve serious defects or potential serious defects in a building. This complements proposed changes to section 34 of the Act for building work rectification orders that would allow the regulator to specify the standard that building work is required to meet, rather than specifying the work or action that is required to be undertaken.

These changes make clear that building work rectification orders can require a developer to submit particulars of the work they intend to carry out to meet the standard in the building work rectification order or engage a suitably qualified person or specialist to prepare a report on how that standard will be met. This is an important amendment as sometimes the nature of building work that is required to be carried out is of a specialist nature. The amendments ensure that the building regulator can utilise the expertise of industry where appropriate, while still having oversight of the work proposed to meet the standards specified in a building work rectification order.

As these amendments are addressing anomalies that have hindered the Act's ability to realise Parliament's intended outcome of the use of these powers, the bill includes a change in schedule 1 to give the changes in sections 28, 33, 34 and 62 retrospective effect. Schedule 1.2 to the bill seeks to amend the Explosives Act 2003 to implement recommendations of the 2019 statutory review of the Act and update regulation-making powers. The review identified the need to increase the maximum penalties under the Act, which have not changed since its introduction in 2003. The proposed changes will see maximum penalties increased by up to 50 per cent, in accordance with the change in the consumer price index. It is important that the offences in the Act continue to strongly deter the unsafe and illegal use of explosives to protect those who work with them and the wider community.

The amendments also implement another recommendation of the 2019 statutory review by confirming the ability of inspectors to serve a notice under section 155 of the Work Health and Safety Act 2011, as applied by section 27 of the Explosives Act, on a person to provide information or documents, or to give evidence, despite the person being outside the State. Extending the application of section 155A to an inspector's service of notice under the explosives legislative framework is an important and necessary provision that will ensure inspectors can gather information outside New South Wales as part of an investigation or monitor or enforce compliance with the Explosives Act, critical to ensuring safety and compliance.

It is critical that our legislation keeps pace with modern society and enables regulators to function in an effective way in the automated and digital world. The application of section 155B will modernise the serving of notices by SafeWork NSW, allowing for the regulator to serve a notice electronically, at a person's place of residence or at their workplace. The final amendments to the Explosives Act

will clarify and update regulation-making powers. Specific regulation-making powers have been introduced in relation to the registration and authorisation of explosives, the storage and transport of explosives, and safety measures when handling explosives. These complement the existing general powers to make regulations under the Explosives Act and will lay the groundwork for the upcoming remake of the Explosives Regulation 2013.

The bill also amends the Subordinate Legislation Act to postpone the remake of the Explosives Regulation 2013, which is due by 1 September 2023, to 1 September 2024. This is to allow time for implementation of further, more complex recommendations of the 2019 statutory review and further consultation on the Act and regulation as a whole. These amendments will ensure that explosives continue to be safely regulated with appropriate safeguards enacted to prevent misuse. Much of the regulatory work in the Better Regulation portfolio is data driven, which I am very pleased to hear, with compliance and enforcement activities informed by quality data, which is even better. The amendments propose minor changes to ensure that the ability for data to be shared between agencies is not unnecessarily limited.

Section 65 of the RAB Act has been amended to clarify that information stored on the NSW Planning Portal, which is provided under a requirement of the Act and to which the secretary has access, is taken to be information held by the secretary. New section 65A will enable the secretary to share information with Australian universities and consultants or contractors engaged by or on behalf of the secretary. This allows the information to be used to conduct research, such as PhD programs, or the carrying out of analysis of this information and data to assist the secretary in exercising functions under the Act. That proposed amendment includes a necessary protection to not share a person's personal information within the meaning of the Privacy and Personal Information Protection Act 1998.

These amendments will enable the secretary to commission research to support capability development, both through the use of micro-credentials and enhancements to tertiary education delivery, as well as inform enhancements to the way audits are carried out by the regulator. It is critical that this information is subject to rigorous oversight and protection but can be used to better protect building owners and the community from noncompliant and unsafe building work.

Schedule 1.5 amends the Strata Schemes Management Act 2015 to provide that, instead of giving the secretary a building bond, a developer of a strata scheme may instead obtain decennial insurance approved by the secretary. Decennial insurance is strict liability cover that protects successive building owners against serious defects of the key elements of the common property of a building for 10 years from when the building is completed. This amendment makes this cover an alternate option to the strata building bond, which makes 2 per cent of the contract value available for claims for two years after the building is completed. This amendment recognises the success of the Government's building reforms under the stewardship of the Building Commissioner.

The proactive and robust reform agenda has reduced the risk of building work on residential apartment buildings to the point where insurers are willing to enter the New South Wales market and offer cover against serious defects for these buildings. That is a big win for owners of these buildings who will benefit from this cover for 10 years, without having to establish fault, when taken out by developers. Speaking to the significance of this decennial liability insurance provision in the bill, I do not think anybody should mistake how big this reform is. Nowhere else in the country is an insurance product offered that provides 10 years of cover for major defects in relation to strata buildings. Products like this do occur overseas. I think there is a product in France, from memory, and some other places, but it is not common. It is not common because there is so much uncertainty in the construction space. A lot of uncertainty and not much transparency is a recipe for insurers staying well clear.

Insurers, believe it or not, love certainty because they have to price the risk, and it is very hard for them to price a risk when there are so many variables. When we provide more transparency in the construction sector, as we have done, when we provide the reforms and the powers to the Building Commissioner, as we have done, when we digitise the planning system through planning, as we have done, when we embark on a program of reform around regulations, starting with Fair Trading and moving into SafeWork, as we are doing, and when we lead the nation by digitising the conveyancing sector with eConveyancing from end to end, as we have done, we start to see a level of transparency that brings insurers back into the market. And that is in circumstances where years ago they would in no way have entertained this.

I was the Minister responsible when we brought in the bond under the strata building bond scheme, which makes 2 per cent of the contract value available for claims for two years after the building is completed, and I remember the discussions and negotiations at the time. Developers did not want to put 2 per cent in. Purchasers said 2 per cent was not enough. Developers did not want to put anything in, to be honest, and purchasers said we needed 3 per cent to 5 per cent. We landed on 2 per cent to allow things to progress, but we all knew that this was a bandaid until a better solution came along, which was an insurance product. The insurance product absolutely changes the game. It means developers will pay approximately 1 per cent to 2 per cent of the contract price, but they pay it once and that liability or insurance stays on the property for 10 years. It means that bodies corporate do not have to go in and fight and prove fault before making a claim.

I was formerly a litigation lawyer, and tribunals and courts are clogged with litigation against developers, primarily trying to establish fault and damage. By having an insurance product, you get past the first hurdle straightaway. You just go into making a claim and the claim is assessed in the usual course. I can almost guarantee that consumers will universally embrace the single liability product. I have lived in strata all my adult life. I know that if I were to buy into a strata scheme, I would absolutely put more weight to and confidence in a scheme that has single liability insurance. There is no way in the world I would feel confident buying into a scheme off the plan and the developer saying, "No, I haven't got liability insurance, but I've got a 2 per cent bond and you can fight me for it later on." It would not be worth the headache. It would not be worth the time of day.

By a developer doing the right thing, particularly when you marry up the work that the Building Commissioner is doing in relation to iCIRT and the building trust indicator—again, world-beating reforms—it means good quality developers will be able to get single liability insurance and those who do not meet the mark will not. Then they will suffer the consequence in the market by purchasers saying, "I will vote with my wallet and choose to go with a developer that's got single liability insurance." This lifts the quality right across the board. It is not just an insurance product; it is a quality assurance product—and, again, leading the country. I am so proud of the fact that we have got to this point and we have an insurer in the market already with the confidence to offer the product. We will have more to say very soon about that. On that note, I thank the Opposition for their indulgence.

I commend the bill to the House.

Second Reading Debate

The Hon. COURTNEY HOUSSOS (16:34): I lead for the Opposition in debate on the Building and Other Fair Trading Legislation Amendment Bill 2022. I indicate from the outset that Labor supports the bill because it supports increased regulation in the building industry. We support the introduction of decennial liability insurance. We support the housekeeping aspects that are updating the Design and Building Practitioners Act 2020 and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020, or the RAB Act, which have been introduced in this place previously, including to provide some clarity around the written undertakings that the Building Commissioner is already getting and to give him a framework to do that work.

I place on record my thanks to Mr David Chandler for all the work he has done in this space. I acknowledge his work on the reforms proposed in the bill. He has started an important program of work that needs to continue in this space. It has certainly been highlighted and investigated closely in this House. The Public Accountability Committee, of which I have been a member, has had two inquiries into building regulation. We have looked at it closely and identified a range of issues. We have continued to try to provide some constructive solutions and I think Mr Chandler is doing some important work in this space. We have watched closely the work that he has been doing. We know the significance of the work that he is undertaking. We know that purchasing a home for those who can afford it is the biggest financial investment that someone will make in their lifetime.

For owners, discovering that the apartment that they just purchased, or the building that it is in, is defective can be devastating. The physical, emotional and financial toll can be unimaginable. We acknowledge that buildings that have serious defects or do not meet building codes pose an increased risk to owners and residents, as well as to the public more broadly. We accept that the introduction of the RAB Act and the Design and Building Practitioners Act were the first steps in the reform program that has been adopted by the Government. As the Labor Opposition, we have sought to engage constructively in this space and to point out where we think it can be done better. I know we certainly did that with the original passing through the Act.

When the Building Commissioner was appointed—and I note that he appeared before our upper House inquiry within days of his appointment—he said he needed two things to do his job well: powers and resources. Since taking on the job in 2019, he has identified flaws and made recommendations. We understand the bill will address some of those recommendations. Specifically in relation to the bill, section 7 amends the RAB Act to increase the maximum penalty of developers who fail to provide an expected date of completion. Developers are required to provide this information to the secretary before an occupation certificate can be handed out. This area has been identified by the Building Commissioner. Under the existing legislation, developers are required to provide completion dates, but the current penalties have not deterred those acting in poor faith. The penalties for corporations and individuals will increase by more than 50 per cent. Corporations could be hit with a \$330,000 fine and individuals with a \$110,000 fine, on top of a continuing daily fine of \$11,000.

Section 33 and 34 of the bill also amend the RAB Act. The first amendment places the onus of building defects onto the developer to take any action to eliminate, minimise or remediate the building defect. Further, those changes specify the standard that the building rectification work must meet, rather than the work simply having been completed. That is an important distinction. Developers are required to either submit the particulars of the rectification work that they intend to carry out or engage a qualified professional to prepare a report about how the standard will be met. Under the existing rules, the building rectification order specified only that the defect had to be remediated but not the actual standard of the workmanship. We think it is an important change in making developers accountable for not only rectifying the work but making sure that it is done to meet the required standards.

I received a couple of concerns from various stakeholders in the space. I thank the Owners Corporation Network, which, incidentally, I spoke about in the House. This year it celebrates 20 years of operation. Yesterday at an event I attended—along with the Building Commissioner, the Property Services Commissioner and other public servants from Service NSW—Karen Stiles was acknowledged for her important work in her current role with the Erin Brockovich of Strata award. I thank her for her work. The Owners Corporation Network raised some concerns with the transitional provisions of the Act. In its opinion, the retrospective application of the amendments is inappropriate. We also received some concerns from the Australian Institute of Architects. It is concerned that architects are taking on too much risk when there is no evidence of rectification works performed by the builder. Certainly, we will watch that closely during implementation. This bill is the next iteration of building regulation, so we will certainly look at whether we need to suggest more changes.

Items [7] to [9] of schedule 1.4 to the bill amend section 65 of the RAB Act to allow for the exchange of information between New South Wales Government departments, Australian universities, local councils, contractors and consultants. That change directly addresses an issue that is often raised with me by apartment owners and stakeholders regarding the lack of accessible information about building work, the existence of building defects, and whether and how defects have been rectified. Data on serious building defects is limited. To

address the building crisis that is gripping New South Wales, we must first understand and map the extent of the problem. We have varying reports but a single data source does not exist and information is rarely shared between bodies. I acknowledge the work of the University of New South Wales City Futures Research Centre, which undertook a study investigating potential buyers' access to high-quality information about apartments they were considering purchasing. The report made some startling revelations, including that potential apartment buyers found it nearly impossible to access that information.

As I indicated earlier, the bill amends the Strata Schemes Management Act 2015 to provide that a developer of a strata scheme may obtain decennial liability insurance. The Building Commissioner has spoken of that insurance as a "game changer"—he likes that term—and, along with the ratings system, considers it crucial that purchasers of apartments in new apartment buildings are provided with that level of security. That is a crucial step forward. The Building Commissioner has worked closely with the insurance industry to develop that program. Decennial insurance will cover any potential cost incurred by an owner in the event of a building collapse or where a building has serious structural defects.

This reform to the Strata Schemes Management Act will provide developers with the option of purchasing decennial insurance. It is a strict liability insurance scheme that protects building owners against serious building defects in an apartment complex. The insurance provides owners with 10 years of cover against serious building defects. As I said, that insurance, along with the Independent Construction Industry Rating Tool, is a crucial part of providing purchasers of apartments in newly constructed buildings with some protection against serious building defects.

The most public example of the devastating financial, mental and emotional effects of building defects is that of the Mascot Towers residents. I have worked closely with them for an extended period. We have provided them with some support in getting an extension of their temporary accommodation support until next year. That is an important stopgap measure. But as they go through the terrible journey that they have been on for 3½ years, they will face new challenges. Certainly, we are seeking to work cooperatively with the new Minister, all parts of government and the private sector to find some solutions because the effects on the Mascot Towers residents have been—"devastating" is not a strong enough word. The fight they have had for years has taken a terrible toll on them. In some ways it is drawing to a close, but we must make sure that we can limit its lifelong effects, particularly the financial effects, in whatever way we can. We want to work with the Government, the private sector, the banking sector—whoever we can—to try to find some kind of solution from the ashes of that awful problem.

I turn to the part of the bill that amends the Explosives Act 2003. The 2019 statutory review of that Act identified the need to increase the maximum penalties under the Act, which have not changed since 2003. The bill amends the Explosives Act to increase the maximum penalties for explosive offences and for not holding a valid licence or security clearance. The 50 per cent increase in maximum penalties is overdue and recognises that until now existing fines were not enough to deter unsafe and illegal explosives practices. I acknowledge and thank the shadow Minister and member for Canterbury in the other place, who raised some concerns expressed to her by the Fire Brigade Employees Union, which I also met with. The Minister is planning to consult the union and review the matters that have been raised in the other place.

The bill updates the Explosives Act to allow inspectors under the Act to exercise the powers that work health and safety inspectors have under section 155 of the Work Health and Safety Act 2011 in conjunction with section 155A, giving them extraterritorial information-gathering powers. The Explosives Act is pertinent to a number of industries, including mining, agriculture, pyrotechnics and transport. Section 155A clarifies that an inspector can exercise outside New South Wales the information-gathering power conferred by section 155. A work health and safety inspector can serve a notice on a person requiring them to give information, produce documents or appear to give evidence even if that person is outside New South Wales or the relevant matter occurs or is located outside New South Wales, so long as the matter relates to the administration of the Work Health and Safety Act.

I understand that The Greens will propose an amendment to the bill, which I welcome. That sensible amendment amends the Home Building Act 1989 to give the secretary more power to protect those who may have fallen victim to dodgy operators who have sought to get another licence. Certainly we support that. A number of people have raised with me in conversation that dodgy builders can shop around and use different licences. We think it is an important amendment that will give the secretary power to address that problem. I commend the bill to the House.

Reverend the Hon. FRED NILE (16:47): I speak in support of the Building and Other Fair Trading Legislation Amendment Bill 2022. I thank the Government and the Minister for bringing the bill before the House. The building industry in New South Wales and Sydney has had quite a bit of drama. Some buildings have been

built too quickly and have then collapsed, causing great loss to investors and others. Any legislation that can tighten the regulation of the building industry is to be accepted and endorsed. I accept and endorse the bill.

Ms ABIGAIL BOYD (16:49): I speak on behalf of The Greens in support of the Building and Other Fair Trading Legislation Amendment Bill 2022, which furthers the important work of the NSW Building Commissioner. I note that this work was championed by former member of this place Senator David Shoebridge, who has been named a few times today in different contexts.

The Hon. Wes Fang: Mine was definitely in a different context.

Ms ABIGAIL BOYD: It was in a different context. The Greens welcome the move towards greater transparency and accountability for dodgy builders. The public deserves to be able to access information about each active stop-work order. The mandatory publishing of this information, as well as providing for publishing of voluntary undertakings at the NSW Building Commissioner's discretion, is a good step towards reinstating public oversight of the building industry. The Greens also welcome the introduction of decennial liability insurance to protect apartment building owners from structural defects affecting the building's integrity for up to 10 years after construction, even when a builder has phoenixed or otherwise dissolved. This reform has long been called for by professional bodies, including the Insurance Council of Australia, Engineers Australia and Consult Australia.

The Greens have significant concerns, however, with the fact that taking out this insurance will be voluntary rather than mandatory. As stated in the Public Accountability Committee further inquiry into the regulation of building standards, it will create a two-tier apartment market where those with sufficient resources can buy higher-quality and higher-cost apartments with adequate insurance protection while those who do not will be limited to less safe, defect-ridden buildings with high ongoing maintenance costs. I raised this with the Minister in the crossbench briefing. I understand that we are effectively testing it at this point and the intention is that, all going well, we will eventually move to this being mandatory rather than voluntary.

There is still further work to do to clean up the building industry. We need to reinstate adequate building standards, end private certification and restore public oversight. That work must be accompanied by setting up a standalone building commission, not just a single overstretched commissioner, to fix the construction industry and give homeowners faith in building standards. With those brief remarks, I again acknowledge that The Greens support the bill. We have one important amendment, which I will speak to in the Committee stage.

The Hon. PETER POULOS (16:51): On behalf of the Hon. Damien Tudehope: In reply: I thank honourable members for their contributions to the debate on the Building and Other Fair Trading Legislation Amendment Bill 2022. I particularly acknowledge the contributions of the Hon. Courtney Houssos, Reverend the Hon. Fred Nile and Ms Abigail Boyd. The amendments in the bill relate to three regulatory areas and will strengthen and refine the building regulator's power to address serious defects, introduce a decennial insurance product for strata buildings and give effect to the 2019 statutory review of the Explosives Act 2003. I also acknowledge the contributions of the NSW Building Commissioner, David Chandler, and NSW Fair Trading for their tireless effort in driving the projects and initiatives that underpin the Government's building-reform agenda.

The New South Wales Government is leading a once-in-a-generation reform of the building and construction industry that is establishing new benchmarks of excellence and restoring confidence in the residential construction industry. New South Wales has been a leader in this country in implementing the recommendations of the national Shergold Weir Building Confidence report. The report rightly called out that the Australian building industry had for too long taken for granted consumer and practitioner confidence in its business-as-usual, cavalier approach to delivering noncompliant buildings. The work of the New South Wales Government in addressing serious defects in residential apartment buildings has been transformative for consumers in New South Wales, giving building owners confidence that the building regulator has the necessary tools it needs to hold those who cause building defects accountable.

This is complemented by a robust regulatory framework for designers and builders of apartment buildings that is lifting capabilities so that defects do not occur in the first place. This framework has strengthened accountability in the design, building and construction sector. Our efforts have paid off, and New South Wales is now the first Australian jurisdiction where decennial insurance is being offered. This product covers a building's critical elements, including structure, waterproofing, fire safety systems, enclosure and building services. It provides a 10-year warranty for these elements. This is significant reform and a big win for building owners throughout the State. It is a clear sign that confidence is returning to the market, and home owners in New South Wales can be confident that buildings will be compliant, safe and resilient going forward.

The completion of this bill supports the Government's ongoing commitment to transformational reform to the New South Wales building and construction industry, which is focused on improving building quality, restoring confidence and creating a new customer-facing industry by 2025. It cannot be downplayed how effective

this Government's reforms have been in the past two years under the stewardship of the State's first Building Commissioner. Public confidence is returning, private insurers are returning to the market, the rates of serious defects in residential apartment buildings are trending downward and there is a robust regulatory framework for the design and construction of residential buildings to ensure that defects do not occur in the first place. The Government's reform agenda has received genuine bipartisan support. The Government looks forward to continuing to work with members to restore confidence in the New South Wales construction sector. 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 amendment, being The Greens amendment on sheet c2022-181A.

Ms ABIGAIL BOYD (16:57): I move The Greens amendment No. 1 on sheet c2022-181A:

No. 1 **Home Building Act 1989**

Page 4, Schedule 1. Insert after line 27—

1.2A Home Building Act 1989 No 147

Section 33A Disqualification from holding authorities

Insert after section 33A(1)—

- (1A) The Secretary may determine that an individual, or a body corporate or partnership with which the individual is associated, is disqualified from holding an authority, other than an owner-builder permit, if satisfied that the individual has previously engaged in conduct that led to a disqualification of another person.
- (1B) The Secretary may disqualify a person from holding an authority under subsection (1A) permanently or for a specified period of time.

Those familiar with the case of Alexandra Forwood would know the issue that this amendment is trying to solve. I raised it during the most recent round of budget estimates. A builder was found to have performed defective, incomplete work that resulted in physical harm to the building owner. The builder was then fined for several breaches and had their company's licence was surrendered. They were deregistered. It was a clear case of defective and incomplete work, yet the builder was able to turn up to Fair Trading and have their individual building licence renewed, despite their company being refused authorisation. That is a clear error in the system.

When The Greens raised this with the Fair Trading commissioner, we were told that there was a legislative issue and that it would be made easier if we were to tighten up that regulatory loophole. That is what the amendment is seeking to do. I particularly thank the Minister's office for working with The Greens to make the amendment the best it can be. I commend the amendment to the Committee.

The Hon. PETER POULOS (16:59): The Government supports The Greens amendment No. 1. The amendment will strengthen powers for the Secretary of the Department of Customer Service to disqualify certain individuals, body corporates or partnerships from holding an authority, such as a building licence, trade licence or contractor licence, under the Home Building Act 1989. The disqualification power will be discretionary and empower the secretary to disqualify those individuals, or a partnership or body corporate associated with those individuals, who have previously engaged in conduct that led to the disqualification of another authority holder under the Home Building Act. That means that the secretary will have the power to make sure that those individuals who have previously carried out poor work and yet have been able to hide behind a company or other licence will be held to account for their poor conduct and can be disqualified from holding a licence. This will help prevent the practice of poor industry players who are individually responsible for carrying out shoddy work from simply applying for their own licence or setting up a new entity with no consequence for their prior conduct.

The proposed amendment by The Greens is entirely consistent with the efforts of this Government and the work of the New South Wales Building Commissioner, including the implementation of the Construct NSW transformation strategy, which is critical in bringing confidence back to the building and construction sector. The Home Building Act is the cornerstone of building and construction legislation in New South Wales. It includes licensing, contract and insurance requirements for residential and specialist work. The importance of the legislation to ensure that competent people carry out compliant building work cannot be underestimated. The Government understands that, and we have our finger on the pulse of the industry regulated by this framework.

That is why currently the Home Building Act is the subject of a full review with a proposed building bill, which would replace the Act, currently the subject of public consultation.

The amendment by The Greens encompasses subject matter that is part of the remit of the review of the Act. Bringing an amendment forward will support the work of the department as the building regulator. It will equip the secretary with additional tools to ensure that the people of New South Wales are protected from those who disregard the regulatory framework and produce substandard, or worse, unsafe building work. The reforms established by the Government in the residential apartment building sector are working. We have made significant changes to the way building work is regulated in New South Wales and are embedding that capability in the Better Regulation Division of Fair Trading.

We are already realising its benefits, and the industry is on board with the direction set by the Minister for Fair Trading and the New South Wales Building Commissioner. The review of the Home Building Act continues this momentum and this transformation of the building industry, with a focus now on single dwellings. We welcome the amendment and genuinely thank The Greens for their interest in building regulation and for their support of the Government's reforms. As always, we look forward to seeing how the changes made by the Government continue to transform the New South Wales building and construction sector into the world-class, trustworthy, customer-centric and accountable industry that we think it should be.

The Hon. COURTNEY HOUSSOS (17:02): I indicate that the Labor Opposition supports the amendment. As I have previously said, it is a sensible way of addressing the shopping around that can happen with licences. That has been raised specifically by Ms Forwood but also others with me and my office. The question of how licences are administered and how different licences are utilised by people who have had other licences cancelled is one that is constantly a source of frustration for those who are trying to do the right thing. Consumers are able to go onto the Fair Trading website and look up their proposed contractor, but the lack of visibility around that is an ongoing issue. The Opposition has raised the issue in budget estimates and made representations on it. We think it needs to be addressed, so we welcome the amendment.

I also welcome the broad review into the Home Building Act. It is really important. I take this opportunity to encourage the Government to adopt the recommendation of the upper House inquiry, and the recommendation by the former Secretary to the Treasury—who also conducted a review for the Government—that we should have a building Act in plain English. That has come up consistently. We want our consumers to be better informed and yet we have an Act that is virtually impossible to read and requires referencing three, four or perhaps even more other Acts. I strongly encourage the Government to conduct a review and full-scale rewrite of the Act. It is a great idea and an important step forward, but it should be a plain English version. If we want our consumers to be informed—and, as the Building Commissioner said many years ago, "buyer beware"—then as legislators we need to give them the tools to do that. If a review of the Home Building Act is going to be undertaken, it is important that that is the fundamental underpinning of it, in addition to addressing some of these issues. With those remarks, I indicate the Opposition will support the amendment.

The CHAIR (The Hon. Wes Fang): Ms Abigail Boyd has moved The Greens amendment No. 1 on sheet c2022-181A. The question is that the amendment be agreed to.

Amendment 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 an amendment.

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: On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

Motion agreed to.

INDUSTRIAL RELATIONS AMENDMENT (DISPUTE ORDERS) BILL 2022**Second Reading Debate**

Debate resumed from 9 August 2022.

The Hon. DANIEL MOOKHEY (17:07): I lead for the Opposition on the Industrial Relations Amendment (Dispute Orders) Bill 2022. The object of the bill is to make amendments to the Industrial Relations Act 1996 to increase the maximum penalties for contraventions of dispute orders and to remove the prohibition on the Supreme Court awarding costs in relation to proceedings for contraventions of dispute orders. The Opposition does not support the bill. The Opposition considers that the only purpose of the bill is to cancel the voices of the many members of our public service who are exposing the dire state that our public services are in after 12 years of conservative Government in this State.

To be clear, the predominant effect of the bill will fall on members of the New South Wales public service. It has an incidental effect on those workers who are affected by chapter 6 of the Industrial Relations Act. The workers in the public service who have been most agitated recently include our teachers, who have been—

Ms Sue Higginson: Heroes.

The Hon. DANIEL MOOKHEY: —heroes throughout the pandemic, asked to work under very difficult conditions, told that they have no meaningful right to ask for a pay rise of more than 2.5 per cent and who, two years ago, had their pay unilaterally slashed by their employer by 0.5. In addition to that, they have been talking about the immense stress their members have been under as a result of policies such as Local Schools, Local Decisions, as well as the teacher shortage they have to experience and the consequential impact that that has on the quality of the education that they can provide our children. Those workers have done so at great risk and with tremendous responsibility.

They have made it clear that, after 12 years of promises about a transformed education system from this Government, the only things that have been transformed—for the negative—are their workloads, and the additional stress that that is putting on them and hence their ability to have any meaningful voice at work. This bill is designed to fine them into silence, to once more apply the coercive power of the State to stop teachers from speaking out about what is wrong with our education system. Labor will not be party to an attempt to silence the voice of our teachers.

Other people who would be affected by this are those whose job it is to look after the State's worst criminals in our prisons. I recall earlier this year that prison guards and other Corrections officers who found themselves subject to deteriorating workplace health and safety conditions took industrial action. They were speaking out about the amount of pressure they were under. This bill would attempt to fine them into silence and submission. It is disappointing. Other people who would be affected by this are our police officers. If, for example, our police officers found themselves in a situation where this Government attempted to once more water down their workers compensation protections, as the Government did 10 years ago—I can see the entire bill and its effect right here.

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! We will have a civil debate in this House. I ask that the member be heard in silence. The Hon. Daniel Mookhey has the call.

The Hon. DANIEL MOOKHEY: Thank you, Mr Deputy President. If our police officers found themselves once more in that situation, this Government would be applying the coercive authority of the State against the State's police officers. Last year, and the year before, for that matter, I recall joining with security guards at public hospitals who had stopped work in defiance of an industrial order, because they were continuously spat upon, some of them were stabbed with needles and other things you find in hospitals, and they were asked to fill and maintain security with half rosters or third rosters. When they stopped work to draw attention to the Government's failure to provide adequate personal protective equipment as well, the Government resorted to using these laws. If this bill were to pass, the penalties that those workers and their union would be compelled to pay would be tremendously more.

Equally, for years our paramedics—as they have campaigned to professionalise their job, to uplift their standards and to offer a better service—have taken industrial action, and this Government has retaliated by seeking these types of orders. Once more, paramedics would be subject to these laws. Then of course there are our nurses, who all throughout this year and last have also been drawing attention to the fact that they have all been sweated to such an extent because they have had to respond to a once-in-a-century pandemic, and, having provided such marvellous service to the people of New South Wales, they then—

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! The member will be heard in silence while he is making his contribution. Interjections across the Chamber are not helping the matter. The member has the call.

The Hon. DANIEL MOOKHEY: They then drew attention to the immense pressure they were under and took industrial action, as is their right. This Government would silence our nurses and try to cancel their voice, months before an election, as they continue to draw attention to the paucity of investment and the failed delivery from the conservatives, who have been in power now for 12 years. That is the context in which this Government brings the bill. I am the first to accept that all governments, of both political persuasions, have a responsibility to act in the public's interests. That often involves difficult industrial conversations with workers and unions. Labor governments are not immune to having such conversations. But there is a real distinction in approach.

For the past 12 years this Government's response to this dilemma has been to litigate first and listen second, always resorting to its lawyers, never having the respect to sit down and work through the issues presented by the public service, which is disappointing. It is disappointing that, rather than the Government offering the people of New South Wales a fresh approach to these questions, it is doubling down on its strategy of applying the coercive power of the State to silence the voice of workers in New South Wales. It is disappointing.

We cannot forget the other part of this context as well, which is that for 12 years this Government is the only government that has legislatively barred an independent industrial tribunal from assisting in wage negotiations. In fact, this Government is the only government to have introduced in law a crude wage cap, which especially since 2018 has resulted in faltering levels of real wage growth in our public service. That, in turn, has created downward pressure on the private services, which is to be expected because the Government is New South Wales' and Australia's biggest employer.

A government that will not talk and has barred a commission from helping is now turning to fines to get its way. It is a lazy approach—an approach favoured by that side of politics for 130-odd years. It does not work. There is a better approach. That is to bargain and talk in good faith, to cooperate, and give and take. That is how you deliver better public services. It is not by using crude instruments like this. It is disappointing that a government that has imposed this wage cap for 12 years is going to the next election while promising to apply it for another four. This time, though, it is occurring amid the biggest outbreak of inflation in decades.

I know that there are members opposite who are relishing the opportunity to once more give me a lecture in high school economics on these matters. I know that they would be thrilled to take to the floor and explain that this is a sacrifice that working people should make for the public good. But this is occurring at a time when the wage share that is available to labour in our economy in our State is at a historic low. It has never been lower. That is creating a myriad of economic problems for our State. We have to run big public interventions to prop up demand because purchasing power is falling down. Businesses have no certainty to invest because they are not confident their consumers will have money to buy products. There is no need to take my word for it: That is coming from those radical Marxists at the Reserve Bank of Australia. That has been their view. It is telling that the Reserve Bank of Australia was the one telling Mr Perrottet to reform his wages policy. The RBA—

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! I note that I have already warned the Opposition Whip about interjecting in a previous debate. I will not call him to order this time but he is on a final warning.

The Hon. Anthony D'Adam: What about the Leader of the Government?

The DEPUTY PRESIDENT (The Hon. Wes Fang): I have not finished. I call the Hon. Anthony D'Adam to order for the first time. He interjected while I was speaking. There have been interjections from both sides and they are all disorderly. The member will be heard in silence. I know that this is Thursday afternoon and that the President's preference is that we have a robust and engaged House. However, the member is speaking in a low volume. Interjections across the Chamber are very easily heard and distracting. I ask that members—

The Hon. Scott Barrett: Speak louder.

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! I call the Hon. Scott Barrett to order for the first time. He was interjecting. The Hon. Daniel Mookhey has the call.

The Hon. DANIEL MOOKHEY: Those radicals at the Reserve Bank of Australia have made it clear that the way to return sustainable economic growth to this country is to ensure that people's purchasing power goes up and employers need to act in a manner that is consistent with that principle. I will be very clear: This is not something that any government can achieve overnight. But the Government's problem, which it refuses to recognise, is also that its crude wage cap has held back purchasing power in New South Wales for many of our public servants. A paramedic in Queensland now earns up to about \$100,000, whereas the same paramedic on this side of the border earns about \$85,000. There is a reason why all those public servants are leaving the New South Wales public service and heading for other States.

Members do not have to accept left-wing economics on this; they can accept free market principles on this. Other States pay more. This is a big challenge for us. I will be up-front that, should Labor win government, this will be a big challenge for a Labor government. But we do have an approach that is much better than fining people into silence. That is to restore an interest-based bargaining system that allows us to work, in the interests of cooperation, for the reform of public services. We will take that approach if elected. We understand that it is difficult, but we are not going to resort to applying the power of the State to hold people who want to get ahead back from even the opportunity to ask for change.

It is telling that the change people are asking for is not in their self-interest. Teachers are asking for resourcing so they can teach better. Paramedics are asking for professional recognition so they can offer more services. Firefighters are coming forward with plans around reforming their working arrangements so they can be in a position to provide faster responses to fires. Nurses are offering, and want, a system that leads to less money spent on overtime and more time spent caring for patients. Those opposite can agree or disagree with any one of those propositions. They can say, "How dare our paramedics put the public interest first at the expense of their own personal conditions?" They are welcome to disagree, but they should not be fining them into silence. They should not be introducing laws like this, the whole purpose of which is to apply the same sort of deterrent principles that we apply towards criminals towards people who have the temerity to say that they think they can do their jobs better.

We have come to expect this approach from the Government. It is a government that has stopped listening. I will say that there has been a marked change in how the Government has acted in industrial relations after the transition from Premier Berejiklian to Premier Perrottet. I have my differences with Premier Berejiklian. *Hansard* reflects that. But Premier Berejiklian is probably worthy of a Nobel Peace Prize for her approach to industrial relations compared with the current Premier. Premier Berejiklian was no pushover, not by any means. But she absolutely had the sense to know that trying to fine police officers, nurses and teachers into silence probably might have some unintended consequences.

This is the problem with the Premier. His approach to every issue of politics is, "I know best. Everybody else should stand out of my way. If they don't, I'll fine them." That is what this Government is doing. I know that this is exciting for the hard right of the Liberal Party. I know that this is a part of their project to move our politics to the right. This comes from the same playbook that the Premier has openly invoked, which takes a United States' Republican Party style approach. I remember that the Premier was very happy when President Trump was elected, but this is the same type of nonsense that we expect from the right wing of the Republican Party, not from the Government of New South Wales. If Mike Baird could run a wage system without these powers, if Barry O'Farrell could do it, if Gladys Berejiklian could do it, then there is no reason why Premier Perrottet cannot, except for the fact that he is just not up to it.

At a time when we are facing a radical change in the circumstances of working people across the world, a change of approach to industrial relations is required. It is good that we now have a Federal Government that has recognised that. It is good that we have a Federal Government that recognises that the rise of precarious work and the embedding of casuals in our labour markets result in businesses not having the confidence to invest. I am glad that we now have a Federal Government that is working in partnership with the Reserve Bank, but we should not allow ourselves to eschew our responsibilities to assist as well. Equally, our industrial relations system in New South Wales needs modernisation. Labor is the first to accept that. But rather than legislation to fine nurses, we should be debating how to expand chapter 6 of the Industrial Relations Act to cover gig workers.

We should be considering how to make sure that chapter 6 as it applies right now to the transport, freight and textile industries is modernised so that it is fit for purpose and so that independent contractors have the freedom and flexibility of investing in their businesses. We should be investing in that type of change. Should this law pass and owner-drivers find themselves in a situation where their goodwill is threatened, their small businesses are on the line and the billions of dollars that they have invested are wiped out and should they have the temerity to protest—like the taxi drivers did today—they would be fined. They are subject to being fined under these laws through the contract determination system. That has not been mentioned at all.

The Hon. Damien Tudehope: Yes, they are.

The Hon. DANIEL MOOKHEY: I acknowledge the interjection from the Leader of the Government. He accepts that he could apply these proposed laws to taxi drivers or others who take industrial action as well. It is disappointing.

The Hon. Damien Tudehope: Industrial organisations or employers. Read the bill.

The Hon. DANIEL MOOKHEY: Again, it does not seem as if the Government is disputing my point. In fact, the Leader of the Government is certainly giving the impression right now that he intends to go further.

I would have much preferred a proper conversation about fixing the Industrial Relations Act so it does its job, which is to ensure that people have purchasing power, that the public has terrific services and that we work in cooperation with our workforce instead of simply resorting to conflict time and time again. The House should reject the bill and put it in the bin where it belongs.

The Hon. CHRIS RATH (17:27): The Industrial Relations Amendment (Dispute Orders) Bill 2022 will not change the goalposts when it comes to legitimate industrial action in this State, but we have to acknowledge—this is important—that workers, government and service providers should not be held to ransom by trade union bosses who undertake illegal industrial action, blatantly flout the laws of this State and then bake into the cost of doing business the fines as part of the industrial chaos that they inflict on this State. That is what we are talking about.

It is not about legitimate strikes or legitimate industrial action; it is about illegal industrial action and the trade unions not taking fines seriously because they are far too low and baking them into the cost of doing business. I do not know what bill the Hon. Daniel Mookhey was talking about, but this is a question of who governs. Is it the democratically elected government of the day that provides essential services to the public that governs or is it the faceless trade union bosses, who constantly break the law because the penalties are not a deterrent to the industrial chaos inflicted on this State? That is what the bill is about.

Before I go to the substance of my contribution, I address a couple of things raised by the shadow Treasurer. He constantly mentioned the Federal Government, and it is important to remember that the Federal Government's wages policy is exactly the same as the New South Wales Government's wages policy: three per cent. The important question is this: What is the Opposition's wages policy? Members opposite want to remove the cap, even though they voted against that in this place. They then backflipped and said, "Oh, we have to get rid of the cap."

We do not know what their policy is. Is it the same as the Albanese Government's policy of 3 per cent, which is the Government's policy here in New South Wales? Is that their policy? There was a lot of self-congratulatory messaging from the shadow Treasurer towards the Albanese Government, but it is very similar to our policy on this side of the House rather than that of members opposite. What is their policy—5 per cent, 6 per cent, 7 per cent, 10 per cent? If inflation goes up to 10 per cent, should wages increase by 10 per cent? If inflation hits 20 per cent, should wages increase by 20 per cent? Maybe their policy is a never-ending spiral of increases in wages and inflation. Maybe it is going back to the bad old days of the 1970s—the pre-accord, pre-Hawke era.

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! The member will be heard in silence. Other members will have the opportunity to make a contribution, but if they make it now Hansard cannot report it. The Hon. Chris Rath has the call.

The Hon. CHRIS RATH: I go to the substance of the bill. Under the Industrial Relations Act 1996, the Industrial Relations Commission is tasked with the resolution of industrial disputes in a prompt and fair manner. I emphasise the terms "prompt and fair" as they correctly set the priorities for the resolution of industrial disputes. It is in nobody's interest to face prolonged, statewide industrial actions that disrupt everyday workers, small businesses and families—nobody's interest, that is, except the trade union bosses and the Labor Party.

The role of the Industrial Relations Commission is largely to ensure that industrial disputes are conducted in good faith. In arbitrating a dispute, the commission may make a recommendation or give a direction to the parties to the industrial dispute that it believes to be in the interest of fairness. It may also make or vary an award and in some cases make a dispute order. Those dispute orders can take a number of different forms and apply to both employers and employees in different circumstances. Specifically, the Industrial Relations Commission may order a person to cease or refrain from taking industrial action.

The bill seeks to address the issue of dispute orders and, crucially, their contravention. While the number of contraventions of dispute orders has been relatively small, they have had a widespread impact on large numbers of people in our community. I underscore that the Industrial Relations Commission will make a dispute order in only a small selection of arbitrations. It will do so—and I stress this point further—only in the interest of fairness. That often occurs where the Government has agreed to find an amicable compromise that encompasses a union's demands and the safety risks associated with industrial action are high.

The priorities of Labor and the unions do not lie in what is best for everyday families, workers and small businesses. As has become abundantly clear in the past year, their priorities are solely political. Unions in this State have one objective in the year of the strike—to see a Minns government elected come March. It is totally unsurprising that Labor would oppose the bill, which seeks to strengthen the Industrial Relations Commission's dispute orders. Those orders are made in the interest of fairness, not of getting Chris Minns elected. Until the

Industrial Relations Chief Commissioner sits on the Labor Party's committees and forums with union bosses like Alex Claassens, Mark Morey and Bob Nanva, Labor will not be satisfied. Labor members are not interested in resolutions of industrial disputes that are prompt and fair; they are only interested in resolutions that assist the election of Chris Minns to the premiership in March.

It is apparent that the penalties currently available are a weak deterrent to unions that disregard the commission's orders. The punishment for disobeying an order to refrain from industrial action is nearly insignificant, despite the Government actively coming to the table to negotiate the other party's demands. That is to say that very little disincentive exists to dissuade unions from using strikes for political ends. Currently, under the Industrial Relations Act 1996, the maximum penalty that may be imposed on an industrial organisation or employer is a negligible \$10,000 for the first day on which the contravention occurs and \$5,000 for each subsequent day on which the contravention continues. If a penalty has previously been imposed on the industrial organisation or employer for contravention of an earlier dispute order, there is a penalty not exceeding \$20,000 for the first day on which the contravention occurs and an additional \$10,000 for each subsequent day on which the contravention continues.

The trade unions have very deep pockets, and that is simply not good enough. A fine in the thousands of dollars does not account for the millions of dollars of productivity disruption that often occurs as a result of industrial action. Recent cases involving the Public Service Association, the Teachers Federation and the NSW Nurses and Midwives' Association demonstrate that the current penalties have done little to deter offending unions from further contraventions. Simply put, the severity of current penalties does not reflect the level of disruption caused by the contravening industrial action. I say to those opposite: Whose side are you on? Are you on the side of the commuters, or are you on the side of the trade union bosses? Government members know where we sit: We are on the side of the commuters.

I will give an example of the significant impact of unions contravening dispute orders made by the commission. On 14 February and 25 March this year, the commission made dispute orders that amongst other things ordered the NSW Nurses and Midwives' Association to cease organising and taking industrial action. Notwithstanding that, on 15 February and 31 March, the union defied the orders of the commission and its members took industrial action by stopping work. Last month the Supreme Court decided that the union had contravened the dispute orders, and it imposed a trivial penalty of \$25,000. In its judgement, the Supreme Court held that the union had "made a conscious decision to flagrantly defy the orders of the commission". It held:

The disruption caused to the public health system was substantial and some patients and employees were put at risk.

It further held:

... some employees who worked on the day of the strike may have been placed at in a health and safety risk given the significant amount of time worked and the demands associated with a shortage of staff.

In particular, the Supreme Court's judgement noted that the nurse manager in the emergency department in the John Hunter Hospital had managed that department from 7.00 a.m. to 1.30 p.m. and then again from 9.15 p.m. to 7.15 a.m. the next day, totalling 16 hours of work. Does Labor really care about the worker? Would anyone from the NSW Nurses and Midwives' Association like to apologise to that nurse manager? Make no mistake, the Government indeed cited safety concerns in seeking the order and, as expected, safety issues arose. In its judgement on this strike, the view of the Supreme Court was as follows:

... there should be an element of specific deterrence in the penalty imposed to deter the defendant from resolving industrial disputes by a preparedness to undertake industrial action contrary to dispute orders of the Commission.

It is clear that, at present, the small penalty that the Supreme Court can impose for contravention is just the cost of doing business for trade unions. The penalties available to the court are not commensurate with the impact of breaches of dispute orders, nor are they a deterrent. In the eyes of these unions, current penalties are a small price to pay in order to see their mates in NSW Labor elected to government. Once again, in opposing the bill, Labor shows its true colours. It is a party run by the trade union bosses, for the trade union bosses. That is why it is imperative to increase the amount of the penalties to provide a greater incentive for all parties to adhere to dispute orders.

Dispute orders are about safe and civil dispute resolution. By increasing the penalties able to be imposed, the bill will create certainty and engender a greater sense of responsibility to all parties to a dispute. It aims to send a clear message about the seriousness with which the Government views the contravention of orders made by an industrial court. The effect of the bill will be to create an environment where parties are encouraged to abide by dispute orders, not to violate them wheresoever it is in the interests of NSW Labor.

I remind members that where unions act in the interests of fairness and a genuine concern for the workers whom they claim to represent, the passing of this amendment will have absolutely no effect. However, in this

State, it is unsurprising that the unions vehemently oppose the bill. After all, these strikes are not seeking welfare outcomes. They are seeking a political outcome: a Minns government come March 2023. It is interesting that we have had interjections from The Greens, despite them not receiving any donations from the trade union movement or any support from the trade union movement.

Ms Abigail Boyd: That's right. It represents our principles.

The Hon. CHRIS RATH: I do not know why you bother defending the trade unions and their particularly illegal conduct when you receive absolutely no benefit.

Ms Abigail Boyd: We support the workers.

The Hon. CHRIS RATH: At least it is in the Opposition's self-interest to back the trade union movement; it is some sort of ideological crusade with you. We have got to respect that a little bit, I suppose. We have got to respect your ideology over self-interest. However, in this State, as I said, it is unsurprising that the unions vehemently oppose the bill. That is why members opposite are opposing the bill in the year of the strike. Union bosses are ordering strikes not for workers but for the benefit of their closest friends and supporters: the Labor Party. In fact, they are ordering strikes for the benefit of their own careers. The secretary of Unions NSW, Mark Morey, sits on the ALP National Policy Forum. The former national secretary of the Rail, Tram and Bus Union, Bob Nanva, is general secretary of the New South Wales branch. Of course, the man behind the rail chaos, Alex Claassens, did sit on the administrative committee of NSW Labor until the weekend, when he decided to stand aside after intense pressure from the very reasonable, level-headed people who took him on. It is David and Goliath.

The Hon. Mark Buttigieg: Rath the Giant Slayer.

The Hon. CHRIS RATH: The little backbencher over there is up against the entire trade union movement, and Alex Claassens has been removed from the administrative committee of Labor. Congratulations to all involved in making that happen. This bill is for the worker trying to catch a train to get to work on time. It is for the small business owner near the train line who needs a consistent flow of commuters to survive. It is for the parents taking their sick child to the emergency ward of John Hunter Hospital. It will ensure that our industrial relations system can provide a framework for conduct that is fair and just, and that we can promote efficiency and productivity in the economy of our State. I commend the bill to the House.

Ms SUE HIGGINSON (17:44): On behalf of The Greens, I contribute to debate on the Industrial Relations Amendment (Dispute Orders) Bill 2022. The public sector in New South Wales has carried us through some of the hardest few years of our times. As we all know, nurses have been our lifeline through the COVID-19 pandemic. Our transport workers risked their personal safety by showing up to work to keep our towns and cities moving while the entire world ground to a halt. Our teachers found ways to keep kids engaged as they rapidly transformed their classes online to ensure that everyone in New South Wales had access to the fundamental right of education.

These trying conditions follow years of this Government stripping the public sector of safe working conditions and fair wages. Before the pandemic, before the successive climate disasters and before the huge spike in the cost of living, this Government was set on punishing the public sector by denying it the right to fair wage negotiations. It feels a bit like we are in some Charles Dickens story. On the other side of this Chamber, it is like Dickensian England. It is like there is Scrooge or Oliver Twist or characters from one of those little stories. The Leader of the Government in this House almost looks like he is from a Dickens' story. He certainly sounds like it.

[Government members interjected.]

The Hon. Chris Rath: Point of order: I think that particular remark against the Leader of the Government is offensive. I suggest that it be withdrawn.

Ms SUE HIGGINSON: I withdraw the comment. I should have said "sounds like". That was where I was heading. He sounds like he is from a Dickens' story.

The DEPUTY PRESIDENT (The Hon. Wes Fang): Contributions are best confined to the substance of the debate and should not stray to personal remarks about other members. That is for members themselves to decide. I accept that the member has withdrawn the remark, but I give that guidance to the House in order to have a level of orderly debate. Ms Sue Higginson has the call.

Ms SUE HIGGINSON: This bill reeks of a Dickens' novel. There are Scrooge and Oliver. There are punitive measures, silencing and nastiness. The suggestion is, "It's okay for us to have safe conditions, and it's okay for us to have enough money, but you can't." Now our public sector workers are, in fact, at breaking point. That is why they are out in the streets and that is why they are shouting. Under the hand of this Government, our

schools and hospitals are in crisis. It is not contested. There are people in our community who are afraid to go to hospital because of what they know about the conditions our nurses are forced to work under. One of my daughters is a nurse working under those conditions.

We have public schools with entire cohorts taught in demountables, and classes standing at the door, waiting for a teacher who may never come. That is what this Government has on its record. Our public sector is in crisis. Instead of paying attention to the calls for change and resourcing our public sector in order for workers to make a fair wage and work under safe conditions, under Dominic Perrottet—aka in Dickensian Britain—the Government is set on silencing them. The Government's agenda is to penalise and disempower unions and destroy the fundamental right to protest. We have seen that. The Government has spent all year introducing absurd, draconian, harsh anti-protest laws. New South Wales is kind of leading the world on that front at the moment.

The Government's agenda is one of penalising and disempowering unions and destroying the fundamental right to protest, instead of empowering and supporting the workers that are absolutely crucial to the fundamental functioning of our communities. This undemocratic bill is an attack on unions and workers. The most powerful thing workers can do to drive change is to walk off the job. They do it rarely. It is called the year of the strike because this is the time. The most powerful mechanism our workers have is to walk off the job, and they are doing it. The Government is seeking to penalise them, punish them and silence them. The right to walk off the job needs to be respected. There needs to be an opportunity for fair bargaining. The bill seeks to silence workers, to shut down the fundamental democratic right of workers to strike. Naturally, we cannot support the bill. The Greens will always support the right to strike along with the right to protest, and we stand with the public sector workers in their struggle for better work and better pay.

The Hon. ANTHONY D'ADAM (17:50): I make a contribution to debate on the Industrial Relations Amendment (Dispute Orders) Bill 2022. Thus far the contributions from Government members indicate a real lack of empathy and understanding of what it is like to be a worker in a workplace who feels vulnerable and powerless because they have to continue to work in unacceptable working conditions. That is the view that is absent from the contributions that have been made by Government members. They do not understand workers. They hate working people. They just want to put them in their place and not listen to their complaints and grievances. All they want to do is punish them for raising their voice. This Government hates working people. The bill is about punishing working people for complaining about the grievances that they have to endure because of this Government's ineptitude.

The bill fails to take into account the fact that the current industrial relations system is a bastardisation of a system that worked incredibly well. One fundamental of our industrial relations system is conciliation and compulsory arbitration. That was a novel system that was invented in Australia. The core of that system recognised that we did have industrial disputes and they often gave rise to strike action. The way we were going to resolve those disputes was through the system that was developed in this country—that is, a system that has an arbitrator who has the power to resolve disputes. Chris Rath referred to the language in the legislation which talks about resolving disputes in a prompt and fair way.

But when the Government legislated its wages policy, when it instituted a policy that tied the hands of the arbitrator, it meant that the arbitrator could not deliver prompt and fair outcomes. It nullified the pact that underpinned our system of compulsory conciliation and arbitration. Workers surrendered the right to strike in that system on the basis that they would get a fair hearing and a fair outcome from the arbitrator, but that capacity was taken away by this Government's wages policy. It is a travesty that this Government is now trying to institute a bill that will impose more extreme penalties on workers when they exercise their powers to achieve a decent outcome from the industrial system.

The Hon. Damien Tudehope: You don't understand.

The Hon. ANTHONY D'ADAM: No, you don't understand.

The Hon. Damien Tudehope: I do.

The Hon. ANTHONY D'ADAM: You don't understand that system. You've never worked as a practitioner in the system.

The Hon. Daniel Mookhey: Point of order: I encourage the Leader of the Government to not contravene your ruling on interjections, lest he find himself subject to your orders.

The Hon. Shayne Mallard: To the point of order: The Hon. Anthony D'Adam should direct his comments through the Chair. He should not be pointing his finger at the Leader of the Government.

The DEPUTY PRESIDENT (The Hon. Wes Fang): My earlier remarks indicated that the President supports a strong and robust Chamber. The Hon. Damien Tudehope and the Hon. Anthony D'Adam were simply

exercising that robustness and I do not believe there was any need for me to interject. The Hon. Anthony D'Adam has the call.

The Hon. ANTHONY D'ADAM: It is clear from the contributions of Government members that they do not understand why workers take industrial action. They do not understand how difficult it is to persuade workers to take industrial action. Most workers do not want to take strike action. It is just nonsense to suggest that the thousands of teachers and nurses who have taken industrial action and protested on the streets are automatons who are manipulated by union bosses. That is how the Government likes to characterise the leadership of the trade union movement. Workers are reluctant to take industrial action and they do so only because they feel a situation is so extreme that they have no other option. Mr Deputy President, I draw your attention to the fact that the Leader of the Government is interjecting persistently. He has not been called to order. He continues to flout your ruling about orderly conduct in the House.

The DEPUTY PRESIDENT (The Hon. Wes Fang): I was observing the interactions throughout the Hon. Anthony D'Adam's contribution, who was pointing at and directing his comments to the Leader of the Government. If the Hon. Anthony D'Adam does not wish the Hon. Damien Tudehope to interrupt his contribution, he should direct his comments through the Chair.

The Hon. ANTHONY D'ADAM: In his interjections the Leader of the Government was criticising my colleague regarding his assertions of the impact of this legislation. I draw the attention of the House to section 138 (1) (b) of the Act. It is very clear that a dispute order can be made not just against an employee or an officer of an industrial organisation, but a member. The Government is misleading the House if it is suggesting that those penalties are not able to be used against ordinary workers whose legitimate right it is to exercise industrial action. The bill is an extreme piece of legislation that is directed at suppressing workers' basic rights. It is trying to dissuade people from protesting. Rather than trying to deal with the symptoms of worker discontent, the Government should try to address the core of the problem.

The Hon. SHAYNE MALLARD (17:58): I am pleased to speak in support of the Industrial Relations Amendment (Dispute Orders) Bill 2022. I do so because I respect the rule of law. Earlier we passed legislation about confiscating the proceeds of crime.

Ms Abigail Boyd: Shameful.

The Hon. SHAYNE MALLARD: I note The Greens did not support that bill. It is about the consequences of breaking the law. This bill seeks to strengthen the independent umpire's powers with regard to enforcing the law. Under the Industrial Relations Act 1996, the Industrial Relations Commission is tasked with resolving industrial disputes in a prompt and fair manner. In arbitrating a dispute, the commission may make a recommendation or give a direction to the parties to the industrial dispute. It may also make or vary an award and, in some cases, make a dispute order. That is what this legislation is about.

Those dispute orders can take a number of different forms and apply to both employers and employees in different circumstances. Specifically, the Industrial Relations Commission may order a person to cease, or refrain from, taking industrial action. The bill seeks to address the issue of dispute orders and, crucially, their open and deliberate contravention by unions, which has had a widespread impact on large numbers of people in our community. It is apparent that the penalties currently available have proven to be too weak a deterrent to parties that disregard the commission's orders. As pointed out by my well-regarded colleague the Hon. Chris Rath, the unions view those orders as a cost of doing business. Indeed, unions are multimillion-dollar businesses.

Currently under the Industrial Relations Act 1996, the maximum penalty that may be imposed on an industrial organisation or employer is \$10,000 for the first day on which the contravention occurs and an additional \$5,000 for each subsequent day on which it continues. That is a small cost to the union movement. If a penalty has previously been imposed on the industrial organisation or employer—employers are covered as well—for a contravention of an earlier dispute order, a penalty may be imposed not exceeding in total \$20,000 for the first day on which the contravention occurs and an additional \$10,000 for each subsequent day on which it continues. It could be \$30,000, \$40,000 or \$50,000 after the second time that the industrial organisation or employer has disregarded the dispute resolution orders of the independent arbitrator.

Recent cases involving the Public Service Association, the NSW Teachers Federation and the NSW Nurses and Midwives' Association have demonstrated that the penalties that have been imposed have done little or nothing to deter those unions from further contraventions. Most importantly, they show that the level of penalty does not reflect the level of disruption that industrial action has caused to the community and to the State's economy. I give an example of the significant impact of the contravention by unions of dispute orders made by the commission. On 14 February and 25 March 2022—only earlier this year—the independent commission made dispute orders

that, amongst other things, ordered the NSW Nurses and Midwives' Association to cease organising and taking industrial action. It made that order based on safety concerns and public wellbeing.

Notwithstanding this, on 15 February, which was the very next day after the order was made, and on 31 March the union defied the orders of the commission, just flouted them, and its members took industrial action by stopping work. Of course, not everyone stopped work. Our hospital system did not grind to a halt. Essential medical support was still there. Last month the Supreme Court—another independent body—decided that the union had contravened the dispute orders and imposed a penalty of \$25,000. In its judgment, the Supreme Court held:

[The union] made a conscious decision to flagrantly defy the orders of the Commission. ... The disruption caused to the public health system was substantial and some patients and employees were put at risk.

That is in the Supreme Court's judgement. It is not the Government's judgement or a judgement made by a government body. It is the finding of the Supreme Court. It further stated:

... some employees who worked on the day of the strike may have been placed at in [sic] a health and safety risk—

these are the unions who care about health and safety and the Labor Party that claims to care about health and safety—

given the significant amount of time worked and the demands associated with a shortage of staff.

That is what the Industrial Relations Commission took into account when it ruled against the strike. In particular, the Supreme Court's judgement noted that the nurse manager in the emergency department at John Hunter Hospital had managed that department from 7.00 a.m. to 1.30 p.m. and then again from 9.15 p.m. to 7.15 a.m. the next day—that second shift was 10 hours—totalling 16 hours. In its judgment, the Supreme Court also stated:

there should be an element of specific deterrence in the penalty imposed to deter the defendant—

being the unions—

from resolving industrial disputes by a preparedness to undertake industrial action contrary to dispute orders of the Commission—

contrary to the independent Industrial Relations Commission's dispute orders. It is clear that, at present, the small penalty that I outlined earlier—\$10,000 and \$5,000 for subsequent days in the first instance—and the small penalty that the Supreme Court can impose for the contravention, which I think was \$25,000, is just the cost of doing business for the unions. The Nurses and Midwives' Association reported revenues of—hang onto your seat—\$48 million in the 2020-21 financial year.

Ms Abigail Boyd: It's not a business.

The Hon. SHAYNE MALLARD: Of course, it's a business. A \$25,000 fine is a drop in the ocean for a \$48 million business. If the union really wanted to support workers with the rising cost of living, it could use those funds to give \$1,000 back to every nurse in the State. But instead, it uses those substantial resources to organise political attacks and illegal strikes. The penalties available to the court are not commensurate with the impact of breaches of dispute orders, nor are they a deterrent. That is why it is imperative to increase the amount of the penalties to provide a greater incentive for all parties to adhere to dispute orders and resolve the issue in the proper way.

The bill aims to send a clear message about the seriousness with which this Government views contraventions of orders made by the industrial court—the umpire. The effect of the bill will be to create an environment where parties are encouraged to abide by dispute orders and the community is better protected from the unions and the Labor-coordinated "year of the strike". I remind The Greens members that Labor gave it that name, not us. The bill is being introduced to stamp out and discourage bad behaviour by industrial parties on both sides. In recent times, orders of the New South Wales Industrial Relations Commission to stop or not engage in industrial action have been wilfully and deliberately disobeyed time and again by various unions, including the Teachers Federation, the Public Service Association and, as I said, the NSW Nurses and Midwives' Association. That kind of behaviour, which displays a flagrant disregard for the orders of the industrial court, should not be tolerated.

The bill increases the maximum fines available for contravention of dispute orders made by the New South Wales Industrial Relations Commission. The size of the proposed penalties in the bill are commensurate with those in other Australian industrial relations jurisdictions. Let's hear about those. The Queensland Industrial Relations Act 2016 provides for a maximum fine of \$137,850 for breaches of similar orders—nearly \$140,000! Our penalties are \$10,000 and \$5,000. Under the Commonwealth Fair Work Act 2009, which covers all private sector workplaces in New South Wales, the maximum penalty for such a contravention is \$66,600. It is clear that the current paltry rate of penalties in New South Wales is not having the intended deterrent effect.

The principal beneficiaries of the bill will be the people of New South Wales, who will be better protected from illegal and prohibited industrial action. The increased penalties proposed in the bill are intended to discourage parties from flouting the direct orders of the commission and thereby ensure that orders of the commission—the impartial umpire of the industrial relations system—are accorded the respect they deserve. Some misleading campaigning on this bill has been undertaken by some in this Chamber, by the unions and by other political parties, seeking to incorrectly suggest that the bill impacts an individual's right to strike or imposes penalties on individual workers. The bill does not make any changes to the capacity of parties to take industrial action in the first place. The bill does not change the right to strike. It simply gives strength to the umpire's rulings that a strike is not appropriate. It may be not appropriate at the particular time, but it may be appropriate at the next stage.

Ms Abigail Boyd: It punishes the workers.

The Hon. SHAYNE MALLARD: We could adopt the Queensland law and have a \$137,000 fine. I note Queensland has a Labor Government. The bill does not make any changes to the capacity of parties to take industrial action. The bill does not impose penalties on individuals who participate in industrial action. The relevant provisions of the bill and the penalties they impose can only be applied against unions and employers. So no public sector worker in New South Wales—contrary to what we heard from the Hon. Anthony D'Adam—will be negatively impacted by these provisions. It will just mean less money in the bank for unions that organise illegal strikes. If the Hon. Anthony D'Adam is adamant that is not the case—if that is his only problem with the bill—and he is happy to support unions being told to obey the law, I suggest that he propose an amendment. Perhaps there should be fewer long lunches at Sussex Street for Labor Party officials and the faceless union bosses, but no cost to the workers. Again I note the Nurses and Midwives' Association reported \$48 million in revenue in one year.

In fact, the only party to this debate that is trying to impose a cost on workers is Unions NSW, which is shamefully attempting to coerce workers into contributing to what it euphemistically calls a "legal defence fund" to combat the Government's efforts for sensible industrial relations reform. It is outrageous that the New South Wales union movement, armed with enormous resources taken from the pay packets of workers and skimmed from the superannuation system, would pressure workers in this State to put their hard-earned wages towards Labor's 2023 election campaign slush fund. The record of misuse and waste of union dues is well documented, but time and again union officials and the Labor Party exploit the workers of this State to support their personal ambitions. At the ALP conference over the weekend, Mark Morey and Alex Claassens made it clear that they were intent on continuing their campaign of strikes, illegal or not, as long as it helped Chris Minns campaign for office. They received a standing ovation from probably all members opposite.

The Hon. Adam Searle: Not The Greens.

Ms Sue Higginson: We weren't there.

The Hon. SHAYNE MALLARD: They stood and applauded, proving again that union officials and Labor candidates will always put their personal ambitions ahead of the ordinary workers, families and students of this State. The Hon. Adam Searle pointed to The Greens. I think that my colleague the Hon. Chris Rath was incorrect; The Greens take donations from the Construction, Forestry, Maritime, Mining and Energy Union, from memory. I have looked it up in the past.

Ms Abigail Boyd: No.

The Hon. SHAYNE MALLARD: In the past you have.

The DEPUTY PRESIDENT (The Hon. Wes Fang): The member will direct his comments through the Chair.

The Hon. SHAYNE MALLARD: I leave my contribution at that point. I strongly commend the bill to the House.

Ms ABIGAIL BOYD (18:11): I correct the record in relation to the comment made about The Greens accepting forms of non-individual donations. Greens NSW does not and has not, for as long as I have been a member of the party. If it was the case that The Greens took something from a union at one point, it was a long time ago. It certainly does not guide our policies when it comes to staunchly defending the rights of workers in this State. We do that on the basis of policy and what we think is right. We will always stand up for collective action. The Industrial Relations Amendment (Dispute Orders) Bill 2022 is a terrible bill. Its sole intent is to make already bad legislation worse. The bill seeks to increase the penalties that may be imposed by courts if dispute orders granted by the Industrial Relations Commission are breached. The third paragraph of the statement of public interest tabled alongside this legislation says all one needs to know to form an opinion on this legislation. It reads:

The New South Wales Government is the largest employer of employees in the State system. There has been no stakeholder engagement outside of government on this bill.

The Government did not need to consult with anybody else. It did not need to consult with the workers. It just needed to consult with the largest employer of employees in the State, being the Government itself. This cowardly bullying thug of a government thinks that it can be rule-maker, referee and player all at once. It is seeking to smash the spirits of working people in this State who, despite being ground down for years by the corrosive, destructive and, in many cases, dangerous policies of this Government, are springing up and standing shoulder to shoulder with one another in a struggle for a better deal. If one were to read the statement of public interest further, they would see the cold, brutalising heart of the capitalist bosses, whose ideological campaign motivates their political operatives in this Chamber. It reads:

As the bill is intended to increase the maximum penalties that can be imposed, the pros are that an increase to penalties will act as a greater deterrent, thus minimising the likelihood of damaging industrial action.

This Government is trying to intimidate and harass workers into submission. It is attempting to grind any opposition out of them beneath the boot of the State to manufacture consent and obedience. It is an internationally recognised right laid out by the International Labour Organization that to withdraw your labour—to strike, to collectively organise and to take disruptive industrial action—is an internationally recognised right. Australia and New South Wales are already in breach of the international standards, with hugely onerous conditions and restrictions on what counts as legitimate industrial action, and on when and how it can be taken. It reminds me very much of the draconian anti-protest laws that passed earlier this year. The Government is saying, "Of course you can exercise your rights, but only on the topics that we say you can, only at the time that we say you can and only in the manner that we tell you."

The bill seeks to impose further restrictions and greater penalties on industrial action that a union of workers democratically elects to take if this action is determined to be inappropriate by a commission, constrained by the legislation's rules and guidance of this conservative Government that is ideologically opposed to collective action. Further, there are greater penalties in the bill. These penalties should be abolished in their entirety. Let us stop and think about how dystopian this concept is. It is inhuman to impose such enormous legal hurdles, requirements and punishment for a failure to comply—for daring to not go to work for one day, for standing up for your humanity and the humanity of your fellow workers, and for staring down the brutality of management and demanding a better deal.

We heard earlier about how strike action was apparently deemed to create risk and danger. It is the shocking conditions that this Government expects workers, nurses, paramedics and teachers to work in every single day that creates risk and danger. Workers have their pay capped for the pleasure of having to be overworked and understaffed in these incredibly vital positions. Australia, and this State, was a better place when workers, through their unions, were empowered to agitate for the rights and interests of themselves, their colleagues and their communities. Gone are the days of the world-famous green bans. Such action would today be prohibited. When this bill gets voted down, as it will, it will feel like a shallow victory. We will have successfully repelled this latest onslaught that seeks to drive us further back from what is rightfully ours, but we have ceded a lot of ground.

The inspiring waves of strike action happening in this State in recent months will hopefully build capacity amongst working people to let people know how powerful we are when we work and struggle together. Hopefully, we can begin the process of taking back what we deserve—the right to dignity, respect, fair treatment, a safe work place, a vibrant community and a relationship of solidarity with those around us. I reflect back to 1980-something, when we had the hole in the ozone layer. I am not sure if anyone remembers that. We signed an international accord to ban CFCs. That action originated with the actions of unions in Australia. Some unions refused to install refrigerators that included the CFCs that were impacting on the ozone layer. It was an important social change that was brought about by unions. I often reflect on that because we have rampant capitalism that is ruining the planet—

The Hon. BRONNIE TAYLOR: Oh my God.

Ms ABIGAIL BOYD: I am sorry, but we are in the middle of climate change. The member opposite seems to be forgetting that we are in the middle of an actual existential crisis. If we had stronger unions, if we had not eroded the collective action that unions bring about and encourage in our society, and if we had not trodden on and stampeded all over the rights of workers to stand up for what they believe in, we may have seen climate action a lot earlier on. We need a new set of employment rights that set out in clear and uncertain terms the rights of workers. We need a set of laws that unshackle our unions to deliver a pro-worker agenda. Workers' rights are human rights, and we cannot allow them to be suppressed. Workers must be given back their freedom to bargain collectively on their own terms, not constrained by repressive laws laid down by conservative government agendas of all persuasions.

The Hon. Chris Rath went on and on, saying, "What cap are you going to put on wages, Labor?" It amuses me that someone who is a self-professed free marketeer, who thinks that the market should be left to determine everything, still believes that the Government should intervene in the employment market to set an artificial cap on wages. We do not need an artificial cap on wages. We should be allowing workers to bargain. We must re-empower workers to campaign for their communities, to withhold their labour, to take industrial action, to strike in a struggle for their rights—not just for their immediate pay and conditions, but also to act with a socially responsible purpose extending beyond wages and conditions to include social and environmental justice, the struggles for women's liberation, Indigenous rights, queer rights and to advocate for the interests of working-class people.

Empowered unions could refuse to work on building sites that would drive working people out of their homes so that luxury penthouses can be built in their place. They could insist on a huge increase in social housing, basic minimal accessibility standards and energy efficiency standards. Chemical and energy production sites could be forced, through the will of workers, to clean up their polluting by-products and reduce emissions that are cooking our planet and poisoning the air and water of the surrounding communities that their workers, friends and families live in.

The rights of the community would finally have an empowered voice that can challenge the relentless pursuit of profit being campaigned from the boardrooms and executive suites around this country and overseas. The right to take industrial action cannot be allowed to be constrained by any forces other than the democratic will of the workers involved. The powers of the State must not intrude on the democratic decision of workers to decide when exactly they are satisfied with the terms of a deal. How can we hope to have a free, fair and just society that respects workers, that respects their central place in our society, when lawmakers are able to constrain the will of the people with anti-union, anti-worker laws that corrupt the courts and corrupt our institutions to protect the inequality of our economic system through the systematic exploitation of workers?

The Greens and I applaud the working people of this State who are rising in a tide to challenge this unfair system—who have declared this, as we have heard, the "Year of the Strike". I hope the workers of this State realise just how powerful they are and build density, strength and confidence to continue their campaigns beyond this year. The economic status quo is so entrenched and so stacked against us that it will take some time to unpick and begin the process of building a better, fairer and more equal world. For this and so many other reasons, The Greens oppose the bill. We will always stand up for the rights of workers to take collective action.

The Hon. COURTNEY HOUSSOS (18:21): I speak against the Industrial Relations Amendment (Dispute Orders) Bill 2022. I reiterate the comments of my friend the shadow Treasurer, the Hon. Daniel Mookhey, when he outlined why Labor will oppose the bill. It will have the desperate and terrible effect of fining our teachers, our nurses, our hospital and health professionals, our security guards, and those prison officers who dare to speak up against this Government. It is worth noting exactly how draconian the fines will be. They will go from \$10,000 to \$55,000 for the first day of action; from \$5,000 to \$27,500 for each subsequent day; and for a second offence, after the initial penalty, the maximum penalty will go from \$20,000 to \$110,000. This is a terrible, appalling bill and I call on this House to vote it down.

I respond to the contribution from the Hon. Chris Rath—a contribution that is better suited to a Young Liberal debate than it is to the Legislative Council—the oldest parliamentary Chamber in the country. The focus of the Hon. Chris Rath on the internal workings of the Labor Party is incredible. I say that as a proud member of the Labor Party and as a former party official. For someone to deliver an inaugural speech in which he claimed, in the same way as he did in his contribution to debate on the second reading today, that his motivation for—

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! The Hon. Courtney Houssos will be heard in silence.

The Hon. COURTNEY HOUSSOS: The Hon. Chris Rath claimed victory in his campaign and said that his great motivating factor in public life was to get Alex Claasens off the administrative committee of the New South Wales branch of the Labor Party, which beggars belief. I acknowledge the presence of the Hon. Mark Latham in the Chamber who, like me, is motivated to ensure that every New South Wales public school offers every child the opportunities that they should have. I acknowledge the professional experience of the Hon. Bronnie Taylor as a former nurse, and that motivates her in public life. I acknowledge the ongoing contribution of—

The Hon. Scott Farlow: Point of order: While I love hearing about the CVs of all the members in the Chamber, I do not see what this has to do with the bill before the House.

The Hon. Daniel Mookhey: To the point of order: The Hon. Courtney Houssos is acting in a manner which is consistent with second reading contributions and that is to reflect on the contributions of other members. She is praising Government members—some of them at least. If she is praising Government members, I suppose

it should be done by way of substantive motion. But the Hon. Courtney Houssos is acting well within the parameters of a second reading contribution.

The DEPUTY PRESIDENT (The Hon. Wes Fang): A second reading contribution has wide latitude. If the contribution starts to stray too far then I will draw it back to the long title of the bill. However, at this stage I believe the Hon. Courtney Houssos is being somewhat relevant, so I will allow the contribution to continue.

The Hon. COURTNEY HOUSSOS: I conclude my comments relating to that part of the Hon. Chris Rath's speech by saying that if his sole motivation in public life, in seeking election to this Chamber, is the inner workings of the Labor Party, when he is a member of the Liberal Party, perhaps he needs to re-evaluate that. The Hon. Chris Rath talked about the productivity disruptions from strikes as though that was a reason for supporting this bill. The shadow Treasurer clearly outlined in his contribution, as Opposition members have outlined, that the productivity gains that were possible as a result of engaging with the workforce were legislated away by this Government. The Hon. Chris Rath talked about productivity disruptions from one or two days of strike action in the face of 12 long years of productivity losses because this Government took the decision in 2011 to impose a wage cap—to legislate away the ability of workers to negotiate in good faith with their employer, the State Government—which is disingenuous at best. It fails to allow for the important productivity gains that can be made if the Government engages with its workers in a genuine conversation.

There is no doubt that this bill is another step in the Government's campaign to legislate away the ability of workers to negotiate. Those opposite like to attack the Labor Party because it was formed by the trade union movement. There is no doubt about the fact that we were formed by the trade union movement. There is no doubt that we consult closely with our trade union colleagues. The reason for it is that they are representing workers on the front line. They know exactly the challenges that they are facing each and every day. We consult with the unions who are affiliated with the Labor Party; we consult with the unions who are not affiliated with the Labor Party because they have firsthand experience how our public services are being delivered and that is an important perspective that can be brought to the attention of the Government or legislators.

I encourage the Government to engage in this conversation. It is a conversation that it decided to legislate away in 2011. It is a conversation that it is trying to end with this legislation tonight. It is a conversation that needs to occur. If we are elected in March next year it is a conversation that Labor will start again. It is a conversation that we want to have. We believe that the industrial relation system should be based on productivity-based bargaining. We think it is important to engage in conciliation before arbitration. It is why workers organised in the first place to form the Labor Party, to seek election to public office, to establish a fairer industrial relations system with an independent arbiter. But those opposite are ideologically and fundamentally opposed to it. They find an independent arbitration system so offensive. This legislation is the latest step in that campaign against workers.

I took the opportunity to consult the statement of public interest associated with the bill. I thought it might make for some interesting reading—it certainly did. I also read the statement of public interest associated with some earlier legislation that I was leading for the Opposition on today and found a considered three-page contribution that talked about the need for the legislation and the broader framework, which goes to why we have these statements of public interest. The statement of public interest attached to this bill was a poor excuse and shows why the Chamber should vote this legislation down. One key question is:

Why is the policy needed based on factual evidence and stakeholder input?

The Government did not seek to consult with anyone, because this is part of its ideological agenda of attacking nurses, teachers, paramedics, health professionals and prison officers, who have gone on strike for the first time in a decade. The second question is:

What is the policy's objective couched in terms of the public interest?

The Government cannot even make a coherent statement of public interest in accordance with the standing orders of this House, because there is no public interest in the bill. There are the interests of this Government, which desperately wants to fine paramedics, teachers and nurses, who have gone on strike for the first time in a decade. After 12 years, this Government has stopped listening to the community. Not just that, with this legislation, it seeks to fine it out of existence. I call on members to oppose the bill.

The Hon. MARK LATHAM (18:31): One Nation supports the Industrial Relations Amendment (Dispute Orders) Bill because we support the work of the umpire. There is no doubt that the rail strike has been politically motivated. The poor old long-suffering commuters cannot understand what it is about. The umpire in this State deserves to be supported. The primary industrial issue in the State has been the rail strike, which has been a disgrace because the main people who have been punished are workers who cannot get to their places of

employment or are late and might lose their jobs. When strikes are not understood by the public and appear to be politically motivated, they backfire on the union movement.

Representing working people, either here or in an organised way, is a noble cause. But when it is exploited and used for political purposes, it becomes unacceptable, and stronger penalties should apply for those who do not accept the umpire's decision. One Nation supports working people and the right of working people to organise. At one level, we wish that the union movement had been more successful over the past 30 or 40 years instead of having the long, steady decline because the unions have been too focused on Labor Party's internal politics and not the legitimate needs of their members. That is why the membership share in the private sector has been lost to the point where it is measured in single digits. If it lost the public sector unions, the number would rest at less than 10 per cent. People have voted with their feet, unfortunately, leaving the union movement. When they have looked at the rail strike in particular, they have been more inclined to give up on organised trade unionism.

The best favour anyone ever did Alex Claassens, who has been mentioned in the debate, is to get him off the admin committee. If the Hon. Chris Rath wants to help people inside the Labor Party, he should do everything he can to get people off the admin committee, because those meetings would be as tedious, boring, drawn out and useless as anything he has ever been to. If he thinks that he is hurting Claassens and the Labor Party by running that campaign, he does not understand the admin committee and the complexity of the Labor Party. Look at that conference decision where the Health Services Union was splitting from the right. I now find out the construction division of the Construction, Forestry, Mining and Energy Union was part of the soft Left. These things are so complex that you could not understand it even if you were in the middle of it. I think they do not.

The Hon. Daniel Mookhey: It is like a One Nation branch.

The Hon. MARK LATHAM: We do not have complex branches. We just have good guidance from me and Rod Roberts. That's all you have to worry about.

The Hon. Penny Sharpe: Benevolent dictatorship.

The Hon. MARK LATHAM: It is a very benevolent dictatorship. I am glad to hear the interjection of the Hon. Penny Sharpe to praise me for my benevolence. I am incredibly—

The Hon. Daniel Mookhey: Benevolent.

The Hon. MARK LATHAM: Benevolent. I think she could add an extra word. It is an enlightened dictatorship, a completely enlightened, benevolent dictatorship in the best interests of the people of the New South Wales. Alex Claassens has had a big favour done for him. Being on the admin committee is not running Labor campaigns. It is being one of the clerks of the Labor movement, having to fill in the numbers as the decisions are made elsewhere. It is always interesting to see the Young Liberals misunderstand the Labor Party when even the Labor Party, in the middle of these factional disputes, cannot understand it. My favourite quote about the complexity and the agony of some of those Labor Party meetings falls from the former Prime Minister James Scullin, who was asked about the end of his disastrous term in office, when Lang Labor split out and there were all sorts of fights in the caucus, crisis—

The Hon. Daniel Mookhey: Red Ted.

The Hon. MARK LATHAM: Red Ted, of course. The list goes on. Scullin was asked whether he would be writing a history of his government. He said, "It nearly killed me to live through it. It would kill me to write about it." I think that young Chris Rath needs to understand that going deeper into Labor history is going right down the rabbit hole and not establishing too much in practice. Labor campaigns are not run by the admin committee. Alex Claassens is not running the Labor Party, but he is contributing, I think, in the wrong way with the rolling strikes and disruption the poor old workers, including me, suffer when trying to get on those trains and to places of employment. We support the stronger penalties because the umpire should be supported. We have heard words of enlightened and benevolent guidance for both sides here, the Labor Party and what it should be doing, and the Liberal Party and what it should be doing. Of course, as ever, One Nation sits in the middle.

The Hon. Daniel Mookhey: Don't leave The Greens out.

The Hon. MARK LATHAM: They're beyond help. Not many things leave me speechless, but the idea of trying to help The Greens is one of them. It is beyond my capacity; I can assure you. We are supporting the bill.

The Hon. MARK BUTTIGIEG (18:36): From a political perspective, we can understand the Government's motivation. We had a popular true Liberal Premier in Gladys Berejiklian, who was secure in her premiership and popularity, and did not feel the need to pick confected fights with workers and their representatives in the lead-up to an election when the Government is on a hiding to nothing. If we are all honest

with each other, we know that the true motivation of a series of orchestrated attacks on the union movement is an attempt to demonise the union movement to distract attention away from the Government's incompetence, mismanagement and shonky behaviour. We have seen the litany of things gone wrong with this Government. With five months to go to an election, it picks a fight with the unions.

Of course, that sort of tactic is fraught. All through Australian history, in previous election campaigns when conservatives have attacked workers and the union movement, they have paid a heavy political price. The most recent campaign was the famous "Your rights at work" campaign. I caution the Government. If it wants to have a fighting chance, my recommendation is that it not go down this path, because the public does not like governments attacking workers' rights.

What a sad and sorry thing the New South Wales Liberal and National parties have become. The parties of free speech, liberty and freedom of association are resorting to draconian powers of the State in a bid to silence those who are fighting for basic wages and conditions. What a disgrace. We have seen the heavy-handed, authoritarian tactics on display just this week. There was an attempt to try to restrict workers' ability to even talk to each other about how to run an election campaign on issues they might care about. The Government wanted to silence workers' community groups talking to each other and combining together to campaign politically. It was defeated, thank God, in both Houses. But those opposite tried it on. And now they are trying to pass this punitive regime of increased fines to try to financially cripple unions and denude the ability of workers to collectively bargain for better wages and conditions.

The Hon. Chris Rath talked about the goalposts being moved. I will tell members who has moved the goalposts. It is the Government. Because it emasculated the State industrial relations system when it put in an artificial wage cap, which prevented workers negotiating in good faith with their employers on wages and conditions. If workers do not have the ability to negotiate on wages and conditions, they should have the right to strike. It is absolutely unconscionable and disgraceful that the Government, which artificially put a cap on what workers can bargain for, is now trying to destroy the very bargaining power that those workers have by fining them out of existence.

Let us remember the sorts of people we are talking about: the so-called heroes of the pandemic, which Government members were clapping for and thanking in the Chamber. "We want to thank our health workers. We want to thank our nurses. We want to thank our paramedics. We want to thank our teachers. We want to thank them for coming in." And what do those people get? A slap in the face and a 0.3 per cent wage rise, which only eventually went up because those people, with their unions, put pressure on the Government. They got together on Macquarie Street time and again and put those issues at the centre of the political debate.

The reason that 10,000 casual teacher positions being converted into permanents is now at the centre of the political stage is because the union movement put it there. The Minns Opposition offered to change those teachers into permanents and now the Government has tried to jump on board and copy us. But that would not have happened without union action. Under this proposed regime, those opposite, as part of their defence of so-called free speech, want to penalise the unions for raising those issues. It is the same with nurses and paramedics. All those issues that are at the front and centre of the upcoming election campaign would never be in the public consciousness if it were not for the ability of those workers to band together and strike.

Under the proposed regime, those opposite want to take that ability away because they do not like being criticised for their ineptness and attacks on workers. They do not want unions to have the power. It is absolutely disgraceful. Their argument may have a skerrick of validity if it were not for the fact that, as I said, they have emasculated the State Industrial Relations Commission by putting in an artificial wages cap. It is absolutely unbelievable that the Government is using its power to overreach and try to fine unions out of existence. This House is not going to cop it tonight because it does not stand up and because this House can see through the vacuous political motives behind it. I urge the House to vote this terrible bill down, like it has the previous ones this week that have tried to emasculate unions.

Reverend the Hon. FRED NILE (18:43): I support the Industrial Relations Amendment (Dispute Orders) Bill 2022 introduced by Minister Tudehope. Over the past few months, I have been disgusted with the behaviour of certain unions that are denying Sydneysiders their right to go about their business and traverse our city. I am surprised that the Opposition and portions of the crossbench are opposing the bill when they supported the Roads and Crimes Legislation Amendment Bill 2022. Neither bill denies residents of New South Wales the right to protest; they only increase the severity of penalties for illegal actions. The inconsistency of my colleagues surprises me.

The bill grants the NSW Industrial Relations Commission the ability to issue a penalty of \$55,000 for the first day of a contravention of a dispute order directing a union not to strike. Currently this is \$10,000. It also grants it the ability to issue a penalty of \$27,500 for each day thereafter—currently this is \$5,000—to introduce a

fine of \$110,990 for repeatedly breaching orders of the conciliation court, and to permit the awarding of uncapped costs against unions. Because of those points, I commend the bill to the House.

The Hon. ADAM SEARLE (18:45): I make a brief contribution to debate on the Industrial Relations Amendment (Dispute Orders) Bill 2022. I played some small role in the construction of the legislation it seeks to amend, the Industrial Relations Act 1996, and the parts of that legislation relevant to the discussion tonight that deal with industrial disputes, how they are dealt with, and the powers of the commission and the court to secure compliance with dispute orders. For more than a decade I practised industrial law in the New South Wales State system. I was extremely familiar with the issuing of dispute orders and, indeed, proceedings for their contravention. The first observation I would make is that this debate seems to be inspired almost entirely by ideology, rather than practical considerations. Much of the rhetoric we have heard in this Chamber and elsewhere around the supposed evils of industrial disputation relate to a particular dispute involving the rail system, which does not come within the scope of this legislation.

The Hon. Damien Tudehope: There is a loophole.

The Hon. ADAM SEARLE: There is not a loophole. Those workers have been in the Federal system for decades. They are subject to the Federal regime and, so far, despite repeated proceedings in the Fair Work Commission and in the Federal courts of our country, it has not been established that any of those actions have been illegal.

The Hon. Mark Buttigieg: That's right and they want to sue them.

The Hon. ADAM SEARLE: I acknowledge that interjection from the Hon. Mark Buttigieg. This seems to be a solution in search of a problem. The poster child for the need for this legislation is something that it will do nothing to address. The target of this legislation is our teachers, our nurses, our paramedics, our police and our local government workers. Why do I say this? Because they are the only workers in the New South Wales State system. They are the only group of workers whose unions could conceivably and lawfully be subject to the dispute orders provided for in the Industrial Relations Act and the enhanced system of penalties proposed in the bill.

The target can only be workers and their unions in our State system—the ones who worked tirelessly through the pandemic, putting their lives and their wellbeing on the line to continue to serve the great public of this State. I urge members to look at the risks nurses and doctors took going to work every day. They could not work remotely. There were no Zoom meetings for them. They had to face up in person every day. My sister was a nurse at Katoomba hospital. Her unit was closed down and she and her co-workers were forcibly required to attend Nepean Hospital, which at the time was riddled with COVID from one end to the other. This Government put them and other workers at risk to ensure that the services to the public continued. They are the people and the unions that will be subjected to the enhanced regime of penalties imposed by this legislation.

This Government commenced its term of office slashing industrial rights, putting a cap on wages and ruining the ability of the independent arbitrator to set fair work conditions and pay in this State. They followed quickly by butchering workers compensation rights to the lowest in living memory. Despite that, it has still driven our workers compensation scheme to the brink of financial ruin. At the same time, the Government has visited all the burden of reform on the backs of broken and injured workers. As it reaches the closing chapter of its term in office, it is returning to the well. It is returning to the playbook so beloved of the Liberal Party—to beat up on working people who have only one card to play when their employer will not bargain or reach sensible settlements with them, and that is to withdraw their labour.

Another misapprehension that has infected this debate is the notion of illegal strikes. Strikes are neither illegal nor legal. In our regime, if there is a strike or an industrial dispute then someone gives a notification to the Industrial Relations Commission. While that process is underway, no-one can take action against a union or workers in tort. Under the common law of this State, workers and their unions are protected until the industrial umpire has exhausted its ability to resolve the dispute through conciliation. When the end of that road is reached in the judgement of the tribunal, a certificate of attempted conciliation is issued and the liability in tort for workers and unions is revived.

If the independent arbitrator cannot resolve the dispute through consensus and discussion, dispute orders can be made. Dispute orders are not just about monetary penalties; they include a series of creative mechanisms to try to get people back to work and to resolve disputes. The dispute orders are protected by a penalty regime for their breach, and those matters used to be heard before the Industrial Court. Now that the Industrial Court has been abolished they are heard in the Supreme Court. The Supreme Court has quite a range of powers to deal with disputes and alleged breaches. It can dismiss the application if there is nothing to it. The court can also cancel an enterprise agreement, suspend or modify any entitlements under any industrial instrument, cancel the registration of a union or an employer organisation, or impose a penalty. This Government has not looked creatively at

enhancing other powers given to the Supreme Court or creating new mechanisms to secure agreements or returns to work or to resolve matters, perhaps, by restoring the ability to freely arbitrate. This Government has focused only on the punitive measure of the fines.

At the moment a penalty not exceeding \$10,000 may be imposed for the first day, followed by an additional \$5,000 for each subsequent day. This legislation would increase that penalty to \$55,000 for the first day and \$27,500 for subsequent days. If it is a second offence and penalties have been previously imposed on the industrial organisation or the employer, the bill increases the penalties from \$20,000 to \$110,000. The penalty of \$10,000 for additional days is increased to \$55,000.

Members opposite do not really understand how unions work. Contrary to popular expectation, union members do not like going on strike. For working people going on strike is an absolute last resort because they have to sacrifice their own pay. Trade union officials do not go around willy-nilly trying to whip people up into going on strike because of the flow-on economic consequences for individual workers. Striking, particularly in the public sector, is a last resort. It is a path taken because no other avenue remains; the channel of dialogue has been closed off by one party's intransigence; and, as my colleague and friend the Hon. Anthony D'Adam outlined, the 1996 Act upon which this system was created has been broken.

The system was premised on the notion that the commission had the power to direct the stoppage of industrial action, at the risk of dispute orders, and the commission could impose a solution on the industrial parties if they did not reach their own settlement. The power of the tribunal was at large. The action could be about pay, but, more often than not, it was about working conditions. That was the power given to the arbitrator. However, in its first year of office, this Government put the shackles on the independent arbitrator, which has meant that working people and their unions have had fewer avenues to express themselves and pursue and secure better wages and conditions.

After applying all of its creative minds—its Ministers and its hardworking public sector advisers—this Government could not come up with any new and creative solutions to the intractable problems that would bring people together. Instead, it took the easy road of trying to impose penalties on unions. That is important because it is the only thing the Government has left. It is not prepared to pony up and reach real settlements; it just wants to kick unions. Unions are not like for-profit organisations. They represent members who are in trouble at work and assist members to improve pay and conditions through bargaining. When police, nurses and paramedics are injured or die at work and coronial inquests are held, the unions represent their members in those proceedings and provide meaningful financial support to help them navigate what can often be a stressful and lonely experience.

Unions were created by working people to come together to achieve collectively what they could not achieve by themselves with their limited financial means. Under the bill, the Government wants to sap that financial capacity, which is built up collectively by working people through the legal entity of their unions, by imposing very stiff penalties which are not being increased by small percentages but by five and a half times what they are now in one go. But that is not the most insidious part of the bill. One part of the bill that I do not think any other member has addressed would remove the prohibition on the awarding of costs in proceedings in the Supreme Court.

A cornerstone of industrial proceedings litigation under this State Act—as well as in the Federal system—for over 100 years has been that the parties, employer organisations, unions or even individual employers are not exposed to having to pay the other side's costs if they lose. That is very different to other litigation in that respect. In Supreme Court litigation, in particular, costs can rack up pretty sharply. This Government not only wants to increase the penalties that may be visited on trade unions by 550 per cent; it also wants to put losing parties in industrial dispute proceedings in the Supreme Court at the risk of having to pay the other side's legal costs. As I have said, legal costs can be quite heavy. It is another punitive approach from this Government towards organised working people. And what are organised working people wanting to do? They are not seeking to overthrow capitalism or bring down the State—perhaps to the disappointment of the people on my far left on the crossbench. The truth is that they are seeking to improve their wages and the conditions under which they work.

Let us look at the conditions under which people work. It is a matter of record that, in the last year or so, the average Australian has gone from working six weeks a year unpaid to seven weeks a year unpaid. That is unpaid overtime. That is not wage theft, although it is wage theft on a massive scale; it is time theft. It is time away from family and friends. This has been intensified during COVID for people who had to attend work in dangerous circumstances. Most people in the public and private sectors who were able to work from home have described a massive intensification of their work, their work stress and the key performance indicators that their employers ask them to meet.

The requests are not made directly or obviously but covertly, through the midnight email and through the massive requests for ongoing work that people in the lockdown had to face up to. People's workloads have

massively increased. There has been a huge amount of burnout. Some people in the public sector could not work from home and had to attend work, often putting their wellbeing at risk in the cases of doctors, nurses, paramedics and others, not to mention the police and the fireies who do that every day. None of them can work from home. They have had very little pay increase. It was 0.3 per cent, and 1.5 per cent the following year. Now the Government has a policy of 3 per cent for next year.

The point is this: At no time is the independent arbitrator able to craft a wage regime responsive to the needs of the workforce or the industry concerned. It is small wonder that the workforce is restless. This bill is ill conceived. It takes the worst, narrowest and meanest possible approach to the difficulties that are being experienced in the State. If you do not like industrial unrest and if you do not like strike action, look to better management. The motivation is clearly the rail dispute. This bill will have nothing to do with that because those workers are in a different system. Government members are simply trying to conflate the two issues. They want to create a union bogeyman so they can come out and beat up on it and unify themselves ideologically, because they are riven by dissension otherwise. The fact is that the bill will not solve the problems we face. It will not solve the problems of workload. It will not solve the problems of work intensification or burnout or risk. It will not solve the problems of a low-wage regime that has been in place for many years. We must do better. We can do better. We start by saying no to this mean legislation.

Ms CATE FAEHRMANN (19:02): As health spokesperson for The Greens, I oppose the Industrial Relations Amendment (Dispute Orders) Bill 2022. For years, nurses, midwives and paramedics have been raising the alarm about our decaying and fragile public healthcare system. The pandemic saw the alarm turn into a deafening cry for help as COVID exposed the deep cracks that years of underfunding and mismanagement by this Liberal-Nationals Government have wrought on public health in this State.

Healthcare workers march on the street because they have lived through back-to-back shifts without enough staff and without enough PPE, knowing that patients are suffering and even dying because the Government has let them down. They march on the street, not out of self-interest, but out of their deep desire to save our public healthcare system from total collapse. Instead of listening to our selfless nurses, midwives and paramedics, the Government has brought forward this draconian bill in the hope that it will be able to scare them out of protesting. The intent is to shut them up ahead of the State election, so that members of this Government can stick their fingers in their ears and continue to say that everything is fine. What else do you expect those workers to do when they hear the health Minister make ridiculous claims like bed block is "actually very rare now in New South Wales" or that our State's collapsing health system is the envy of other States, if not the world?

In a survey undertaken by paramedics, 87 per cent of respondents said that during the past month they have missed more than half their scheduled breaks and 80 per cent said that they have felt too fatigued to drive home safely. Over the same time, 30 per cent reported being asked to respond to a patient after identifying that they were fatigued. That is what is happening with paramedics on our front line, yet they are told repeatedly that everything is fine and the system is functioning normally. The Government announced 10,000 new healthcare workers, with 40 per cent of those dedicated to the regions, but with no details on where or when those new healthcare workers can be expected. That is another example of the Government's gaslighting of healthcare workers.

I encourage members to put themselves into the mind and body of a nurse for a moment. You have worked for 12 hours straight for the third or fourth time this week. You are covered in PPE that is digging into your skin and making you feel very claustrophobic. You have spent your day treating maybe six, seven or eight patients at any one time. You are rushing around, knowing that it is unsafe, but the alternative is not to treat the patients. Paramedics have highlighted those situations at the ambulance ramping inquiry that is currently underway and the inquiry into regional, remote and rural health services. Nurses are treating those patients, knowing that as they do so even more patients are waiting—potentially for hours—to be treated in the emergency department, in the hallways or waiting to be offloaded by the ambulance.

So you are exhausted, but you pick yourself up and march in the streets with your colleagues to call for nurse-to-patient ratios, for proper staffing and higher pay because you know what you see is not right and it is not what health care in this country should look like. Nurses are taking to the streets to save the public healthcare system, not out of self-interest. After, you are told, "It's okay, this is the best health system in the country," but you are effectively given a pay cut and told that if you protest anymore your union will be sent bankrupt. That is what healthcare workers are being told in this State. That is what the Liberal-Nationals Government is offering our frontline healthcare workers. This Government has extended nothing but lip-service to our frontline workers. It is thanking them but offering nothing else besides worse conditions and pay cuts. Now it is offering this bill, which is a direct attack on their right to demand better.

What an action to take by this Government in its dying days—and we can feel in the air it is its dying days—prioritising increasing fines for unions that are standing up for workers' rights. As The Greens Health

spokesperson, I express our unwavering support for nurse-to-patient ratios on every shift and for unions to strike for the rights of healthcare workers. I echo my Greens colleagues in this place and the other place by expressing my unwavering support for the right for teachers, rail workers and all public sector workers—as well as anyone else who is experiencing unfair treatment at work—to take to the streets to demand better pay and conditions from their bosses, including the Government. It is an essential part of the democratic process and it is very dangerous to take that right away from workers. Tonight that is happening by stealth in this place. We condemn the bill and everything it stands for.

The Hon. WES FANG (19:09): I make a brief contribution to debate on the Industrial Relations Amendment (Dispute Orders) Bill. I have had the opportunity to observe a lot of the debate during the preceding hours and I think there has been some expansion of what this bill is supposed to represent.

Ms Sue Higginson: A slippery slope.

The Hon. WES FANG: I like to think I am a pretty simple country bloke. We have seen a lot of commentary by members on both sides of the Chamber about what this bill does. Some members say it is about ideology. In reality, the bill is for those occasions when the Industrial Relations Commission makes a dispute order that states industrial action cannot occur and that order is breached by a union. In those circumstances, the Government of the day may apply to the Supreme Court to have that action stopped and the Supreme Court may apply these penalties. In that instance, the union will have the opportunity to go to the Supreme Court and argue its case. It was said that the Government is increasing these penalties five-fold over what is existing at the moment. In reality, what we are doing is bringing it into—

The Hon. Mark Buttigieg: In reality, you are.

The DEPUTY PRESIDENT (The Hon. Chris Rath): Order!

The Hon. WES FANG: You really should not interrupt when the Deputy President is speaking. What we are doing is bringing the penalties in line with other jurisdictions like Queensland. It was said that we are targeting workers with this bill. That is correct: We are targeting workers. We are targeting the workers who cannot get to work. We are targeting the workers who want to get to where they want to go but they cannot because the rail is not running. We are targeting the workers who cannot get to emergency departments, or the workers who cannot go to work because the teachers are not there to teach the students and they have to take the day off.

We are targeting those who rely on the services that are provided by those workers. When the Industrial Relations Commission says that industrial action is not to happen, we are backing in those affected workers. The Hon. Adam Searle addressed the issue of costs and said that in industrial disputes typically costs are not carried by either side. But that was what he described as unique to that industrial relations issue in Supreme Court matters. In other matters, costs are generally awarded. We are bringing this into line with other Supreme Court actions, which seems pretty reasonable if there are circumstances where there is a breach of a dispute order. I have already said why it is we are doing it. We are doing it for the community. We are doing it for the other workers who are affected by those people who are striking and then disrupting the lives of the public.

It is really not about ideology. It is about those unions that have been instructed to not strike but elect to do so in breach of the dispute orders. It is about them facing the appropriate penalties should they be found to have done so by the court. That is simply all this bill is doing. In those circumstances, to oppose it is where the ideology comes in. Members should be asking why are those opposite desperate to stop this legislation, which only penalises a union when it has breached a dispute order?

The Hon. PENNY SHARPE (19:14): I oppose the Industrial Relations Amendments (Dispute Orders) Bill 2022, as the Labor Party would. What we have heard in this debate has been quite interesting, but what I have heard more clearly from the other side of the House is the antipathy towards unions and the ability of ordinary working people to get organised and to push for better conditions and better wages. It is as simple as that. This Government has spent the past few months attacking people who are members of unions. What needs to be understood is that unions are made up of their members.

Let us look at who those members are. Those members are the teachers who dropped off food and checked on kids during the COVID pandemic while those kids were trying to learn from home. They are the front-of-school assistants who help the kid who comes in and has not got a clean uniform or any lunch. They are the nurses and the midwives who have held up our health system and who have been praised a lot in this debate. I also want to talk about the National Parks and Wildlife Service workers, the rangers and the field officers who care for the precious national parks across this State. I want to talk about the child protection workers who get up every day and face issues very few people witness and who have to deal with the most horrific of circumstances.

These are ordinary people. They choose to join their union so they can make their working lives a bit better and hopefully can be paid a decent wage for the work they do. Over the past 12 years, those union members have faced a hostile Government, which at every turn has tried to make their lives harder by getting rid of staff, by casualising their workforce, by closing down offices all over the State, by slashing budgets and by making sure that the wages cap does not allow them to get a pay rise, and the way their departments have dealt with it has meant no vacancy ever gets filled and there are fewer people to do the jobs that we ask them to do. Through the laws that we pass, we ask them to do the incredible jobs they do every day. That is who unions are, and that is who their members are.

What the bill tries to do, aside from trying to stir up the ideological war that some members in this place are obsessed with, is to punish those people for trying to do their job when the Government has tied their hands behind their back at every turn during the past 12 years. Members cannot say some of the things that were said about unions in this debate and then pretend it is not an act against the most ordinary of people working in our State. I also give a shout-out to our fires and police officers and our healthcare workers in hospitals—the cleaners, those who work in the laundry, and those who wheel us around and do patient transport. Members on the other side have called those people thugs and basically have attacked them. At the same time, at every press conference the Premier has talked about how the frontline workers are the heroes, how "we support them, and we back them every step of the way". This bill shows what a load of rubbish that is.

If the Government really cared about our frontline workers—our teachers who teach our kids; our nurses who care for us in hospital; our workers who run our hospitals; our child protection workers who try to keep kids safe every day; and our national parks workers and Local Land Services officers, some of whom are being threatened every day while doing their job—it would recognise that they are all only asking for the opportunity to talk about systems that work better for them. They are seeking flexible work, domestic violence leave and a whole range of other conditions. Even government departments have to rely on the unions and their consultation process to make those workplaces better, to maximise productivity and efficiency, to make those workplaces safe and caring, and to look after the very people that this Parliament, through the laws that we pass, asks to do the jobs that they do. That is why this issue is so important and why the bill is so outrageous and so unfair.

The Government tries to dress it up as a great ideological debate. For the Government, it is. For us, it is pretty simple. I joined the Labor Party when I was 19. My grandmother, who worked her entire life, said to me, "At least you've joined the party that will look after working people". That is why we are standing on this side of the House, why we oppose the bill and why it is absolutely wrong to wage the ideological war that this Government wants to have. The Government thinks it will win points at the election by going after frontline workers, cancelling their organising, their voice and their basic need for a fair day's pay for a fair day's work with reasonable conditions. They are not asking for anything outrageous. But the Government attacks their organisations and the vehicles that they need to achieve those things.

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations)
(19:20): In reply: I thank members for their contributions to debate on the Industrial Relations Amendment (Dispute Orders) Bill 2022: the Hon. Daniel Mookhey, the Hon. Chris Rath, Ms Sue Higginson, the Hon. Anthony D'Adam, the Hon. Shayne Mallard, Ms Abigail Boyd, the Hon. Courtney Houssos, the Hon. Mark Latham, Reverend the Hon. Fred Nile, the Hon. Mark Buttigieg, the Hon. Adam Searle, Ms Cate Faehrmann, the Hon. Wes Fang and the Hon. Penny Sharpe. I hope I have not missed anyone.

There is a fundamental misunderstanding and ideological blinkering by those who consider this bill to be an attack on workers. I absolutely reject any suggestion that workers should not be able to organise, that there should not be unions and that workers should not be properly represented to ensure that they have equal bargaining power regarding pay and conditions for workers. No side of politics has a mortgage over fairness in the workplace. Those opposite hold themselves out as the representatives of workers but, in fact, they are the betrayers of workers. They have betrayed the working class for the past 25 years by allowing good people to be represented by people who do not have their interests at heart but have political outcomes at heart. That is the problem with the way the Labor movement has emerged.

I agree with Penny Sharpe, and I understand why she would be motivated to join the Labor Party. In my family I have had siblings join the Labor Party. But the problem is that the Labor Party, as it has emerged in the past 25 years, is not the Labor Party of Ben Chifley. It is not the Labor Party of John Curtin. These days it is a party about self-interest and protectionism of powerful union officials. This bill has never been about preventing a union from striking. It has never been about saying to workers that we want to diminish their role in advocating for better working conditions. Those who have practised in the industrial jurisdiction would be well aware that a whole process must be gone through before a dispute order is made, including notification, compulsory conferences, conciliation and arbitration. At the conclusion of that process, an order is made. Both parties are

present. Their respective positions are put throughout that whole process, and the umpire sits at the conclusion of that process and makes an order.

I do not know what the people listening to this debate think, but fundamentally the way the rule of law operates in this country is that when the umpire makes an order, the parties are obliged to comply with it. The heart of the bill is that industrial orders and dispute orders mean something. The bill is not an attack on workers. It is an attack on organisations that decide to thumb their nose at the decision of the independent umpire. This is not about ideology. The Greens would adopt an ideology where they would abolish all penalties for not abiding by the umpire's order. That is the classic definition of anarchy. When we are at a stage where there are no consequences for not obeying the decision of the umpire, then we may as well break down the whole system of law altogether. The dispute order is contravened and it is an—

The DEPUTY PRESIDENT (The Hon. Chris Rath): Order! The Hon. Anthony D'Adam will cease interjecting. It is disorderly.

The Hon. DAMIEN TUDEHOPE: A lot of the misleading material we have heard tonight involves a representation that the bill is an order made against workers. There is nothing in the bill which would allow the imposition of a penalty against an individual worker. In his contribution, the Hon. Anthony D'Adam made a fundamental error and pointed to section 138—

The Hon. Mark Buttigieg: It is members' money.

The Hon. DAMIEN TUDEHOPE: I will come to that. The Hon. Anthony D'Adam made the fundamental error that he thought that the bill was about imposing penalties on individual workers. That is just plain wrong. The bill refers to people who lead industrial organisations and employers, because dispute orders can apply both ways—a dispute order may in fact apply to an employer to reinstate an employee or some other condition of work. It is an order which applies to an organisation and an employer, and a penalty can apply to an industrial organisation or an employer. It does not apply to an individual worker.

I hope the Hon. Anthony D'Adam accepts that is right and I hope he understands what the bill does. No-one should leave this Chamber with the misunderstanding that the Hon. Anthony D'Adam tried to misrepresent to the House that the orders in the bill could apply to individual workers. That was wrong and now he knows it. That misrepresentation should be corrected because that is not what the bill does. It is a simple proposition. This is about whether or not members respect the rule of law. If they do not, they will side with Labor and vote against the bill. If members accept that Australia is a country that is governed by the rule of law, they will support the bill. The bill is fundamentally designed to support the rule of law.

The DEPUTY PRESIDENT (The Hon. Chris Rath): Order! The Hon. Anthony D'Adam will be called to order if he does not stop interjecting.

The Hon. DAMIEN TUDEHOPE: I establish why the bill is necessary at this juncture. The Hon. Daniel Mookhey raised that there was no issue in dealing with industrial relations under previous Premiers. It is not about that, and he knows that it is not about that. It is about complying if an order is made. There may be more industrial disputes at the moment. The industrial climate is as it is for a whole range of reasons that did not inflict previous governments. This is not about whether there were more strikes under Gladys Berejiklian than there are under Dominic Perrottet. It is not about that. It is about the principle of whether there should be consequences for disobeying the decision of the umpire.

The Hon. Daniel Mookhey raised issues about why there is more industrial activity. I note that New South Wales leads the way on public sector pay, and it frequently sees flattery in the form of imitation. Just today, when the Premier announced a \$3,000 appreciation payment for nurses, Dan Andrews and Mark McGowan followed and announced the same dollar figure. When the Premier announced a fair and reasonable offer of a 3 per cent pay increase this year, the same position was adopted by Anthony Albanese and the Federal Government. Western Australia then followed as well. This bill is needed not because of the wage cap but because people—

The Hon. Shayne Mallard: Point of order: I have great regard for the Leader of the Government's ability to plough through the interjections, but the sotto voce avalanche of interjections by the shadow Treasurer to the Leader of the Government is unfair.

The DEPUTY PRESIDENT (The Hon. Chris Rath): The Clerk will stop the clock.

The Hon. Daniel Mookhey: Mr Deputy President, we do not usually stop the clock.

The Hon. DAMIEN TUDEHOPE: We do now.

The Hon. Daniel Mookhey: Point of order: I urge you, Mr Deputy President, to follow the sessional orders. You do not have the discretion to stop the clock in the debate. It has not applied before. We will not make

a big deal of it now, but this has not applied to any of the Labor members who have spoken. I urge you to follow the rules.

The DEPUTY PRESIDENT (The Hon. Chris Rath): The Clerk will resume the clock. I encourage all members to listen to the debate in silence and without interjecting, particularly the shadow Treasurer.

The Hon. DAMIEN TUDEHOPE: I point out the rationale behind the bill. Earlier this year, the nurses' union defied a dispute order of the commission and its members took industrial action by stopping work. The Supreme Court subsequently imposed a penalty of \$25,000 on the union on the basis that it had contravened the dispute order. In its judgement, the Supreme Court held that the union had made a conscious decision to flagrantly defy the orders of the commission.

Ms Abigail Boyd: Bad laws were made to be broken.

The Hon. DAMIEN TUDEHOPE: The anarchists over there! Relevantly, the court noted that there should be an element of specific deterrence in the penalty imposed to deter the defendant from resolving industrial disputes through a preparedness to take industrial action contrary to dispute orders of the commission. On 4 May 2022 members of the NSW Teachers Federation engaged in a 24-hour strike and attended multiple rallies across New South Wales. On the day of the strike, 452 public schools were non-operational as not enough staff were available to work at those schools to safely provide even minimal supervision. Over 709,000 students, or 89.88 per cent of students, in our State schools were absent from school on the day of the strike.

Last week the Supreme Court handed down a \$60,000 fine to the Teachers Federation for breaching dispute orders and going ahead with the strike. In its judgement, the Supreme Court noted that the union's annual revenue from its membership was \$37 million. A paltry \$60,000 fine is a mere drop in the ocean and, as someone observed, is viewed by the union as the cost of doing business. The current penalty regime is simply no deterrent. It is clear from other jurisdictions as to the appropriateness of what those penalties should be. In its judgement, the Supreme Court made the point that it was necessary to record that the industrial action organised and promoted by the federation breached the dispute orders in a material way. The breaches were inimical to the ordinary conduct of the conciliation and arbitration systems established by the Industrial Relations Act. That is the fundamental reason the increased penalties are needed. It is not because of any attack on workers. We respect every single worker in this State. They are the great—

The DEPUTY PRESIDENT (The Hon. Chris Rath): Order! Members on both sides of the Chamber will come to order.

The Hon. DAMIEN TUDEHOPE: What happens in this Chamber—and what has happened in every speech given today—is because the industrial masters of those opposite come in and say, "Your job is on the line." Members have seen that the likes of Mick Veitch, a shearer, has to go because the industrial masters—

The Hon. Adam Searle: Point of order: To the extent that the Minister's comments applied to me, he is misleading the House!

The Hon. DAMIEN TUDEHOPE: Earlier I made the observation that one of the great tragedies is that the industrial masters sometimes have very poor judgement. To rid this place of someone like Adam Searle and replace him with someone like Khal Asfour is one of the—

The Hon. Mark Buttigieg: To the point of order: The truth of the matter is that the jobs of those opposite are on the line.

The DEPUTY PRESIDENT (The Hon. Chris Rath): There is no point of order. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: Those opposite come into this Chamber and try to lecture us about looking after the workers. This Government has done more to protect the people of this State during a pandemic than any other government in the country. Those other governments did not have a health system that could look after the people of their State. They imposed those draconian lockdowns to such an extent that their hospital systems were not overstretched. In New South Wales, we tried to make sure that every single person in this State could survive.

One of the reasons we should embark on this bill is that the leaders of those unions, who have no respect for the people of this State, say to the small-business owner, "We don't care whether you go broke." The mums and dads out there say, "We want to get our kids to school," but the union leaders say, "We don't care about them." We say to the mums and dads who have to catch up on a medical appointment at a hospital, "You're not going to be able to get there because of this strike," but the union leaders say, "We don't care about you." Members on this side of the House care about those people. Those opposite will tell you every sob story in the book but—

The DEPUTY PRESIDENT (The Hon. Chris Rath): Order! The Leader of the Opposition and Ms Abigail Boyd will cease interjecting or they will be called to order.

The Hon. DAMIEN TUDEHOPE: We have heard a lot of ideology tonight. But let us go back to what this bill is about, which is about whether we respect the rule of law. If we respect the rule of law, then we want a penalty for a breach of that rule of law that reflects the seriousness with which it should be taken. The current regime is out of date. It should be updated. There should be consequences for those who snub their nose at the legal system. No-one suggests, except The Greens, that there should be no penalties for breaching court orders. There was no suggestion by Opposition members to remove the penalty.

Ms Abigail Boyd: No penalties for striking! No penalties for industrial action!

The Hon. DAMIEN TUDEHOPE: I am a great believer in the right to strike. I am a great believer in taking industrial action. But when you do it, obey the law. That is what we all should be doing. If we obey the law, we do not have a problem. If we do not obey the law, we should have a problem. Everyone in this State believes that those who break the law should have a problem and they believe that problem should be commensurate with the expectation that people in this State will obey the law. All members should support the bill. I commend the bill to the House.

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

The House divided.

Ayes12
Noes14
Majority.....2

AYES

Barrett (teller)	MacDonald	Poulos
Fang	Mallard	Rath
Farlow (teller)	Martin	Roberts
Latham	Nile	Tudehope

NOES

Banasiak	Faehrmann	Mookhey
Borsak	Field	Primrose
Boyd	Higginson	Searle
Buttigieg (teller)	Houssos	Sharpe
D'Adam (teller)	Hurst	

PAIRS

Amato	Donnelly
Farraway	Graham
Franklin	Jackson
Maclaren-Jones	Moriarty
Mitchell	Moselmane
Taylor	Secord
Ward	Veitch

Motion negatived.

Documents

CENTRAL BARANGAROO

Dispute of Claim of Privilege

The PRESIDENT: I report to the House that on 20 October 2022 the Clerk received correspondence from the Hon. Adam Searle disputing the validity of a claim of privilege on documents lodged with the Clerk on 22 June 2022, relating to Central Barangaroo. Pursuant to standing orders, a retired Supreme Court judge, 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 has released the disputed documents to the Hon. Keith Mason, AC, KC, for evaluation and report.

*Bills***TREASURY AND ENERGY LEGISLATION AMENDMENT BILL 2022****Second Reading Speech**

The Hon. SHAYNE MALLARD (19:53): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

The Treasury and Energy Legislation Amendment Bill 2022 amends a diverse range of legislation administered by the Treasurer, and Minister for Energy. The legislation covered by the bill includes the Government Sector Finance Act 2018, the Superannuation Administration Act 1996, the Electricity Supply Act 1995, the Subordinate Legislation Act 1989 and the Energy Utilities Administration Act 1987. While they deal with quite different subject matters, taken together the amendments provide for a series of miscellaneous reforms that will strengthen accountability, transparency, performance and innovation in the New South Wales Government. As this bill was received from the lower House, I seek to incorporate the Treasurer's second reading speech in *Hansard*.

Leave granted.

Schedules 1 to 3 deal with Treasury-related matters, while schedule 4 addresses energy matters. I will address each schedule to the bill individually.

I turn first to the amendments to the Government Sector Finance [GSF] Act 2018 in schedule 1 to the bill. These amendments seek to clarify the authority for GSF agencies that spend and receive payments from other agencies within the sector. While there are strong mechanisms in place to manage agencies' administrative expenditure limits detailed in the budget papers, there is no mechanism to ensure expenditure by agencies from the Consolidated Fund does not cause a technical breach of a Minister's appropriation authority. This is because the legal framework is out of step with modern cash and accrual accounting concepts. The proposed amendments simplify and clarify the authorisation framework. This will enable Ministers to have clearer visibility over their appropriation limits, and an improved ability to manage those appropriations they are accountable for. It does this by aligning the legal framework with existing administrative budget and cash controls already operating in the sector. In her report on State Finances 2021 the Auditor-General recommended that NSW Treasury:

... ensure a framework exists to monitor and provide assurance to Ministers that expenditure incurred across a financial year by agencies under the relevant Minister's coordination does not exceed the appropriation authority conferred by the annual Appropriation Act and the GSF Act.

This bill seeks to progress a major component of NSW Treasury's response to the Auditor-General's recommendation. The Audit Office of New South Wales has been consulted and is supportive of the proposed changes to the Act. These legislative amendments would result in a permanent, sustainable solution to the current issues. Specifically, schedule 1 to the bill proposes amendments that will: deem transactions between two government entities as a new category of deemed appropriations; simplify how Ministers receive deemed appropriations, as well as simplify the framework for Ministers to delegate and monitor spending against their appropriation limits by ensuring deemed appropriations are being deemed to be made to the lead Minister rather than the responsible Ministers of the GSF agency receiving or recovering the money; validate payments between two GSF agencies made in previous years to ensure they are taken to have been made under authorised appropriations; enable the Treasurer to transfer existing deemed appropriations when the related service, function or program is transferred from one cluster to the new cluster; and empower the Treasurer to transfer existing appropriations—whether made under an appropriations Act or deemed appropriations—where new clusters and new cluster lead Ministers are established within a financial year.

Without the proposed amendments it is not clear what the available appropriation is at any one time or which Ministers are responsible for that appropriation. This is because the legal framework is unclear and overly complex and the information and reporting systems, which align with cash and accrual frameworks, do not currently capture the necessary information to monitor expenditure against the legal authorisation framework. The amendments in this bill will bring the legal framework into better alignment with these other control frameworks. For example, it is common for one cluster to pay another cluster for services using its appropriations, or transfer activities under a machinery of government change. However, there is no formal legal authority to spend the moneys in the new cluster. There is also no formal legal adjustment of either cluster's appropriation limit. The proposed amendments will legally "deem" such transactions as appropriations so there is formal legal authority to spend the moneys. The amendments will also legally enable the transfer of deemed appropriations where a machinery of government change occurs.

The amendments also seek to address the ambiguity in situations where the cluster lead Minister receives appropriations for a program but the responsible Minister is a different person by simplifying the legal framework on how Ministers receive and delegate the authority to spend. NSW Treasury will provide guidance to agencies on how this legislative framework will work in practice. In particular, there will be guidance on the new references in the bill such as "financially administered" and how this applies to agencies, as well as the development of a GSF amendment regulation that will clarify which types of payments fall within the definition of cross- appropriation payments under the GSF Act. Cluster grants are not a form of cross-appropriation payment. If no legislative change is implemented in relation to a new category of deemed appropriations within the Act, a significant administrative burden will fall on the agencies and the lack of clarity for Ministers in terms of unauthorised cross-appropriation payments will continue. The proposed legislative amendments are recommended to be passed by 31 December 2022 to meet NSW Treasury's commitment to address the Auditor-General's recommendation.

I turn now to the amendments to the First Home Owner Grant (New Homes) Act 2000 in schedule 2 to the bill. These amendments will provide the statutory framework that enables the operation of a shared equity scheme in New South Wales. As part of a package of home ownership measures announced in the 2022-23 budget, the Government announced it would deliver a two-year trial of a shared equity scheme. The shared equity scheme will allow the Government to share the cost of purchasing a home with an eligible home buyer in exchange for taking an equivalent equity share in the property. This will help address both the deposit barrier and the mortgage serviceability difficulties faced by home owners, bring forward purchases and provide access to home ownership for those who might not be able to get into the housing market without government support.

The scheme's legislation will be enacted by way of amendments to the First Home Owner Grant (New Homes) Act 2000. Once the legislation is passed, this Act will be called the First Home Owner Grant and Shared Equity Act 2000. This Act is an appropriate legislative location for the scheme as it similarly supports a home buyer to purchase a home and contains relevant provisions that would be applicable to the scheme. The bill will give the Treasurer power to establish a shared equity scheme, by order published in the *Gazette*, and issue policy guidelines. These policy guidelines will outline aspects of the scheme not incorporated in primary legislation, including eligibility, obligations, conditions and processes. The chief commissioner must administer the scheme in accordance with the policy guidelines.

The bill will provide the chief commissioner with both the authority to administer the shared equity scheme and the necessary powers to protect the State's interest. The functions of the chief commissioner will include establishing application processes, assessing applications, entering into contracts for the scheme and monitoring compliance with the scheme requirements. Consistent with other parts of the first home owner grant Act, the chief commissioner will have investigative powers to support compliance activities. This includes the power to require information, documents or attendance, enter the property premises and conduct a search warrant. The legislation also enables the chief commissioner to use and disclose information obtained under other Acts—for example, in relation to tax and grants administration—for the purpose of administering the scheme.

To support the chief commissioner's functions, the bill will extend certain offences and penalties that apply to first home owner grants and apply to the scheme the record-keeping and general offences in part 8 of the Taxation Administration Act 1996. The chief commissioner will also be able to impose administrative penalties of no more than \$3,300 to deal with minor instances of noncompliance. Participants will be able to object and seek a review of certain decisions of the chief commissioner, including approval to participate, repayment obligations and imposition of penalties.

Once an assessment is made that a repayment of the equity share is warranted under the policy guidelines, the chief commissioner will notify the participant and support the participant to make repayments. For example, this could be made through a negotiated instalment plan. Where repayments are not made, the bill provides that these outstanding debts are referable debts under the State Debt Recovery Act 2018. Revenue NSW may commence debt recovery action as it currently undertakes in relation to a range of debts payable to public authorities. The chief commissioner when determining the course of action around repayment will consider the nature of the eligibility breach and the ability of the participant to repay the Government.

The bill also establishes the NSW Shared Equity Scheme Fund to manage and report on the significant amount of funds that are to be administered for shared equity scheme purposes. The fund is needed to contribute to the purchase of homes in exchange for a shared equity interest and, at a later point in time, receive the repayment of that equity share in the fund. Given that this is a two-year trial, the bill also provides a mechanism by which the fund may be closed with the agreement of the Treasurer and the relevant Ministers for the fund.

I now turn to schedule 3 to the bill that deals with superannuation fund mergers. The bill amends the Superannuation Administration Act 1996 to allow for the transfer of former government superannuation schemes to successor funds via a new regulation-making power. The need for the bill arises from the proposed merger between the Energy Industries Superannuation Scheme [EISS] set up by the New South Wales Government and the Construction and Building Union Superannuation Fund [Cbus]. Under the current licence condition imposed on EISS by the Australian Prudential Regulation Authority [APRA], EISS must merge with a larger, better-performing fund.

EISS, assisted by an external consultant and overseen by its board, undertook a comprehensive process to find an appropriate merger partner. Potential funds were assessed on the basis of pricing, general capability, member services, employer services, investment and insurance. The analysis, endorsed by the EISS board, identified Cbus as the preferred merger partner and successor fund. Cbus is one of the largest superannuation funds in Australia, with over \$68 billion in funds under management and 785,000 members. The merger will provide EISS and Cbus members with access to greater economies of scale and investment opportunities that will ensure members' interests continue to be protected in the long term.

The Superannuation Administration Act, as currently drafted, does not provide for a situation where an additional State public sector superannuation scheme set up by the Government under section 127 of the Act could merge with another fund through a successor fund transfer. Mergers between funds are commonplace in the superannuation industry, which is currently going through a market consolidation phase to ensure members can take advantage of the greater scale of larger funds. A successor fund transfer is a method of merger under Commonwealth superannuation law between two superannuation funds, involving bulk transfer of members and their benefits from one fund to another. The outgoing and incoming trustees must agree that the receiving fund will provide members with equivalent rights after the transfer. It is a method of merger that minimises the ongoing administrative costs and would therefore be to the benefit of the members.

I now turn to the details of the bill. The bill amends the Superannuation Administration Act 1996 to provide that regulation can be made to transfer the members and their benefits from a government superannuation scheme to a successor fund. The bill preserves the mobility rights currently provided for in the Act following a successor fund transfer. The bill also makes consequential amendments to other Acts where they refer to EISS or sections of the Act that are being amended by the bill to ensure that no unintended consequences arise from the successor fund transfer.

The bill is introduced with the intention of making the Superannuation Administration (Cbus Transitional Provisions) Regulation 2022, which may be made under the new regulation-making powers in the bill. The proposed regulation enables a successor fund transfer of the EISS to the Cbus fund. The proposed regulation will transfer the members of EISS to the Cbus fund; make Cbus liable for the payment of their benefits; and provide that employers under EISS are now employers contributing to the Cbus fund. Without this bill and the proposed regulation, EISS and Cbus would have to merge through other mechanisms, which creates additional ongoing administrative costs to the detriment of members. Also without the bill, EISS may not be able to merge with Cbus, which could breach the conditions set by APRA requiring EISS to merge with a larger, better-performing fund.

Schedule 4 to the bill deals with the schemes under the Energy Security Safeguard. It makes changes to three Acts. The bill amends the Electricity Supply Act 1995 to improve the operation of the Energy Security Safeguard, which consists of three schemes: the Energy Savings Scheme, the Peak Demand Reduction Scheme and the Renewable Fuel Scheme. These amendments complete the reforms to align with the policy and design features that the Government committed to in the Energy Security Safeguard position paper. Given the similarities and need for consistency between the safeguard schemes to minimise red tape, the amendments also apply to the Renewable Fuel Scheme, which was legislated after the position paper was published.

The amendments to the cost of audit provisions will improve audit integrity. The amendments enable regulations to be made to allow the scheme regulator and administrator to determine which audit functions it undertakes and which are undertaken by other parties such as auditors; how fees in connection with audit functions should be paid; and the maximum amounts for such fees. The amendments in schedule 4 to the bill will improve the administration of the safeguard schemes in three ways. First, it clarifies when energy savings certificates may be created and allows regulations to be made to extend the period in the Act. Second, it ensures that the Peak Demand Reduction Scheme and Renewable Fuel Scheme certificates can be surrendered in respect of a compliance period, even if the certificate has expired but only if the certificates were active during the compliance period for which they are being surrendered. Third, it allows the scheme administrator to waive or reduce any application fees. This will reduce unnecessary costs for participating businesses.

Schedule 4 to the bill also includes amendments to the Subordinate Legislation Act 1989 that will provide greater confidence to long-term energy service agreement operators and network operators that are engaged under the Electricity Infrastructure Roadmap. These amendments will reduce the risk of a change in law mid-contractual term, affecting long-term energy service agreements and network infrastructure project revenue determinations made under the Electricity Infrastructure Investment Act 2020 and the Electricity Infrastructure Investment Regulation 2021. Excluding the Electricity Infrastructure Investment Regulation 2021 from the staged repeal process is consistent with the inclusion of several excluded instruments currently identified in schedule 4 of the Subordinate Legislation Act, such as in respect of the ports assets, electricity network and generator assets transactions. The amendments in this bill are similarly designed to secure critical regulatory certainty for the term of such authorised transactions.

Finally, schedule 4 seeks to amend the Energy and Utilities Administration Act 1987. Section 35 of the Act reflects the energy administration framework on the enactment of the Act in 1987, which established the department of energy for the sole administrative purpose of managing the affairs of the corporation. The department of energy was abolished on 8 April 1999 by the Public Sector Management (General) Order 1999. Due to the Administrative Arrangements (Administrative Changes—Miscellaneous) Order (No 2) 2022, from 1 April 2022 the references to "the department" in section 35 of the Energy and Utilities Administration Act were to be read as references to Treasury, with the effect that all money received by Treasury must be paid into the energy administration account special deposit account.

Further, all amounts required to meet the expenditure incurred in connection with the functions of Treasury under the Act, or any other Act, must be paid out of the energy administration account special deposit account. This amendment to section 35 of the Energy and Utilities Administration Act removes outdated references to "the department" and remedies the current technical breach of the Energy and Utilities Administration Act by Treasury. In summary, the bill makes a range of necessary and important changes to Treasury and energy legislation. The most significant of these reforms is the shared equity scheme. The scheme is just another part of this Government's commitment to secure a brighter future for New South Wales families and key workers by increasing housing affordability and accessibility. I commend the bill to the House.

Second Reading Debate

The Hon. DANIEL MOOKHEY (19:54): I lead for the Opposition in debate on the Treasury and Energy Legislation Amendment Bill 2022. Much like the Parliamentary Secretary, I direct readers to the contribution made by my friend the member for Macquarie Fields in the other place to set up the substantive Opposition response. I do not expect to speak much but I simply defer to his speech. There are just three points that I wish to raise with respect to this bill. The first is that it introduces a shared equity scheme. That is something that Labor supports. It is something that Anthony Albanese was elected on a policy platform to deliver. It is something that Scott Morrison opposed rigorously at the last election. He made the point that it would result in Anthony Albanese owning people's homes. The shared equity scheme was the subject of a scare campaign that was waged by the Federal Liberal Party, which is ironic given that, as I recall, Malcolm Turnbull at the Menzies Research Centre was one of the first people to advocate for a shared equity scheme in 2006.

It is good that the New South Wales Liberal Party has maintained the consistency of position for which it is infamous, but it has brought in this bill. It is a good thing that it has because it is about time we had a shared equity scheme in New South Wales. We have had them in Western Australia for 30 years. We have had them in Victoria for many years as well. It is about time that we have one here in New South Wales. Sadly, we do not know what that shared equity scheme is because the Government has not done any work on it. From what we can tell, it seems as though a press release was issued ahead of the budget and then the poor souls at the Treasury were then forced to come up with one. I offer such respect to the Treasury public officials. Basically, what this bill does is give us the power to come up with a plan.

The plan is not prescribed. The details are not clear whatsoever on how this shared equity scheme is meant to work. It is fine that we will be creating a special deposit account to hold the shared equity scheme. I am a fan of special deposit accounts. We debated one last week. There is a question mark as to why other special deposit accounts already in existence were not used for this; nevertheless I take the Government at its word when it says that it needs to create that. We are basically saying that at some point in the future we hope that the Treasurer will have a plan. What is equally disappointing is that there is no evidence whatsoever that the Government has commenced or even started the work that we would expect it to have done to even run a tender so we would know which financial organisation will be assisting us in rolling out the scheme.

We do not have any rules and we do not have any partners, but what we do have is a government that is running out of time and a government that has left this so late that in the seven sitting days we have left, we have to pass it. Of course, Labor wishes to facilitate this because in this respect we are prepared to put ahead the interests of people who want to enter the property market and people who find themselves in a situation where, following

a divorce or otherwise, they need access to equity. It is an important reform. We are pleased that the people who need this the most are likely to be women who are aged between 50 years and 60 years and who are the fastest rising group of homeless people in the country. They need assistance to make sure they have shelter. I know many people in that category. The Labor Opposition is prepared to overlook the Government's manifest incompetence in this respect and make sure that the Parliament does its job, even though the Government is so disorganised it cannot do its job.

The Hon. Wes Fang: Who wrote this?

The Hon. DANIEL MOOKHEY: I accept the interjection from the Deputy President and I appreciate the interjection.

The Hon. Wes Fang: I said, "Who wrote this?".

The Hon. DANIEL MOOKHEY: I urge the Deputy President to act like a Deputy President and perhaps read the bills he is about to vote for. I simply say in this respect that the Labor Opposition is more than happy to once more come to the rescue of the Government when it comes to its incompetence. We have made some suggestions to ensure there is some parliamentary oversight with respect to this scheme. I know The Greens also have legitimate concerns about the paucity of policy development that led to the creation of this bill in respect of the shared equity scheme.

I will talk about the other aspects that are covered by the bill, at least as they apply to Treasury matters. They include the tools necessary to facilitate the merger of the Energy Industries Superannuation Scheme with the Construction and Building Union Superannuation Fund. I respect the Treasury officials who have been working with those two funds to ensure that that merger can take place. Labor, of course, supports it. I place on the record that I am a bit concerned that there was not direct contact with unions like the United Services Union, which is affected by the bill. Nevertheless, that union has indicated that it would support anything that would result in its members getting a better outcome on superannuation.

Finally, I appreciate that the deemed appropriation sections of the bill resolve a complicated challenge that has arisen from the creation of, effectively, clusters that need to cross-spend from each other's appropriations. I salute the Treasury officials who have been working to solve that problem. We support that, especially if it leads to the delivery of effective public services, and we hope that the Government achieves its objective of solving that issue. We take the Treasury and the Government at their word when they say that they have consulted with the Auditor-General on it. We hope that it helps clarify that issue, which has arisen as a result of the formation of the clusters.

Ms ABIGAIL BOYD (20:00): I speak on behalf of The Greens in debate on the Treasury and Energy Legislation Amendment Bill 2022. The Greens will not be opposing the bill, but I will make a few comments about it. We will also move some amendments during the Committee stage. Other than the fact that, obviously, we have a Treasurer who is also the Minister for Energy, it is curious that the bill is primarily a piece of energy legislation that has jammed into the middle of it—there is also a bit of other Treasury stuff—this shared equity scheme. I agree with the shadow Treasurer. It is not so much a scheme as a kind of scheme for a scheme—an outline for what might one day become a thing.

In the course of that outline, it gives huge discretion to the Treasurer to decide who it is going to apply to and whether or not there will be onerous conditions placed on them. I understand there have been proposals suggesting how it might apply to some of the public sector workers. In applying it to first home buyers, there is also the idea that there might be some sort of annual check-up required of the property or other requirements that are baked into the terms or guidelines that would govern how this scheme would work in practice. I think that is properly the remit of this Parliament to determine and the Treasurer should bring the proposal, even if it is by way of regulation, to Parliament so that we can have some oversight and make sure that individuals who are entering into this scheme are protected and that the money is being handled in a transparent and accountable way.

I express concern that the scheme has been shoved in at the last minute in the middle of a bill that otherwise has nothing to do with shared equity, which was brought to us a mere four weeks before the end of the parliamentary term. There is no real plan in the bill. The land tax proposal came out last week. There is now this shared equity scheme. Although The Greens very much support the idea of a shared equity scheme—as we do the general concept of transitioning to land tax—the way in which the Government proposes to bring in these measures shows it has no real plan for how it will deal with housing affordability. It is saying, in a half-baked way, "We'll apply it to certain parts of the market. We'll probably have it in relation to this but we're not going to tell you. We're going to do it under guidelines and who knows when they might come out."

Today the Standing Committee on Social Issues, of which I am a member, released a report on an inquiry that I initiated on behalf of people aged over 55 who find themselves in homelessness, which is a cohort growing

at a much higher rate than other parts of the community, and on behalf of people who work in the sector. The report made it clear that the problems of housing affordability and homelessness are complex. We cannot simply fix them with demand-driven factors. We cannot look at the demand side and ask, "Right now houses are incredibly expensive. How can we help people to afford a home?" It is not as simple as the Government taking a stake in those homes. It may provide some immediate assistance to people, as might waiving stamp duty, but we must look at what those measures would do to house prices.

We could do many things across the housing market, including on the supply side by adding supply. We could address negative gearing, capital gains tax discounts, investors who own multiple empty homes and Airbnb and other platforms that are out of control. We should also build a huge amount of social housing to help people who are in dire need. Proposing half-baked measures without a coherent vision does not give me confidence that the Government understands the housing market or plans to address housing affordability on the whole, which is concerning. On the other hand, The Greens do have a vision. Interestingly, shadow Treasurer Daniel Mookhey said that there is no mention of which financial institution would help the Government with its plan. Last year The Greens launched a plan for a public bank of New South Wales.

The Hon. Shayne Mallard: Compulsory deposits.

Ms ABIGAIL BOYD: The public bank of New South Wales—it is a thing.

The Hon. Taylor Martin: It sounds like Russia in the 1930s.

Ms ABIGAIL BOYD: All right. It is absurd that an essential public service such as banking is entirely privatised in this country. That is not the case elsewhere in the world. Most countries have a State bank. If a public bank of New South Wales held that money—rather than paying fees to financial institutions to manage our money, and rather than councils putting their money into private financial institutions—we could have a very tidy sum to seed a public bank of New South Wales.

The Hon. Taylor Martin: What on earth!

Ms ABIGAIL BOYD: Have you not heard about the public bank of New South Wales? Do you not believe in public banking?

The Hon. Taylor Martin: The old one?

Ms ABIGAIL BOYD: Oh dear. Let us move on. The point is that The Greens launched the idea of the public bank of New South Wales precisely because we need an institution that is flexible enough to help people in hard times. The public bank of New South Wales could help people who are going through tough times, such as COVID, by taking an equity stake in their property. That would allow them to move forward. We support the idea of a shared equity scheme, but the Government's bill is all spin and no substance. The Greens will not oppose the bill, but our amendments will seek to put some sort of oversight on the scheme. I express some small hope that the Government is at least thinking about taking more housing stock into public hands.

The Hon. SHAYNE MALLARD (20:09): On behalf of the Hon. Damien Tudehope: In reply: I thank honourable members for their contributions, their support for the bill and their free character assessments of Government members. I commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Wes Fang): There being no objection, the Committee will deal with the bill as a whole. There are two sheets of amendments before the Committee, The Greens amendments on sheet c2022-182B and the Government amendments on sheet c2022-183B.

Ms ABIGAIL BOYD (20:11): If helpful, The Greens amendments Nos 1 and 2 overlap with Government amendments Nos 1 and 2. I suggest we debate those amendments together and vote on them separately.

The Hon. SHAYNE MALLARD (20:12): By leave: I move Government amendments Nos 1 and 2 on c2022-183B in globo:

No. 1 **Tabling shared equity guidelines**

Page 7, proposed section 24D. Insert after line 32—

(1A) The published policy guidelines must be tabled in each House of Parliament as soon as practicable after publication.

No. 2 **Tabling annual report**

Page 9, proposed section 24I. Insert after line 17—

- (6) The annual report must be tabled in each House of Parliament within 6 months after the end of the financial year to which it relates.

Amendment No. 1 ensures transparency—that information about the scheme is widely available and that the Parliament is able to properly scrutinise the guidelines and the annual report. I note that the bill already states that the Treasurer may publish policy guidelines. However, this amendment makes it a requirement to table those guidelines in the House. Amendment No. 2 requires that the bill provides for an annual report for the shared equity fund to be produced. The amendment also requires the report to be tabled in the Parliament for the purposes of transparency and proper scrutiny.

Ms ABIGAIL BOYD (20:14): By leave: I move The Greens amendments Nos 1 and 2 on sheet c2022-182B in globo:

No. 1 Shared equity schemes

Page 7, Schedule 2[2], proposed section 24C(1), line 26. Omit "The Treasurer may, by order published in the Gazette,". Insert instead "The regulations may".

No. 2 Shared equity schemes

Page 7, Schedule 2[2], proposed section 24D(2), line 34. Insert "the regulations and" before "published policy guidelines".

The scheme set up under the bill is incredibly broad, so the least the Government could do is put the broad details of the scheme into the regulation rather than them being purely in the policy guidelines. That is why The Greens have proposed these amendments. It is incredibly bad lawmaking practice to put something that broad into a bill and then delegate that amount of discretion to the Treasurer. Regarding the Government amendments, I am glad to see that they have at least moved slightly towards where they need to be and are better than they were. The published policy guidelines will be required to be tabled, which is good. At least we will know what the guidelines are. As a Parliament we will not be able to debate them, scrutinise them or do anything about them, but at least we will know what they are, so that is good. To table the annual report within six months of the end of the financial year is a sensible amendment that provides at least a bit of accountability and transparency. The bill is nowhere near good enough, and I think the Government knows it. But, in the circumstances, The Greens support the Government amendments because at least they go some way towards making the bill more accountable.

The Hon. SHAYNE MALLARD (20:16): On behalf of the Government I address The Greens amendments, which essentially create uncertainty, whereas the Government amendments create more certainty. The Government does not support The Greens amendment No.1, which would create delay or significant uncertainty in the rollout of a shared equity scheme in New South Wales because regulations will not be able to be tabled for 15 sitting days before Parliament rises for the final time this year. It is a timing issue. The regulations could be disallowed at a point in time well into next year following the election in March. That would either delay the delivery of the shared equity scheme, effectively withholding assistance to the vulnerable citizens who need it, or create a risk that after the scheme has begun, the regulations underpinning its delivery could be disallowed.

Ms Abigail Boyd: That is what a regulation is.

The Hon. SHAYNE MALLARD: It is about timing. That would make it more difficult to procure a commercial bank to act as the Government's lending partner and create uncertainty and anxiety for eligible scheme participants. The Government does not support amendment No. 2 for the same reasons.

The Hon. DANIEL MOOKHEY (20:18): The Opposition supports the Government's amendments. The Government has been so disorganised that it has not been able to introduce legislation to Parliament in a manner which would mean we could debate The Greens amendments without the effects that the Parliamentary Secretary referred to. It is disappointing that we will have to rely on the guidelines mechanism. I am glad that the Government took a suggestion from an invisible hand to at least introduce that. It is not a small point that a shared equity scheme of the type the Government is proposing will traffic in \$800 million. Assuming 5 per cent property growth in the equity stake, the scheme will become a very significant asset. It is not possible to roll out the scheme under the timetable supported by both the Opposition and the Government with the requisite level of mechanisms, so I guess the Government's amendments are better than nothing. As always, when it comes to the annual reports of funds that control billions of dollars, Parliament should see them. That is just basic good fiscal management.

Ms ABIGAIL BOYD (20:19): I thank members for their contributions on the amendments moved by The Greens. I would like to thank the invisible hand that convinced the Government to at least put these amendments forward. It would be nice if the invisible hand could have done more than that, but I understand the Government's position. I also take the point that, given how disorganised this Government is, and given how lacking it is in any actual policy or plan, it would be very hard for it to draft a regulation in time. I understand that, and I thank members for their contributions.

The CHAIR (The Hon. Wes Fang): The Hon. Shayne Mallard has moved Government amendments Nos 1 and 2 on sheet c2022-183B. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR (The Hon. Wes Fang): Ms Abigail Boyd has moved The Greens amendments Nos 1 and 2 on sheet c2022-182B. The question is that the amendments be agreed to.

Amendments negatived.

Ms ABIGAIL BOYD (20:21): I move The Greens amendment No. 3 on sheet c2022-182B:

No. 3 **Staged repeal of statutory rules**

Page 23, Schedule 4.4, lines 4–13. Omit all words on the lines.

This one is pretty extraordinary. A sneaky little schedule 4.4 [1] has been inserted which changes the Subordinate Legislation Act. The ordinary staged repeal of regulations will not apply to a regulation made under the Electricity Infrastructure Investment Act. Those regulations will be carved out. I asked what made the regulations under that Act so special that they could not come up for review and remaking in exactly the same way as all the other regulations. I was not given a very good answer. It was similar to the contribution we just heard from the Parliamentary Secretary. I was told that it is important for certainty. If it is important for certainty, the Government might wish to make the amendment to the main Act so that Parliament has the opportunity to consider it before it is applied for such a long duration.

The reason that regulations have staged repeals or are remade is precisely that they are regulations. It is an important check and balance on the power of the Executive. When regulations are remade, we get the opportunity to look at them again and to disallow them if we feel that they should be disallowed. To take the approach of carving out the regulations made under this particular Act, given the extraordinary use of delegated instruments by the Government and the denial of oversight from the Parliament, is gobsmacking. The Greens amendment simply deletes that section. There is absolutely no reason why this is a special case and the ordinary rules cannot be followed. The Government knows this. In the same way that Government members like to flout all the other conventions and core principles of our democracy, they are choosing to do so here. I would love to hear why on earth the section has been inserted. I commend the amendment to the Committee.

The Hon. SHAYNE MALLARD (20:23): The Government opposes the amendment. As the member said, it boils down to commercial certainty and managing commercial risk. I will go through the detail. The Government does not support the amendment, which removes schedule 4.4 in its entirety. Schedule 4.4 deals with the exemption to the automatic repeal processes for regulations made under the Electricity Infrastructure Investment Act 2020. Removing the schedule would undermine the confidence and certainty of electricity infrastructure investors.

As it stands, schedule 4.4 will ensure that the long-term contracts that investors tender for are not subject to a change in the law during a term of the contractual arrangements. Without schedule 4.4, the additional risk and uncertainty could be embedded into their service agreement bids, which in turn could increase the costs to consumers who bear that risk. Schedule 4.4 is consistent with other excluded instruments currently identified in schedule 4 to the Subordinate Legislation Act 1989, such as the ports assets, the electricity network and the generator assets transactions. The Government opposes the amendment.

Ms ABIGAIL BOYD (20:25): I thank the Hon. Shayne Mallard for his contribution and note that it was exactly the same as his earlier contribution. It is absolutely extraordinary that the bill is picking out those particular investors and those particular contracts. This Government has seen fit to enter into very long contracts and do all sorts of things in other areas, sometimes by statute or sometimes bearing the apparent risk. Here is a particular instance where the Government has decided that it would be quite handy for it not to have to deal with the Parliament and worry about this in the future because "Some of our big corporate mates might lose out." It is really bad lawmaking.

There are fundamental principles of division between the Executive and the Parliament. The role of this House and the Parliament in holding the Executive to account is constantly being eroded. I have been in this place for only 3½ years and it is constantly being eroded, with more things being put into delegated legislation. It is becoming harder to even seek to disallow a regulation. It is just terrible practice. Government members will find themselves on the other side of the House at some point. I really hope that at that point they will seek to uphold the fundamental principles of our democracy and not just think about what will suit them when they are in power.

The CHAIR (The Hon. Wes Fang): Ms Abigail Boyd has moved The Greens amendment No. 3 on sheet c2022-182B. The question is that the amendment be agreed to.

Amendment negatived.

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

Motion agreed to.

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

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SHAYNE MALLARD (20:28): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

The Hon. DANIEL MOOKHEY (20:28): I note that many staff at the table and in Hansard worked through the dinner break to facilitate the passage of this legislation. I place on record the Opposition's appreciation for those staff members.

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

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. SARAH MITCHELL: I move:

That this House do now adjourn.

ILLAWARRA HEALTH INFRASTRUCTURE

The Hon. PETER POULOS (20:30): I am encouraged by the Perrottet Government's record investment in health infrastructure in the Illawarra. There is always more to do and as the Parliamentary Secretary for Wollongong and the Illawarra, I will continue to liaise with both the Minister for Health directly and with his ministerial office to ensure that the Illawarra has its growing community needs addressed. I confirm that during my interactions with Minister Hazzard, he is most attentive and responsive. Recently the Minister for Health confirmed that the Illawarra community will soon witness the construction of the new \$700 million Shellharbour Hospital. This is very exciting and welcome news.

The New South Wales Government has formally confirmed the acquisition of the preferred greenfield site for the new hospital to be located at Dunmore Road, Dunmore. As part of this project, the hospital is expected to include a new \$23 million multistorey carpark and improved public transport links, expanded emergency services, increased surgical capacity, acute medical services, rehabilitation and aged-care services, new mental health services, renal dialysis, outpatients and ambulatory services. The new Shellharbour Hospital and integrated services project will enhance the current and future health services available to the Illawarra by focusing on modern healthcare delivery, service sustainability, networking and consolidation to improve health outcomes for the region.

As part of this integrated project, NSW Health, through the Illawarra Shoalhaven Local Health District, will expand its services at Bulli Hospital and add palliative care and rehabilitation beds at Wollongong Hospital during the construction of the new Shellharbour Hospital. Importantly, the decision to create greater capacity at Bulli Hospital augments the new \$50.4 million Bulli Hospital and Aged Care Centre delivered by the New South Wales Government in August 2020. I acknowledge the consistent and strong advocacy from the member for Heathcote, Lee Evans, for Bulli hospital. The project to fund the new facility in Bulli delivered inpatient and aged-care facilities, the development of onsite clinical support services, including medical imaging, pathology, and pharmacy, an urgent primary healthcare centre and, in partnership with the Illawarra Retirement Trust, funded the \$16.6 million, 60-suite residential aged care centre. This new facility in Bulli focuses on geriatric medicine, primary and community health services and helps support the Wollongong Hospital emergency department.

I also thank the Minister for Health for the opportunity to announce that the brand-new Warrawong Community Health Centre will be built on the existing Port Kembla Hospital site, to the southeast of the hospital. In transitioning services from the old Port Kembla Hospital, which opened in 1960, this new centre will be a modern health facility aimed at addressing the growing health needs of the local community. I am also delighted that under the New South Wales Government's \$232 million Rural Ambulance Infrastructure Reconfiguration program, the community of Fairy Meadow will receive a new ambulance station. This is the first time an ambulance station has been based in Fairy Meadow and the suburb was identified as the ideal location to support the Bulli and Wollongong ambulance stations, whilst strengthening the ambulance coverage across the Illawarra region.

Importantly, as a government we continue to make new funding announcements. In this year's budget, the Perrottet Government announced a \$1.76 billion boost for NSW Ambulance to deliver 2,128 new recruits and 30 more ambulance stations. One of these new ambulance stations will be situated in Warilla, which incidentally will be one of the first stations to be constructed under this 2022-23 budget. With this record investment, the Illawarra region will gain another new ambulance station and NSW Ambulance will achieve the largest paramedic workforce in the country. In addition, as part of this year's budget measures, \$8 million has been allocated to enable essential health workers to have an extended hours childcare service, thereby increasing the access to childcare for children of hospital workers and supporting our essential health workers with more flexibility to perform their critical role. Under this initiative, an onsite childcare service will be built at Shellharbour Hospital, again reinforcing another health bonus for the Illawarra. Within the current parliamentary term, the New South Wales Government is injecting over \$600 million into rejuvenating the health infrastructure of the Illawarra. It is an important distinction to recognise that things are, indeed, happening because as a government we carefully plan ahead to implement the right strategies aimed at making a real difference.

WORONORA HEIGHTS KOALA POPULATION

The Hon. PENNY SHARPE (20:34): Tonight I update the House on the plight of the koalas in Woronora Heights in the electorate of Heathcote, who are currently under threat. Citizen scientists have discovered a colony of 80 koalas moving through that area and into and out of Heathcote National Park. I previously raised this issue in the House because the Government has a target set by former environment Minister Matt Kean to double the number of koalas. He does not know how many there are to start off with, but he is going to double the number of koalas. That is terrific. Here is one of the first things that he could do to save those koalas and make sure they can breed and increase in a healthy population on the edge of Sydney.

Currently, there is attractive land in Woronora Heights, which is owned by WaterNSW/Sydney Water. What is the Government doing with it? Previously it thought it might need to use it for infrastructure. It has done all the work and that land is no longer needed for infrastructure, and it has now been left for a very long time. It has become very healthy and, funnily enough, koalas are moving in and out of that area all the time. If the Government was committed to saving koalas, it would do a very basic thing. It would go, "You beauty! Here is this attractive land. Let's transfer it. Let's protect this incredibly important wildlife corridor. Given the pressures on wildlife corridors all over this city, we could use this to save and care for this koala population."

That is not what is happening. What is happening is WaterNSW currently has a development application [DA] before Sutherland Shire Council basically seeking to put housing lots through this wildlife corridor. Presumably Sydney Water is not really in the game of developing houses. It is obviously setting this up for the DA so that it can then flog it off. This is the most preposterous position that the Government should take. It is an easy problem to fix. In many other places we are acquiring and managing land, caring for and keeping trees in the ground so that koalas can survive. Often it is much harder and there is a lot of complexity, but that is not the case here.

To update the House, I have been writing to the Government about this issue. I have written to the portfolio Minister, Mr Kevin Anderson, to see whether he would be willing to withdraw the DA. All he needs to do is withdraw that DA, talk to his mate Minister Griffin, the environment Minister, and they should look at transferring that land over for protection in perpetuity. I read onto the record part of the response that I got from Mr Kevin Anderson. He says:

Sydney Water takes its environmental custodianship of land seriously. It has undertaken extensive due diligence in relation to the proposed subdivision, including flora and fauna studies, bushfire hazards, heritage significance and contamination assessments.

I am advised that a detailed fauna study was undertaken in December 2020. This involved over 500 hours of dedicated surveys carried out over months, which specifically targeted koalas. The study noted that the targeted koala surveys involved spotlighting, call identification and SCAN analysis, and did not detect the species in the proposed subdivision area.

He should try saying that to the people of Woronora Heights. Literally almost every day I get photos sent to me by people who live in and around this corridor of koalas—not of one koala but a whole range of different koalas.

It is time for the Government to go back to the drawing board. Of all the problems that we present it with, this is one of the easiest. I look forward to standing tomorrow with community members who are campaigning to save the koalas and to protect this very important, but actually not very big, wildlife corridor so that we can ensure the healthy population of koalas has somewhere to live and move around, in and out of the national park, not only now but in the future. I will be standing with the local community, with the duty MLC for Heathcote and local community people like Maryanne Stuart. We will be saying to Lee Evans, "Where are you in standing up for the koalas living in your patch that the community cares about and that your Government says it is committed to protecting when it is about to bulldoze their land and flog it off to the nearest developer?"

TRIBUTE TO MR PAUL DAVEY, AM

YOUTH DETENTION

The Hon. SCOTT BARRETT (20:40): Yesterday I was saddened to learn of the death of Mr Paul Davey, AM. Paul was the chief storyteller and historian for the National Party. He served in many other roles throughout his life. Originally a ten-pound Pom, Paul considered himself lucky to have moved into the regions after migrating to this country. He said, "Getting beyond the capitals gave me a much broader understanding of Australia and its people, and I've always regarded myself as a country bloke." Drawing on his experience as a journalist, Paul used his writing skills to document the history of the National Party in a number of different books about the party and several of its key figures.

A life member of the National Party, Paul was appointed as a Member of the Order of Australia in 2019 for his service to politics, the Parliament and the National Party. Most importantly, Paul was the husband of Lindie and the father of three children, including Senator Perin Davey, the Deputy Leader of the Federal National Party. I thank Paul for all he has done for the National Party, regional New South Wales and the State as a whole. I send my condolences to Lindie, Perin and the rest of his family, and his many friends who are mourning his loss. I foreshadow that I will move a condolence motion during a future sitting of the House.

On my mate's college room door there was a story—a parable of sorts—about prevention being better than cure. I will paraphrase and abridge it significantly. The story was about people being washed down a river. As they are drowning and being washed away, others are trying to help by wading into the river. But they are getting wet and injured, and are being washed away too. While some people are pulled from the river and saved, most are lost. A couple of people, realising the helplessness of the situation, walk away to the questioning cries of others who ask, "Where are you going? We need your help." Where are they going? They are going further upriver to find out why people are falling into the river in the first place.

Although I am well aware that I have not done justice to that story, I hope the message is clear. We need to take the same approach in this place: We need to be looking upriver. Yes, we need to be helping those who are drowning. But the more work we can put in upriver, the less effort is needed downstream. That is relevant to so many issues that we face in this place, if not to all of them. One particular area is our approach to young people. We need to get that right. In a budget estimates hearing this year, we heard that the detention of young people who stray down an undesirable path costs just short of \$2,000 per kid per day. Clearly we could be investing earlier in their journey to save headaches further down the track.

I think about some of the kids I have come across who are clearly not going to be good students. While they might never have a full appreciation of the contribution of Cincinnatus to the Roman republic, they may well end up being good shearers, plumbers, baristas or social workers. However, if they are in a program that constantly reminds them of their inadequacies—a program they just do not fit into—there is a pretty good chance they will never reach their full potential. If we are not thinking about those kids and looking for ways they can succeed, chances are we will end up throwing a lot more money at them further down the track. So we need to be looking upriver. We need to intervene early and look for and support more programs like those at Tweed River High School, one of our vocational high schools, in which industry and businesses collaborate to provide practical experience and pathways to employment, such as school-based apprenticeships.

We must support organisations like Down The Track Youth Enterprises in Lake Cargelligo, which works with disengaged kids by offering hands-on learning, training, upskilling and employment opportunities through its social enterprise. It is getting real results and we need to continue to support those kinds of organisations. We need to support the programs, the organisations and those kids, particularly in regional New South Wales, to give them every possible chance to work with us in the future to make a contribution to keeping regional New South Wales as the best place to live, work and raise a family.

VOLUNTARY ASSISTED DYING

The Hon. GREG DONNELLY (20:45): Honourable members may recall that in my contribution to the third reading debate on the proposed physician-assisted suicide and euthanasia legislation on 19 May 2022,

I referred to the catastrophic situation playing out in Canada. I update the House on the situation in Canada by referring to parts of a recent article by Mr Jonathan Van Maren published in the journal *First Things*. In the article entitled "Canada's Killing Regime", Mr Van Maren explains:

On October 7, Dr. Louis Roy of the Quebec College of Physicians stated that in the view of his organization, euthanasia for children younger than age one is appropriate if the child has "grave and severe syndromes" or "severe malformations" or "prospective of survival is null, so to speak." He was testifying before the Canadian House of Commons' Special Joint Committee on Medical Assistance in Dying. Disability advocates—and other Canadians who still possess the minuscule amount of moral courage it takes to oppose infanticide—were horrified.

Krista Carr, executive vice president of Inclusion Canada, is one such Canadian. "Most families of children born with disabilities are told from the start that their child will, in one way or another, not have a good quality of life," she told the *National Post*. "Canada cannot begin killing babies when doctors predict there is no hope for them. Predictions are far too often based on discriminatory assumptions about life with a disability."

Roy's statement is merely the latest episode in a series of euthanasia horror stories from Canada that are shocking even to dulled Western sensibilities. Canada's Supreme Court overturned criminal prohibitions on assisted suicide in *Carter v. Canada* in 2015. Shortly afterward, parliament passed Bill C-14 in 2016, which legalized "medical aid in dying" (or MAiD) for adults with "enduring and intolerable suffering" and a "reasonably foreseeable death." In 2021, Bill C-7 was passed, which legalized MAiD for those struggling with mental illness ...

Impoverished people are turning to MAiD out of desperation because they cannot access the resources they need or the treatments they require in Canada's broken healthcare system. The Toronto Star—the largest and most liberal newspaper in the country—called it "Hunger Games style social Darwinism." The story detailed how one woman is considering assisted suicide because she cannot find an affordable place to live in her city with wheelchair access ...

...

A mother named Gwen, who suffers from chronic pain and disability from an accident, is considering assisted suicide because she has been denied coverage for treatments that could reduce her pain and allow her to care for her three-year-old daughter. "I didn't have any idea how bad this condition would get when I had my daughter ... and I feel like I'm failing her," she told *The Tyee*. "I'm just so desperate to be with her ... It's eugenics, because they don't want us to be properly supported and be OK. And if we don't have family to take care of us, it's Please just go and die."

...

In many cases, desperate Canadians are being offered death in lieu of treatment the system can't (or won't) provide them. In one recent incident that triggered national outrage, a Canadian combat veteran reached out to Veteran Affairs Canada for assistance with post-traumatic stress disorder. Instead of providing help, they proposed assisted suicide.

...

Their suicides save the system money—as Canada's state broadcaster inelegantly put it in a 2017 report: "Medically assisted deaths could save millions in health care spending." A disabled man in London, Ontario, secretly recorded a medical ethicist suggesting MAiD to him; the ethicist reminded the patient that his care was incurring costs "north of 1,500 a day."

...

Technically, assisted death for mental illness will become available in March 2023 due to a temporary restriction in Bill C-7. At that point, the floodgates will open even farther, because to qualify you will simply need to suffer from something which "cannot be relieved under conditions that you consider acceptable," an intentionally vague framing. The reality is that these killings have already begun. Alan Nichols, a man from British Columbia suffering from severe depression, was euthanized after his family took him to the hospital ...

...

After the Supreme Court's *Carter* decision, a national debate began over euthanasia and assisted suicide. Bill C-14 was proposed, and many of the country's elites leapt to defend it.

...

Now the media is reporting on the growing pile of corpses that is partly the result of theft stupidity and hubris, but no publication will run a column admitting that maybe—just maybe—those who opposed euthanasia and state-sanctioned suicide were right in the first place.

Every one of the 23 members in this House and the 52 members in the other place who voted in favour of the Voluntary Assisted Dying Bill 2021 will stridently reject that New South Wales has now placed itself on a similar trajectory to that of Canada. The only inconvenience of the truth—and it is a major inconvenience of the truth—is that all of the arguments used in New South Wales to coax, nudge and cajole MPs and MLCs over the line to back the proposed laws are identical, almost word for word, to the arguments used to secure political support for the legislation in Canada. Within just seven short years, look at the abomination that is playing out in that country.

The PRESIDENT: I call Reverend the Hon. Fred Nile for what is perhaps his last adjournment speech.

RECOGNITION OF WEST JERUSALEM AS ISRAELI CAPITAL

Reverend the Hon. FRED NILE (20:50): I was shocked and appalled by the Albanese Labor Government's declaration that Australia no longer recognises West Jerusalem as the capital of Israel. I proudly and unashamedly recognise West Jerusalem as the capital of Israel, as does my Revive Australia Party and the

vast majority of Australians. In a culturally insensitive blunder, the Minister for Foreign Affairs, Penny Wong, made the declaration on the Jewish holy day of Simhath Torah, of all days. Worse still, the declaration was made only hours after a previous affirmation of support for West Jerusalem as the capital of Israel.

I was pleased and grateful that former United States President Donald J. Trump recognised West Jerusalem as the capital of Israel back in 2018. Following this, it was only right and proper that the Morrison Government moved in the same direction as our friends in North America. The Albanese Government is now treating the geopolitical stability of the Middle East like political football. It is shameful. His Excellency Amir Maimon, the Israeli Ambassador to Australia, said:

Jerusalem was, is and forever will be the eternal and united capital of Israel, and nothing will ever change that.

In stark contrast, the violent extremist Islamist terrorists, Hamas, welcomed the decision by the Albanese Government and said:

The Palestinian Islamic Resistance Movement Hamas welcomes the Australian government's decision to drop recognition of occupied Jerusalem as the capital of the Israeli occupation state, and considers it a step in the right direction towards supporting the Palestinians' rights.

Hamas indiscriminately murders Israeli civilians and brainwashes its own people to wear explosive suicide vests to target Jews. The preamble to the Hamas Covenant states:

Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it.

Again, in stark contrast, former Prime Minister of Israel Golda Meir said:

We can forgive the Arabs for killing our children. We cannot forgive them for forcing us to kill their children. We will only have peace with the Arabs when they love their children more than they hate us.

I am glad that the Albanese Government has, at least, subsequently admitted that it can do things better and that it regrets the manner in which it made this unilateral and divisive declaration. I call on the Albanese Government to realise the error of the declaration, reverse its flawed decision and recognise West Jerusalem as the capital of Israel.

MANUFACTURING INDUSTRY

The Hon. MARK BUTTIGIEG (20:54): Recently Liberal member the Hon. Chris Rath made remarks in Parliament that demonstrated that all members need to know about the Liberal-National Government's policy position when it comes to manufacturing and jobs. The Hon. Chris Rath described Labor's commitment to local manufacturing and creating jobs in New South Wales as "misty eyed". He stated:

We must unleash the efficacious forces of the free market and watch our prosperity grow.

Unfortunately, he proceeded to recite what sounded like a regurgitation of his first-year university economics class lecture notes. It really shows just how out of touch the New South Wales Government is with the needs and aspirations of working people. The Liberals and Nationals prefer to implement a textbook fantasy version of the economy instead of understanding what happens in the real world. According to the Liberal member, the Government should continue to purchase dodgy foreign-built transport because it is cheaper and we are no good at building it here. We all know that is completely untrue.

We also know what a mess this policy has already created, leading to disastrous consequences in New South Wales. The final cost of the CBD light rail was disclosed at \$3.3 billion, more than double the original estimate, with the trams built in Spain and France. A report from the McKell Institute found that 343 direct and 480 indirect local jobs were lost from the offshoring of the Sydney light rail. Spanish-built inner west trams were removed from operation a year ago due to extensive cracks, and it will be another month for a full service return.

The South Korean New Intercity Fleet—who can forget it?—notoriously did not fit train tracks and tunnels and is currently the subject of a dispute because of huge safety issues. The cost was over \$3.3 billion, more than a billion dollars over budget, and the fleet was meant to be in service by 2019. Overseas-built ferries have had steering failures, cracked fuel tanks, oil sprays, leaks in the hulls, damaged rudders, shattering windows, and emergency doors that cannot be opened. They are filled with asbestos, unable to operate at night, become airborne during heavy swells, are unable to fit under bridges and cannot dock at Manly during low tide. Ferries were taken out of service for rectification after an initial cost of \$1.3 billion for the 10 River Class ferries and the three Emerald Class ferries. We should not be building ferries in China and Indonesia. The new regional rail fleet is being built in Spain and will be 1,205 days late because of rectification work. Overseas manufacturers do not understand our rail system. They do not talk to our rail experts who operate and use the infrastructure; they simply produce a dodgy and delayed product that our taxpayers get stuck with, paying more to fix over and over again.

The top six overseas-built pieces of transport infrastructure have had budget blowouts of between 40 per cent and 50 per cent, costing the New South Wales taxpayers far more than originally promised by the Liberals and Nationals. Under the Liberals and Nationals we are not creating thousands of local jobs. We have missed out on more than 4,000 jobs due to the offshoring of major infrastructure and transport projects, yet they persist with their mindless pursuit of the neoliberal model, which is to import duds and export jobs.

The policy differences could not be clearer. The Liberals and Nationals are obsessed with creating jobs overseas and destroying our manufacturing industry. NSW Labor is committed to domestic manufacturing. We will build new trains right here in New South Wales. If elected, we will begin the procurement process for the next set of trains to replace the aging Tangara fleet in our first term. We will build our transport here because we want to create local jobs and build quality and safe infrastructure that will not end up costing taxpayers more in the long run. At the election in March next year, the choice is clear between a Liberal-Nationals Government, which exports jobs and imports duds, or Labor, which wants an active, vibrant local manufacturing industry that creates and sustains local jobs. Labor will always back New South Wales workers.

The PRESIDENT: The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 20:59 until Tuesday 8 November 2022 at 14:30.