



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Wednesday 16 November 2022

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday 16 November 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

TRIBUTE TO KRISTINE CRUDEN

The Hon. PENNY SHARPE (10:03): I move:

- (1) That this House notes with sadness the death of Kristine Cruden in the early hours of Sunday 19 June 2022.
- (2) That this House further notes that Kristine Cruden:
 - (a) was a tireless warrior of social justice, feminist and committed trade unionist, who generously mentored others in the Labor movement whenever the opportunity presented itself;
 - (b) served as Mayor of Leichhardt from 1996 to 1999;
 - (c) was the former chief of staff and local campaign manager to the Hon. Anthony Albanese, MP, current Prime Minister of Australia;
 - (d) served as President of Grayndler Federal Electoral Council for many years; and
 - (e) worked to defend the pay and conditions of public sector workers as industrial manager of the Public Service Association of NSW.
- (3) That this House honours the countless contributions made by Kristine Cruden to the Australian Labor movement and her community in the inner west of Sydney.
- (4) That this House sends its sincere condolences to Kristine Cruden's family, friends, colleagues and community.
- (5) That this resolution be communicated by the President to the family of Kristine Cruden.

Motion agreed to.

Documents

NATIONAL PARKS AND WILDLIFE SERVICE PARK VISITOR SURVEY 2020

Production of Documents: Order

The Hon. MARK LATHAM (10:03): I move:

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of passing of this resolution the following documents, created since 1 July 2019, in the possession, custody or control of the Minister for Environment and Heritage, Department of Planning and Environment and the National Parks and Wildlife Service relating to the cancelled release of the National Parks and Wildlife Service Park Visitor Survey 2020:

- (a) all documents relating to the commissioning of the survey;
- (b) all documents relating to the results of the survey;
- (c) all documents relating to the Government's decision to cancel the release of the survey results; and
- (d) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.

ENERGY PRICING AND MODELLING

Production of Documents: Order

The Hon. PENNY SHARPE (10:04): I seek leave to amend private members' business item No. 2115 outside the order of precedence as follows:

- (1) Omit "21 days" and insert instead "28 days".
- (2) Omit paragraph (d).

Leave granted.

The Hon. PENNY SHARPE: Accordingly, I move:

That, under Standing Order 52, there be laid upon the table of the House within 28 days of the date of passing of this resolution the following documents, created since 1 January 2019, in the possession, custody or control of the Premier, Department of Premier and Cabinet, Treasurer, NSW Treasury, Minister for Energy or Department of Planning and Environment:

- (a) all briefs, including attachments to briefs, sent to, signed by, drafted for or approved by the Treasurer or Minister for Energy regarding current or future energy prices, electricity prices, gas prices or power prices;
- (b) all correspondence, including attachments, sent to or received by the Treasurer or Minister for Energy regarding current or future energy prices, electricity prices, gas prices or power prices;
- (c) all modelling, reports or presentations drafted for, intended for, sent to or received by the Treasurer or Minister for Energy regarding current or future energy prices, electricity prices, gas prices or power prices;
- (d) all briefs, correspondence, modelling or reports regarding forecast reliability gaps, reliability standards or the reliability outlook in New South Wales;
- (e) all briefs, correspondence, modelling or reports relating to the sale, privatisation or efficiency of Essential Energy, or the remaining stake in Ausgrid and Essential Energy;
- (f) all briefs, correspondence, modelling or reports relating to time lines, potential delays or delays of any Renewable Energy Zone or transmission project;
- (g) all briefs, correspondence, modelling or reports relating to the progress or status of each Renewable Energy Zone; and
- (h) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.

NSW HEALTH AND INFRASTRUCTURE

Production of Documents: Order

The Hon. PENNY SHARPE (10:04): I seek leave to amend private members' business item No. 2116 outside the order of precedence as follows:

- (1) Omit "28 days" and insert instead "35 days".
- (2) In paragraph (d), omit "1 January 2011" and insert instead "1 January 2021".
- (3) In paragraph (f), omit "1 January 2019" and insert instead "1 January 2021".

Leave granted.

The Hon. PENNY SHARPE: Accordingly, I move:

That, under Standing Order 52, there be laid upon the table of the House within 35 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Health, Minister for Regional Health, Premier, Department of Premier and Cabinet or NSW Health:

- (a) any reports, presentations, briefs or documents relating to triple zero emergency call performance, volumes and KPI tracking created since 1 January 2019;
- (b) any records or documents relating to instances of hospitals that have not had a doctor overnight on duty created since 1 January 2021;
- (c) any reports, presentations or documents relating to deaths or serious complications or adverse events of patients who have arrived at a hospital by ambulance and are awaiting being admitted to emergency department care created since 1 January 2019;
- (d) any yearly workforce reports, presentations or documents for every year created since 1 January 2021;
- (e) any reports, presentations or summaries produced out of the NSW Ambulance dashboard created since 1 January 2019;
- (f) all proposals, plans or documents, including drafts relating to local health district or hospital capital investment, hospital redevelopment or upgrade or asset management created or updated since 1 January 2021;
- (g) any reports, presentations, briefs or documents relating to bed block, ramping, ambulance wait times, emergency department wait times, people leaving emergency departments without receiving or completing treatment created since 1 January 2019;
- (h) all correspondence to and from, briefings, reports and presentations, including attachments, to the Minister for Health or Minister for Regional Health relating to bed block, ramping, ambulance wait times, emergency department wait times, people leaving emergency departments without receiving or completing treatment created since 1 January 2019;
- (i) all employee engagement survey reports, documents, quantitative and qualitative results for every year created since 1 January 2019;
- (j) all briefs, correspondence, modelling or reports relating to the sale or privatisation of any health infrastructure or services created since 1 January 2019; and
- (k) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.**NEW SOUTH WALES EDUCATION AND INFRASTRUCTURE****Production of Documents: Order**

The Hon. PENNY SHARPE (10:06): I intend to seek leave to amend private members' business item No. 2117. The purpose of the amendment is to ensure that principals do not have to produce a large number of documents pursuant to a call for papers under Standing Order 52 before the end of school term. The proposed call for papers seeks centrally held documents on a range of important education matters. The Minister has given me a commitment that the order will be complied with fully on time.

I seek leave to amend private members' business item No. 2117 outside the order of precedence as follows:

- (1) In paragraph (a), omit "2011" and insert instead "2021".
- (2) In paragraph (b):
 - (a) insert "centrally held" after "all", and
 - (b) omit "or documents".
- (3) In paragraph (c):
 - (a) insert "centrally held" after "any", and
 - (b) omit "documents" and insert instead "spreadsheets".
- (4) In paragraph (d), omit "documents" and insert instead "spreadsheets".
- (5) In paragraph (e), omit "correspondence to and from".
- (6) In paragraph (f):
 - (a) insert "or" before "briefs", and
 - (b) omit "or documents".

Leave granted.

The Hon. PENNY SHARPE: Accordingly, I move:

That, under Standing Order 52, there be laid upon the table of the House within 28 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Education and Early Learning, Department of Education or School Infrastructure NSW:

- (a) all periodic reports, presentations or briefs relating to teacher and school counsellor attrition created since 1 January 2021;
- (b) all centrally held records relating to instances of schools reporting merged, cancelled or combined classes created since 1 January 2021;
- (c) any centrally held reports, presentations, briefs or spreadsheets relating to vacant positions for teachers and school counsellors created since 1 January 2021;
- (d) all proposals, plans, or spreadsheets, including drafts, relating to school capital investment, school redevelopments or upgrades, new school builds, new preschool builds or asset management created since 1 October 2022;
- (e) all briefings, reports, and presentations, including attachments, to the Minister for Education and Early Learning concerning merged, cancelled or combined classes, teacher shortages, teacher recruitment, NAPLAN, the Teacher Supply Strategy and teacher vacancies created since 1 January 2021;
- (f) all reports, presentations or briefs relating to employee engagement survey quantitative and qualitative results created since 1 January 2019; and
- (g) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.**SAFework NSW AND INSURANCE AND CARE NSW****Production of Documents: Order**

The Hon. DANIEL MOOKHEY (10:07): I move:

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Customer Service and Digital Government, Minister for Small Business, and Minister for Fair Trading, the Department of Customer Service, SafeWork NSW, and Insurance and Care NSW [icare]:

- (a) a list of all sites known to SafeWork NSW where fabrication of manufactured or engineered stone takes place, including the entity name of the fabricator and address of the site;

- (b) all incident notification reports and requests for service since 1 January 2020, however described or recorded, regarding any incident related to silica dust;
- (c) the following documents created by SafeWork NSW since 1 January 2020 after the notification of any incident related to silica dust:
 - (i) the initial incident response report/s prepared by a SafeWork NSW inspector;
 - (ii) documents which record the decision made after SafeWork NSW management reviewed any incident response;
 - (iii) any records that indicate how the inspections took place and when;
 - (iv) all briefs of evidence prepared by SafeWork NSW or SafeWork NSW inspectors following an investigation into whether a breach of work health and safety laws has occurred;
 - (v) documents related to any legal review undertaken into the briefs of evidence in (iv); and
 - (vi) documents which show the decision/s made by SafeWork NSW following the investigation of an incident related to silica dust.
- (d) any of the following documents issued by SafeWork NSW since 1 January 2020 to any person conducting a business or undertaking regarding any matter related to silica dust:
 - (i) a warning letter;
 - (ii) an improvement notice;
 - (iii) a direction;
 - (iv) a prohibition notice;
 - (v) a penalty notice; and
 - (vi) an enforceable undertaking, if it was entered into by SafeWork NSW and a person conducting a business or undertaking.
- (e) any documents received by SafeWork NSW demonstrating compliance with its enforcement decision/s and notices thereof;
- (f) a list of all persons conducting a business or undertaking SafeWork NSW has prosecuted for an offence related to silica dust;
- (g) any documents created by SafeWork NSW since 1 January 2020 relating to and including its inspection workplan for silicosis, described as the Silica Project or otherwise, including manufactured stone, installation sites and also tunnelling;
- (h) any documents created by icare since 1 January 2020 for its silicosis screening program or specific silicosis screening programs that show:
 - (i) how many people were screened;
 - (ii) when and where they were screened;
 - (iii) the number of cases that were found;
 - (iv) reporting on the screening as conducted; and
- (i) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.

Committees

SELECT COMMITTEE ON BARANGAROO SIGHT LINES

Extension of Reporting Date

The Hon. MARK LATHAM: I move:

That the reporting date of the Select Committee on Barangaroo Sight Lines be extended to Friday 17 February 2023.

Motion agreed to.

Motions

SIXTEEN DAYS OF ACTIVISM AGAINST GENDER-BASED VIOLENCE

The Hon. EMMA HURST (10:09): I move:

- (1) That this House acknowledges that:
 - (a) the 16 Days of Activism against Gender-Based Violence commences on 25 November 2022 and runs until 10 December 2022;
 - (b) this annual international campaign brings together individuals and organisations around the world to call for the prevention and elimination of violence against women and girls;

- (c) across their lifetime, one in three women worldwide are subjected to physical or sexual violence—a number that has remained largely unchanged over the past decade; and
 - (d) on 25 November 2022 I will be attending an opening ceremony and vigil in Newcastle hosted by "What Were You Wearing?", a community organisation focused on providing awareness, education and advocacy against sexual assault.
- (2) That this House indicates its strong support for the 16 Days of Activism against Gender-Based Violence and its goal to stop violence against women and girls.

Motion agreed to.

Documents

CROWN LANDS

Production of Documents: Order

Ms ABIGAIL BOYD (10:09): I move:

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of the passing of this resolution the following documents, in electronic form if possible, in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Minister for Lands and Water, Crown Lands, the Attorney General, the Minister for Planning, and Minister for Homes, the Department of Planning and Environment, the Treasurer, Treasury, the Minister for Transport, the Minister for Metropolitan Roads, Transport for NSW, the Valuer General, the Office of the Valuer General, the Auditor-General and the Office of the Auditor-General relating to the ownership and management of Crown Lands:

- (a) all documents, correspondence and advice, created since 1 July 2020, relating to the ownership and management of Sydney's cemeteries, the One Crown proposal and the Catholic Cemeteries Board Trust;
- (b) all correspondence, created since 1 July 2020, with the Catholic Cemeteries Board Trust;
- (c) all documents, correspondence and other documents (including but not limited to emails, text messages, minutes, records of meetings, legal advice and briefings) created since 1 July 2017, relating to:
 - (i) compensation given or agreed to be given to the Cammeray Golf Club in relation to the Warringah Freeway Upgrade, the Western Harbour Tunnel and/or the Beaches Link projects;
 - (ii) the inclusion of condition E101 in the Infrastructure Approval for the Western Harbour Tunnel and Warringah Freeway Upgrade (SSI-8863);
 - (iii) any other payments, payments-in-kind or other consideration given or agreed to be given to the Cammeray Golf Club by or on behalf of any government department or agency; and
 - (iv) all communications with the Cammeray Golf Club or its representatives.
- (d) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.

NSW RURAL FIRE SERVICE

Production of Documents: Order

The Hon. MARK BUTTIGIEG (10:10): I move:

- (1) That, under Standing Order 52, there be laid upon the table of the House within 14 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Emergency Services and Resilience or the NSW Rural Fire Service relating to the NSW Rural Fire Service:
 - (a) all NSW RFS organisational charts created or modified since 1 December 2021;
 - (b) all NSW RFS district organisational charts created or modified since 19 January 2021;
 - (c) all NSW RFS zone organisational charts created or modified since 19 January 2021; and
 - (d) all NSW RFS structure charts created or modified since 1 January 2021.
- (2) That, under Standing Order 52, there be laid upon the table of the House within 34 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Emergency Services and Resilience or the NSW Rural Fire Service relating to the NSW Rural Fire Service:
 - (a) all vacant role lists created or modified since 1 January 2022;
 - (b) all vacancy role reports created or modified since 1 January 2022;
 - (c) any document that discloses vacant roles created or modified since 1 October 2022;
 - (d) all documents relating to the full organisational structure including area commands and districts of the NSW RFS created or modified since 1 July 2022;
 - (e) any document that discloses the status of every role of the NSW RFS including the title, grade, location, ongoing, fixed-term, full-time, part-time, casual, or vacant created or modified since 1 July 2022;

- (f) all lists of contractors for the NSW RFS created or modified since 1 July 2022;
- (g) all staff establishment reports created or modified since 1 January 2022; and
- (h) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.

Committees

PRIVILEGES COMMITTEE

Reports

The Hon. PETER PRIMROSE: I table report No. 89 of the Privileges Committee entitled *Execution of search warrants by the Australian Federal Police (No. 3)*, dated November 2022, together with submissions and correspondence.

The Hon. PETER PRIMROSE (10:10): I move:

That the House take note of the report.

Debate adjourned.

PRIVILEGES COMMITTEE

Reports

The Hon. PETER PRIMROSE: I table report No. 90 of the Privileges Committee entitled *Review of Members' Code of Conduct (2022)*, dated November 2022.

The Hon. PETER PRIMROSE (10:11): I move:

That the House take note of the report.

Debate adjourned.

Documents

TABLING OF PAPERS

Ms ABIGAIL BOYD: By leave: I table a document comprising a printout of the names of 12,203 citizens who have signed an online petition supporting the reunion of four Aboriginal children with their mother.

Business of the House

SUSPENSION OF STANDING AND SESSIONAL ORDERS: HARD ADJOURNMENT

The Hon. DAMIEN TUDEHOPE: I move:

That the proposed standing order for the hard adjournment at 10.00 pm be suspended for Wednesday 16 November 2022 only.

Motion agreed to.

Bills

WEAPONS PROHIBITION AMENDMENT (SILENCERS) BILL 2022

Second Reading Debate

Debate resumed from 9 November 2022.

The Hon. ROBERT BORSAK (10:31): In reply: Just to finish off my speech in reply, the Shooters, Fishers and Farmers Party will be campaigning on this issue as we continue towards the election. We will be making sure that firearm owners across the State, especially those in Nationals-held electorates, know the Government does not care one iota whether they suffer noise-induced hearing impairment or are awakened by tinnitus at 3.00 a.m. We have lost the battle on this occasion, but the war on this is far from over and will continue. 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.

The House divided.

Ayes5
Noes34

Majority.....29

AYES

Banasiak (teller)
Borsak (teller)Latham
Nile

Roberts

NOES

Amato
Barrett (teller)
Boyd
Buttigieg
D'Adam
Donnelly
Faehrmann
Fang
Farlow (teller)
Farraway
Field
FranklinGraham
Higginson
Hurst
Jackson
MacDonald
Maclaren-Jones
Mallard
Martin
Mitchell
Mookhey
MoriartyMoselmane
Pearson
Poulos
Primrose
Searle
Secord
Sharpe
Taylor
Tudehope
Veitch
Ward**Motion negatived.****HEALTH SERVICES AMENDMENT (NURSE-TO-PATIENT AND MIDWIFE-TO-PATIENT RATIOS) BILL 2022****First Reading****Bill introduced, and read a first time and ordered to be printed on motion by Ms Cate Faehrmann.****Second Reading Speech****Ms CATE FAEHRMANN (10:43):** I move:

That this bill be now read a second time.

I am proud to introduce the Health Services Amendment (Nurse-to-Patient and Midwife-to-Patient Ratios) Bill 2022. The Greens fully support the NSW Nurses and Midwives' Association [NSWNMA] and its demands, and this bill would give effect to the majority of the Public Health System Nurses and Midwives (State) Award 2022. Most importantly, it would introduce a minimum staffing level and nurse-to-patient ratios into our public hospitals to ensure there are enough nurses and midwives on every shift, every time, to provide safe levels of care for patients.

Nurse-to-patient ratios acknowledge that patients require a minimum level of care to achieve good health outcomes and that nurses can only provide particular levels of care to a certain number of patients. This bill will ensure that the number of nurses on a shift is enough to provide a level of care that provides for the health and wellbeing of patients in our State's public hospitals. The people of New South Wales expect and deserve nothing less. The pandemic revealed the deep fissures in the State's public health system. Despite the claims of this Government, things have not bounced back. We have all heard stories of public hospitals that are chronically understaffed and of nurses and midwives being forced to constantly work overtime or double shifts.

Speaking at one of the hearings into ambulance ramping in New South Wales that Portfolio Committee No. 2 has conducted, Dr Clare Skinner described COVID-19 as the "straw that broke the camel's back". We also heard that patients were sometimes forced to wait up to 36 hours to secure an emergency department bed. The most recent Bureau of Health Information data revealed that 76,117 patients walked out of public hospital emergency departments during April to June this year, the highest of any quarter since 2010. Almost one in five of the patients who left presented again for care within three days. This is because there are not enough beds and there are not enough nurses and midwives to staff the beds.

Nurses are walking off the job that they have dedicated their lives to because they can no longer cope with the conditions that this Government has allowed to fester in our public hospitals. We know that poor staffing leads to poorer health outcomes and increased rates of readmission, increasing the burden on a shrinking pool of nurses. That is why the NSWNMA is demanding mandated safe nurse-to-patient ratios, which would ensure that the right numbers of nurses and midwives are present on each shift to ensure optimal patient care and safety. In response

to deteriorating conditions in our public health system, nurses and midwives have walked off the job multiple times this year in large and small protests across the State.

Nurses and midwives went on strike twice in six weeks in February and March, with thousands marching up Macquarie Street and standing outside Parliament to call on the Government and the Labor Party to support their demand for nurse-to-patient ratios. In June nurses walked off the job in western Sydney, where between 50 and 100 unfunded beds were opened at Blacktown and Westmead hospitals, with not enough nurses to care for the extra patients.

In August I visited Westmead Hospital, where nurses spoke to me of their frustration with the way they have been consistently dismissed or gaslit by NSW Health and this Government. I was told that the emergency department is essentially dysfunctional, with up to 100 patients to 22 nurses at times and another 50 patients in the waiting room waiting for beds. The nurses expressed the same concerns we have heard over and over: Their colleagues were burning out and resigning, and skilled and often senior members of their teams were being lost, leaving those who remained under even more pressure. In October it was reported that Griffith Hospital was short by 43 staff. Local paediatric nurse Stephanie Bell described the impact to the ABC as follows:

The extra stuff is what's not being done ... If you are a dependent patient, you rely on someone to help you eat your breakfast in the morning, 'sorry, there's no one to help you eat your breakfast' ... the more you rush, the more likely you are to make a mistake and that's just a fact.

Nurses and midwives have been crying out for help for years and ringing the alarm on a failing health system, yet this Government has ignored them. That is why this bill to legislate minimum nurse- and midwife-to-patient ratios is so important. My office has worked closely with the NSWNMA in the drafting of the bill. I thank them for their tireless advocacy for ratios for nurses and midwives and their efforts in assisting my office to draft this complex piece of legislation. The bill establishes minimum staffing levels and nurse- and midwife-to-patient ratios for a ward, unit, department or entire hospital. The bill ensures that a ward will be properly staffed, not just with the appropriate number of nurses or midwives to treat patients but that additional staff are made available to provide support, manage the ward, triage patients and perform other necessary tasks.

The bill makes it clear that these and other supplementary roles do not count towards and are in addition to the nurses required to fulfil a ratio. The bill also makes it clear that a nurse providing clinical care to a patient that is assessed as requiring one-on-one care, except in a ward with a one-to-one ratio, does not count towards a ratio. This would apply, for example, in an emergency ward with a one-to-three ratio that has a patient that requires an additional level of care, acknowledging that the nurse is unable to provide both that additional care and attend to their typical duties on the ward. The bill outlines that any staffing requirements in the bill do not prevent the operator of a hospital from staffing a ward with additional nurses or midwives and that a ratio may be applied flexibly to evenly distribute the workload with regard to the level of care required for patients in a ward.

The bill allows for the variation of staffing ratios under an agreement entered into by the Secretary of NSW Health and the NSW Nurses and Midwives' Association if both are satisfied that a variation would not have a significant adverse impact on the quality of patient care and if the operator of the hospital and the union can come to an agreement as to the variation. The bill ensures that there are at least three nurses in a regional hospital, including at least two registered nurses. The rural health inquiry revealed the all-too-common situation where nurses find themselves, in some cases, with a single nurse responsible for an entire ward. The bill introduces a requirement that at least 90 per cent of nurses in an emergency department are registered nurses. At least 85 per cent of nurses in general medical, surgical, inpatient mental health, neonatal intensive care, palliative care or rehabilitation wards are to be registered nurses.

I turn to division 2 of the bill, which introduces compliance and reporting requirements. A public hospital operator will be required to report monthly on their compliance with ratios and staffing requirements, including identifying instances of noncompliance. This data will be required to be reported by the Secretary of NSW Health on a quarterly basis and be made publicly available. Division 3 of the bill introduces enforcement provisions and dispute resolution provisions, including allowing for a public hospital operator to be referred to a Local Court by a nurse, midwife or the union if the dispute is not resolved. If successful, the public hospital will be liable for up to \$10,000 for each instance that they have breached the Act.

Due to time and resource limitations, the legislation does not implement the NSW Nurses and Midwives' Association claims regarding Birthrate Plus or other minimum care requirements for maternity and outpatient care. It does not implement the Australian College of Critical Care Nurses' [ACCCN] workforce standards for intensive care nursing or the Australian College of Perioperative Nurses' [ACORN] standards for perioperative nursing in Australia. However, part 5 of the bill requires the Secretary of NSW Health, in conjunction with the union, to review Birthrate Plus and determine if and how that methodology might need to be augmented, including setting minimum maternity care levels in public hospitals that do not use Birthrate Plus. A review of Birthrate Plus will be required every three years following the initial review.

Part 5 introduces a similar requirement for the Secretary of NSW Health to review minimum care levels in outpatient wards and report on how they could be augmented. Part 5 also requires that, within two years, the Secretary of NSW Health investigate, in conjunction with the union, how the ACCCN and ACORN standards could be implemented within the public health system. If the bill is passed, New South Wales will join Victoria, Queensland and the Australian Capital Territory in having legislated nurse-patient ratios. Victoria legislated ratios in 2015, followed by Queensland in 2016.

Queensland's law established minimum nurse-patient ratios in medical surgical wards in 27 public hospitals, which care for 83 per cent of patients hospitalised across the State. It was just the fourth jurisdiction in the world to implement ratios. The Queensland ratios legislation included a requirement for an independent analysis of the impact of ratios to be conducted. Published in *The Lancet* in May last year, the analysis showed that ratios had direct cost benefits to the health system of about \$70 million between 2016 and 2018. The analysis also found that in each hospital with ratios, there were 145 fewer deaths, 255 fewer readmissions and 29,222 fewer hospital days than if they had not implemented the policy.

Prior to the 2019 election, the Parliamentary Budget Office estimated that it would cost just \$1.3 billion over seven years, and \$590 million per year after that, to implement the nurse and midwife-patient ratio system in New South Wales public hospitals. That is a small price to pay to save our public health system, to save lives, to lower readmissions and to stem the mass exodus of nurses and midwives from our health system. Just as occurred with the Queensland model, if an analysis is done after ratios are inevitably implemented in this State, it may find that it is benefiting the public health system as opposed to being a cost to it.

For years nurses, midwives and their union have been demanding safer conditions for themselves and, most importantly, for their patients. This Government has ignored them. The bill would legislate what the Government should have done years ago—mandate minimum nurse and midwife-patient ratios across New South Wales public hospitals. The union has been calling for 1:4 on the floor, 1:3 in emergency departments and 1:1 in intensive care units. The bill does that and more. I am proud to commend the bill to the House.

Debate adjourned.

FORESTRY AMENDMENT (TIMBER HARVESTING SAFETY ZONES) BILL 2022

First Reading

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

Second Reading Speech

The Hon. MARK BANASIAK (10:57): I move:

That this bill be now read a second time.

I introduce the Forestry Amendment (Timber Harvesting Safety Zones) Bill 2022. In summary, the bill aims to protect forestry workers, authorised personnel and security personnel from environmental activists who disrupt forestry operators with often aggressive and violent behaviour that risks the safety of those who work on the site. The bill is reminiscent of legislation recently passed in Tasmania and Victoria. It introduces new offences and increases penalties for certain obstruction offences in a bid to deter illegal and dangerous protest activity. Every workplace should be safe and free from violence and aggression. The Safe Work Australia annual report for 2021-22 states as part of its vision, "All workers, regardless of their occupation or how they are engaged, have the right to a healthy and safe working environment." That is all workers, regardless of their occupation.

That is critical to note because environmental activists seem to believe that forestry workers can be treated with aggression and violence, and persistently intimidated on their way to and from work and while at their worksite, simply because their ideology is different. What makes these activists so dangerous is that they are backed in by political parties like The Greens and funded by corporate organisations. It is through this political and financial support that dangerous activists can keep offending without feeling any personal repercussions. The bill will make sure that those participating in dangerous activity, particularly repeat offenders, will feel the repercussions.

The bill sets out the definition of a timber harvesting safety zone. This is an area specified on a notice under section 69ZC and includes the roads within that zone and the land within 150 metres of a zone boundary. Notice is required to be given in or near the safety zone's entry points, on roads and along boundaries. This is not an attempt to catch activists out; it is a genuine attempt to keep forestry workers safe, both mentally and physically. When the timber industry approached me about introducing a bill to create timber harvesting safety zones, the evidence they provided to support it was, frankly, horrifying and in abundance.

Some of the most common disruptive and dangerous activities in these zones are: tree-sits at hazardous heights—if these structures fall, they can cause death, and in some cases the structures are built to collapse if they are attempted to be moved; protesters locking on to machinery or trees; and something called "black wallaby" tactics, which involve camouflaged, masked protesters running in and out of the zones. This is an incredibly dangerous tactic not only to forestry workers but to the activists committing the act. These are just some examples; others extend to protesters throwing their own faeces at forestry workers and other authorised personnel along with repeated accounts of stalking and intimidation extending to the personal lives of many forestry industry workers.

There is social media footage of protesters telling forestry workers they are going to follow them to each site and continue the intimidation. The vile and intimidating tactics used by anti-forestry protesters are well documented. Repeat offender Mark Graham has been charged with multiple counts of stalking and intimidating with intent to cause fear and/or physical harm against Forestry Corporation staff. Mark Graham often stalks women. In one case he called a female councillor 200 times and left messages. Mark Graham discloses people's personal losses on social media platforms. Mark Graham uses intimidating language on social media. I will abbreviate some of the expressions, as the language he uses is indeed unparliamentary, but it is important that members hear the vile verbal abuse and threats hurled at some workers. He called one forestry worker a "disinformation wench" and another a "dumb effing redneck check-out chick", "you chunky redneck ho", "lying fraudulent criminal dipshit", "get effed, you horrible criminal skank". He also calls forestry workers "effed up crims".

Mark Graham's behaviour has been reported as becoming increasingly agitated, erratic and aggressive in his approach towards government agencies and staff. Now he has bail conditions imposed on him that prevent him from entering any State forest or contacting any NSW Forestry Corporation staff. Unfortunately, media outlets like *The Sydney Morning Herald* and the *Daily Mail* have published the absolute garbage that spills out of this man's mouth, while failing to disclose that this man is violent, aggressive and abusive, and has the criminal record to prove it. *The Sydney Morning Herald* article, in particular, paints Mark Graham as some sort of ecological messiah who is attacked by big bad forestry workers because he cares about the bush. It is categorically incorrect. This man is a criminal. It is my suggestion that these outlets remove any articles that reference Mark Graham.

If enacted, this bill would not have allowed Mark Graham's behaviour to escalate to the point where he could repeatedly intimidate Forestry Corporation staff. This is where proposed section 69ZD, an offence to enter or re-enter timber harvesting safety zones, comes into play. This is not restricted to just one timber harvest safety zone. It applies to any timber harvesting safety zone. It is up to the discretion of the authorised officer. Authorised officers will be empowered under the Act to direct a person to leave and notify them that they are not to re-enter.

Proposed section 69ZE deals with the offence to obstruct or interfere with timber harvesting. Protesters use industrial chains and vehicles; run out in front of trucks and equipment; sit on roads, blocking the way for vehicles; erect tripods and platforms in trees; use ropes across roads; and use drones, hazard plastic fencing, pipes and metal componentry. The incidents where rope or wire is used across roads pose a very real threat to the lives of those that use those roads. These people are simply going to work to pay their mortgage, feed their kids and live their lives, but that is threatened on a regular basis. Proposed section 69ZE will make it an offence to be in possession of an item in a timber harvesting zone that is capable of interfering with timber harvesting or other forestry operations without a reasonable excuse.

There is no reason that protesters should be in possession of industrial chains or hazard plastic fencing or pipes and metal componentry unless their intent is to obstruct forestry operations. In this section we have increased the penalties because we are serious about our intent to deter. When many of these activists are funded by organisations that simply pay their fines, they simply repeat the offence over and over again. This section makes it an offence to incite another person to commit an offence, again targeting the organisations that fund anti-forestry protesting and encourage violent and aggressive behaviour. In this section, "incite" can mean "direct, counsel, induce, commission and procure". The maximum penalty for an individual is 100 units or imprisonment of 12 months, or otherwise 600 penalty units. All sides of politics need to consider if the ends really justify the means when it comes to anti-forestry protesters. These people are not peaceful, they are dangerous and their conduct is illegal.

I make a final note that, if the Andrews Government in Victoria can pass the same bill, I fully expect Labor's support. This bill is about protecting workers in New South Wales from violent, abusive and aggressive behaviour that often follows them home, such is the calibre of humans that take part in these protests. This bill will not be debated this year. In saying that, I would like to see some commitment from the Government and the Opposition before we return that they support the bill. For the safety of New South Wales workers, I compel the Government and the Opposition to support this bill and I commend it to the House.

Debate adjourned.

COMPANION ANIMALS AMENDMENT (PUPPY FARMS) BILL 2021

In Committee

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

The Hon. EMMA HURST (11:08): By leave: I move Animal Justice Party amendments Nos 1 to 3 on sheet c2022-220B in globo:

No. 1 Assistance dog providers

Page 3, Schedule 1. Insert after line 2—

[1A] Section 5 Definitions

Insert in alphabetical order in section 5(1)—

assistance dog provider means—

- (a) a member of the International Guide Dog Federation, or
- (b) an accredited member of Assistance Dogs International.

[1B] Sections 61AA and 61AB

Insert after section 61—

61AA Assistance dog providers to give information to Minister

- (1) An assistance dog provider must, within 6 months after the end of each financial year, give the Minister—
 - (a) a copy of the provider's annual report for the financial year, and
 - (b) if applicable, other information prescribed by the regulations.
- (2) In this section—

financial year means a period of 12 months commencing on 1 July.

61AB Application of Act to assistance dog providers

Part 6A and Part 7A, Division 3 do not apply in relation to assistance dog providers.

No. 2 Regulation-making power—heritable defects and blood relations

Page 15, Schedule 1[1], proposed section 61ZF(c), line 23. Omit "related to the dog or cat by blood". Insert instead "related by blood to the dog or cat".

No. 3 Regulation-making power—heritable defects and blood relations

Page 15, Schedule 1[1], proposed section 61ZF. Insert after line 27—

- (2) The regulations may define either or both of the following—
 - (a) "heritable defect" for subsection (1)(b),
 - (b) "related by blood" for subsection (1)(c).

Amendment No. 1 came about after some discussions with Guide Dogs Australia. At the outset, I thank the organisation for engaging with my office in such a respectful and productive way. Guide Dogs Australia has made it clear that it is very supportive of the bill to ban puppy farming. It does not want to see dogs cruelly mistreated or condemned to life as a breeding machine for profit. However, despite the fact that this bill has been publicly available for over a year and subject to an inquiry, Guide Dogs Australia only recently became aware that its breeding operations may be impacted by this bill.

To ensure there is no issue, this amendment would provide an exemption to the requirements of this bill for assistance dog providers who are members of the International Guide Dog Federation and Assistance Dogs International. These organisations have very high standards for membership which ensure that animals are properly cared for. Only a select few organisations across Australia have reached this level. Guide Dogs Australia is a member of both organisations. We have intentionally designed the exemption this way to ensure that unscrupulous breeders, many of whom claim to be providing assistance animals or breeds that can be trained to be assistance animals, cannot use this exemption as a loophole. The bill also requires any assistance dog providers to deliver to the Minister their annual reports each year, as well as any other materials specified by regulations, to ensure that there is transparency and oversight of their operations.

Amendments No 2 and 3 insert specific regulation-making powers into the bill, to allow the regulations to define and give greater clarity to the terms "related by blood" and "heritable defect". Some feedback from stakeholders is that those terms could include further clarification, given that there can be grades and percentages of heritable defects, and differing levels of being related by blood within the breeding and veterinary industry. Inserting the power to define those terms will allow the Minister to consult and give some more clarity to the requirements.

The Hon. MICK VEITCH (11:11): The Opposition has quite a few amendments on sheet c2022-150K and c2022-187B. I suggest that I work my way through the amendments and that the question be put at the end. Is that acceptable?

The CHAIR (The Hon. Wes Fang): It is.

The Hon. MICK VEITCH: By leave: I move Opposition amendments Nos 1 to 10 on sheet c2021-150K in globo:

No. 1 Commencement

Page 2, clause 2. Omit "1 year". Insert instead "2 years".

No. 2 Microbreeders

Page 3, Schedule 1[1], proposed section 61A(1), definition of *microbreeder*, paragraph (b), line 24.

Omit "2 fertile female dogs or 2". Insert instead "5 fertile female dogs or 5".

No. 3 Code of practice

Page 5, Schedule 1[1], proposed section 61C. Insert after line 5—

- (1A) The Departmental Chief Executive must make a business code of practice within 2 years of the commencement of this Part.

No. 4 Companion animal breeding business

Page 5, Schedule 1[1], proposed section 61E, line 32.

Omit "3 fertile female dogs or 3". Insert instead "6 fertile female dogs or 6".

No. 5 Registration fees

Page 6, Schedule 1[1], proposed section 61F. Insert after line 10—

- (5) A council must not fix a fee under subsection (2)(b) unless the fee—
- (a) is fixed following compliance with the community consultation requirements, if any, prescribed by the regulations, and
- (b) covers the costs of processing the application.

No. 6 Registration fees

Page 6, Schedule 1[1], proposed section 61G. Insert after line 24—

- (5) A council must not fix a fee under subsection (2)(b) unless the fee—
- (a) is fixed following compliance with the community consultation requirements, if any, prescribed by the regulations, and
- (b) covers the costs of processing the application.

No. 7 Registration fees

Page 6, Schedule 1[1], proposed section 61H. Insert after line 39—

- (5) A council must not fix a fee under subsection (2)(b) unless the fee—
- (a) is fixed following compliance with the community consultation requirements, if any, prescribed by the regulations, and
- (b) covers the costs of processing the application.

No. 8 Staff ratios

Page 15, Schedule 1[1], proposed section 61ZG, line 32.

Omit "5". Insert instead "25".

No. 9 Staff ratios

Page 15, Schedule 1[1], proposed section 61ZG. Insert after line 36—

- (1A) This section applies only if the proprietor is an approved commercial breeder within the meaning of section 61ZR.

No. 10 **Recreational breeders, approved commercial breeders and review**

Page 18, Schedule 1[1]. Insert after line 41—

Division 7 Recreational breeders, approved commercial breeders and review**61ZQ Recreational breeders**

- (1) Despite another provision of this Part, the following provisions do not apply to a recreational breeder—
 - (a) this Part, other than this section,
 - (b) Part 7A, Division 3.
- (2) A recreational breeder must comply with the rules and code of ethics, if any, of the applicable organisation of which the recreational breeder is a member. Maximum penalty—40 penalty units.
- (3) The regulations may prescribe criteria for the Minister's approval of an organisation as an applicable organisation.
- (4) In this section—

applicable organisation means an organisation approved by the Minister for the purposes of this section.

recreational breeder means a person who—

- (a) carries out the breeding of dogs or cats for sale, and
- (b) has, at any one time, more than 5, but no more than 10, fertile female dogs or more than 5, but no more than 10, fertile female cats, including a fertile female dog or cat that is the subject of a breeding arrangement, and
- (c) is a member of an applicable organisation.

61ZR Approved commercial breeders

- (1) Section 61ZC does not apply to an approved commercial breeder.
- (2) An approved commercial breeder must not have, at any one time, more than 50 fertile female dogs or 50 fertile female cats on the same premises.
Maximum penalty—
 - (a) for a corporation—5,000 penalty units,
 - (b) for an individual—1,000 penalty units or imprisonment for 2 years, or both.
- (3) The regulations may prescribe criteria for the Minister's approval of a person as an approved commercial breeder.
- (4) The Departmental Chief Executive must, for the purpose of deciding whether an approved commercial breeder has contravened this section or another provision of this Act, ensure an enforcement officer inspects the registered premises of the approved commercial breeder at least annually.
- (5) In this section—

approved commercial breeder means a person who—

- (a) carries out the breeding of dogs or cats for sale, and
- (b) is approved by the Minister for the purposes of this section.

enforcement officer has the same meaning as in Part 7A, Division 3.

61ZS Review

- (1) The Minister must review this Part to determine whether—
 - (a) its policy objectives remain valid, and
 - (b) its terms remain appropriate for securing its policy objectives.
- (2) The review must be undertaken as soon as possible after the period of 5 years from the commencement of this Part.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Most of the amendments arise out of the work of the Select Committee on Puppy Farming in New South Wales. I draw honourable members to the report of that committee and they will see how the amendments came about. The first amendment relates to the commencement of the bill and seeks to omit "one year" and insert "two years". During the inquiry local government councils indicated that, if the bill is passed, they would need some time not only to establish, implement and test their systems but also to train their staff on what would be required, which is a fair request. The bill will introduce a regime change and all stakeholders would need to consider the changes

and get their heads around what it would mean if the bill were to be passed. Therefore the Opposition's proposal is to extend the start time from one year to two years.

Amendment No. 2 relates to microbreeders. The bill talks about two fertile female dogs. We want to establish the threshold to be five fertile female dogs. There has been a lot of discussion about it. I took the opportunity during the inquiry to talk to a lot of people about the impact of the Victorian model and, if there were to be a number, what that threshold would be. The idea is that a threshold of five fertile dogs would assist a lot of smaller businesses. I have an amendment that relates to working dogs, which I will talk about a bit later on. Mr Chair, you would appreciate the importance of working dogs in the context of this legislation. The Opposition is suggesting that proposed section 61A (1) be inserted in schedule 1 [1] to specify that there be five fertile female dogs instead of two.

Amendment No. 3 relates to the code of practice. It requires that the departmental chief executive must make a business code of practice within two years of the commencement of the bill. This is an important amendment. If the bill were to pass, there must be a framework and a regulatory process put in place. The Government of the day must own this. The Opposition is saying that the two years to make a business code of practice lines up with the date for the bill to commence. In that time, the departmental chief can go away and undertake this work. It is critical that this regulatory process be in place for the bill to work. This regime requires structure. Let us make it clear that we expect the department, regardless of who is in government, to go away and undertake that work.

Amendment No. 4 relates to the companion animal breeding business. The Opposition wishes to amend schedule 1 [1] by inserting proposed section 61E to specify six fertile dogs instead of three. This amendment came about after consultation with a range of stakeholders. I have no doubt that other members have had similar conversations. That is the proposal we are putting forward. Amendments Nos 5, 6 and 7 relate to registration fees. Councils have raised with me their concern about the potential financial impost on their activities. They are not sure how much it will cost, because they have to gear up their processes, hence the two-year implementation phase. At the same time, I have breeders saying that they do not want councils to set levies so high that it makes it near on impossible to register.

When considering their budgets each year, councils go through a process of consulting with communities about their fees and services. I envision that the changes outlined in the amendment would become a part of that process. They must consult with communities about the costs of processing applications that relate to this bill. I make it clear that it is those costs that relate to this bill. The two-year implementation period gives councils an opportunity to work out what that consultation process will be, how the bill will impact their activities, and to work out a cost neutral arrangement. Amendments Nos 8 and 9 relate to staff ratios. The bill proposes a staffing ratio of 1:5. We propose that it be 1:25, which reflects the Victorian model and I have drawn that from the Victorian experience. A large number of stakeholders have said to me that the 1:5 is not practical but that they can work with a ratio of 1:25.

Opposition amendment No. 10 proposes the insertion of a new division 7. This is picked up from the Victorian legislation. It relates to recreational breeders and approved commercial breeders. It talks about "applicable organisations", which would mean an organisation approved by the Minister for the purposes of the section. To be clear, "recreational breeder" means a person who carries out the breeding of dogs or cats for sale and has, at any one time, more than five but no more than 10 fertile female dogs or fertile female cats. Under the structure the Opposition proposes with these amendments, a microbreeder would have zero to five, it would then be six to 10, and then the next section talks about approved commercial breeders, which would have 11 and up to 50 fertile female breeding animals, with ministerial approval. The amendment inserts a definition at the end of new section 61ZR of "approved commercial breeder", which means a person who carries out the breeding of dogs or cats for sale and is approved by the Minister for the purposes of the section.

The Victorian model clearly relies on ministerial approval. We have drawn heavily from the Victorian model in these amendments. A lot of dog breeders have said to me that they have some issues with the Victorian model, but they could work with that model in New South Wales. Essentially, that is what I am trying to do with these amendments—to put the Victorian model into the bill that is currently before us. New section 61ZS importantly provides for a review of the bill. The Opposition proposes a review of the bill in five years, if the amendment were to get up. The reason is that this is a new regime and there may well be unintended consequences, so it would be important for the Parliament to make sure that we are across them. I am certain if there are refinements or improvements to take place, that would occur.

I seek an extension of time.

Leave granted.

The Hon. MICK VEITCH: By leave: I move Opposition amendments Nos 1 to 14 on sheet c2022-187B in globo:

No. 1 Only cats and dogs to be companion animals

Page 3, Schedule 1[1], proposed section 61A(1). Insert after line 16—

companion animal—see section 61AA.

No. 2 Only cats and dogs to be companion animals

Page 4, Schedule 1[1]. Insert after line 9—

61AA Part applies to cats and certain dogs only

In this Part—

companion animal means the following—

- (a) a cat,
- (b) a dog other than a working dog.

No. 3 Limitations on breeding

Page 15, Schedule 1[1], proposed section 61ZF(a), line 21. Omit "more than twice".

Insert instead "if the dog or cat has already been bred by the proprietor 5 times".

No. 4 Miscellaneous

Page 17, Schedule 1[1], proposed section 61ZJ(3), line 1. Omit "clause". Insert instead "section".

No. 5 Limitations on breeding

Page 17, Schedule 1[1], proposed section 61ZK(1)(a)(iii), line 16. Omit "2 litters".

Insert instead "5 litters".

No. 6 Approved breeders

Page 17, Schedule 1[1], proposed section 61ZL, lines 28 and 29. Omit all words on the lines.

Insert instead—

- (1) A person must not sell, or cause the sale of, a companion animal to the proprietor of a pet shop if the companion animal is not from—
 - (a) a rehoming organisation, or
 - (b) an approved breeder.

No. 7 Approved breeders

Page 17, Schedule 1[1], proposed section 61ZL. Insert after line 33—

- (2) In this section—

approved breeder means a companion animal breeding business or microbreeder approved by the Minister for the purposes of this section.

No. 8 Approved breeders

Page 17, Schedule 1[1], proposed section 61ZM(1), lines 36 and 37.

Omit "from a rehoming organisation.". Insert instead—

from—

- (a) a rehoming organisation, or
- (b) an approved breeder.

No. 9 Approved breeders

Page 17, Schedule 1[1], proposed section 61ZM(2), lines 39 and 40.

Omit "from a rehoming organisation.". Insert instead—

from—

- (a) a rehoming organisation, or
- (b) an approved breeder.

No. 10 Approved breeders

Page 17, Schedule 1[1], proposed section 61ZM. Insert after line 44—

- (3) In this section—

approved breeder means a companion animal breeding business or microbreeder approved by the Minister for the purposes of this section.

No. 11 **Age restrictions**

Page 18, Schedule 1[1], proposed section 61ZN(1), lines 3–5. Omit all words on the lines.

Insert instead "accept or receive a companion animal for sale that is less than 8 weeks old."

No. 12 **Age restrictions**

Page 18, Schedule 1[1], proposed section 61ZN(2), lines 7–9. Omit all words on the lines.

Insert instead "sell, or cause or allow the sale of, a companion animal that is less than 8 weeks old."

No. 13 **Certain pet shops exempted**

Page 18, Schedule 1[1]. Insert after line 41—

Division 6A Exemptions for certain pet shops

61ZPA Exempt pet shops

- (1) Despite another provision of this Part, the following provisions do not apply to an exempt pet shop proprietor—
 - (a) this Part, other than this section,
 - (b) Part 7A, Division 3.
- (2) The regulations may prescribe criteria for the Minister's approval of an association or other organisation as an applicable industry association.
- (3) In this section—

applicable industry association means an association or other organisation approved by the Minister for the purposes of this section.

exempt pet shop proprietor means a proprietor of a pet shop who is a member of an applicable industry association.

No. 14 **Only cats and dogs to be companion animals**

Page 19, Schedule 1[2], proposed section 69I, line 4.

Insert "*companion animal*," before "*companion animal business*".

Amendments Nos 1 and 2 relate to what is meant by "companion animal". A number of stakeholders have said that their understanding of the bill is that it relates to puppies and kittens, dogs and cats. Essentially, they want that made clear in the bill. Amendments Nos 1 and 2 make sure that the bill relates to dogs and cats. Amendment No. 2 specifically mentions working dogs. In other legislation and regulations in this jurisdiction, working dogs are exempt and so, even though it is mentioned in the bill in another section, I think we should make it clear and succinct that working dogs are exempt from the operation of the bill. That is the first thing. The second thing is that, of course, the bill only relates to dogs and cats. We are not talking about companion animals such as lizards, guinea pigs and rabbits.

Amendments Nos 3, 4, and 5 relate to limitations on breeding. Amendment No. 3 proposes to omit the words "more than twice" in new section 61ZF and insert instead "if the dog or cat has already been bred by the proprietor five times". So we are moving the limitation out to five times. That comes about after consultation with a number of stakeholders. That is then reflected in the other two amendments, Nos 4 and 5, where references to "two litters" are replaced with "five litters".

Amendments Nos 6 to 10 all relate to approved breeders, and the capacity for someone to sell not just from a rehoming organisation but also from an approved breeder. Under the bill, as I understand it, pet shops, for instance, would be able to sell dogs or kittens for rehoming only. If a regime is to be put in place where there are approved breeders—commercial breeders and recreational breeders that are approved by the Minister, so there should be a degree of rigour around that process—then pet shops should be able to provide puppies and kittens from an approved breeder. That is, essentially, what all of the amendments in this group try to do. Amendments Nos 11 and 12 relate to age restrictions. I admit that this is a contentious area, as the committee discovered. The bill proposes six months.

I seek an extension of time of five minutes.

Leave granted.

The Hon. MICK VEITCH: I thank the Committee for its indulgence. There was a lot of discussion about age restrictions during the inquiry. It is quite a contentious matter, and a number of organisations came and talked

to us. There was a range of proposals from eight weeks to 13 weeks. The Opposition is suggesting eight weeks. As I understand it, that is the Victorian arrangement, and so that is why we have landed at that age.

Amendment No. 13 relates to exemptions for certain pet shops. The amendment proposes that there needs to be some regulation around pet shops, where they need to be a member of an industry association and adhere to its code of practice. I have had discussions with a number of pet shop proprietors, some of whom presented to the committee and some whom did not. The view of the Opposition—and it is certainly my view—is that pet shops must be able to sell puppies and kittens. If they cannot, then people will go online to purchase animals. There are a number of situations where people have purchased a pet online and what they have purchased either has not turned up or is not what they thought they were buying. Further, online purchasers do not always get instructions on how to look after the pet coming into their care. I think pet shops, by having face-to-face interaction with people, have a real role to play.

There are a range of things we need to do to make sure that people are getting the pet they want, that they get a pet suitable to their circumstances and that there is an education process around how to care for the pet—what to feed it, how to exercise it and all the rest. I think pet shops have a real role in that capacity. But in my view, as legislators, we need to make sure there is a baseline where we have surety that pet shops are meeting people's expectations.

Other things were suggested concerning pet shops that I do not want to pursue. But, in some way, this will make sure that pet shops have an active role in ensuring that people have an understanding of their pet's welfare and how they should care for that pet. An issue came up in the inquiry regarding that very small group—I call them cowboys—that is not doing the right thing. Pet owners in the community expect that their pets have been bred ethically by breeders who have looked after the animal and its parents and that if an issue arises with the pet they can go back to the breeder, ask what has happened and be able to look at their pet's breeding history. We must increase the standards and create certainty around that. Pet shops have a real role to play in that. But I also want to make sure that we can agree on what a standard for pet shops might look like. Amendment No. 14 on sheet c2022-187B relates to the ownership of dogs and cats as companion animals, which relates back to amendment No. 1.

The Opposition has moved the amendments on both sheets in good faith to enable it to get to the position of accepting the bill. We went to the last two elections with a puppy farm policy. Most members know that I have very strong views about the small cohort of people who are not doing the right thing. We must rein them in. The vast majority of breeders are doing the right thing and are looking after their animals. We need to make sure that we have a framework that supports, encourages and ensures that. The other fundamental thing that is missing from the bill is the adequacy of funding to organisations like the RSPCA and the Animal Welfare League for them to undertake compliance in this area, which has been mentioned many times during my time in this Chamber. The reality is that we must fix that at some point. I thank the Committee for its indulgence.

The Hon. MARK BANASIAK (11:31): I thank the Committee for allowing me to jump in and make a brief contribution to debate on the amendments. I covered a lot of the detail in my contribution to the second reading debate. Unfortunately, many of the concerns I raised have not been resolved by Labor's amendments. Concerns remain about contractual arrangements for breeding. During the puppy farm inquiry, the committee heard that that is a vexed issue which needs a lot of work. I did a quick whip around the industry regarding the amendments. The industry has concerns about some of the language regarding microbreeders still being caught by the bill. A concern remains that a retirement age of six is not supported by medical evidence. As with the animal welfare reforms, the industry is particularly concerned that a lot of the detail about enforcement of the bill will be left to regulation.

When members were considering the animal welfare reform, we were united across the board in saying that is such a complex area that we need a helicopter view of the regulations. The industry is telling me clearly that the same concern applies to this bill. It is concerned that a lot is being left to regulation. For that reason, the Shooters, Fishers and Farmers cannot support some of the amendments. Obviously, we support the amendment regarding working dogs. But because the amendments have been moved in globo, we cannot support that amendment without supporting the others. Breeders have a big concern about mandating the joining of a club or association because there are very different rules and expectations of breeders across associations. That will cause significant issues when mandating that someone must join a particular association.

A concern exists about new section 61B, which allows a person to obtain a dog for free by simply getting a vet to say that it is unsuitable to breed. The industry has raised the concern with me that some short-nosed dog breeds—I will not try to pronounce the name—

The Hon. Emma Hurst: Brachycephalic.

The Hon. MARK BANASIAK: Yes, I knew I would stuff it up. The Australian Veterinary Association has been quite clear and open that it will not support the breeding of those small-nosed dogs. The concern is that people will easily be able to get a letter to say that a dog is not suitable and they will end up with a free dog. Obviously the amendments do not resolve that issue. We cannot support the amendments as a whole, and we cannot support the bill. The honourable member has made a valiant effort to resurrect it. However, we remain of the view that the bill cannot be fixed. Accordingly, we oppose the amendments and the bill.

Ms ABIGAIL BOYD (11:35): On behalf of The Greens, I speak to the Animal Justice Party and the Opposition amendments. We have listened carefully to the Animal Justice Party amendments and support those on the basis of the arguments put forward by the Hon. Emma Hurst. I turn to the Opposition's two sheets of amendments. The Greens have significant concerns about the implications of watering down the effectiveness of the bill by creating such significant exemptions for pet shops and breeders. They stray far from the intended effect of the bill. But I do understand that it is better than nothing. At the moment, the cruelty that is occurring, the lack of enforcement and the very clear community sentiment that has led the Hon. Emma Hurst to introduce the bill indicate a clear need to act and compel us to do something. Although Labor's amendments are incredibly disappointing, the resulting bill is indeed better than nothing.

I worry that Labor's amendments are designed to avoid upsetting the very people who make money from breeding and selling companion animals. I guess that is all well and good for the Labor Party in an attempt to satisfy various stakeholders. But fundamentally The Greens do not view animals as commodities. Accordingly, animal welfare is not an afterthought for The Greens; it is a priority. Reluctantly, to get the bill through this Chamber, The Greens accept the Opposition amendments. However, we are not happy about it.

The Hon. EMMA HURST (11:37): Opposition amendment No. 1 on sheet c2021-150K will delay the commencement of the bill for two years, which is an extension to the one year that the Animal Justice Party proposed. In the interest of passing the bill, we will not be opposing that amendment. Amendment No. 2 on sheet c2021-150K changes the definition of "microbreeder" to a person who has less than five fertile female breeding dogs. Currently the bill stipulates two such dogs, which is consistent with the Victorian puppy farm bill. It is unclear why NSW Labor is seeking to depart from the Victorian legislation in that way and why it considers it okay for someone with five female breeding animals to operate a business entirely unregulated. I am concerned that that amendment will simply open the door to dodgy backyard breeders. We have criticised the bill for not targeting backyard breeders enough. Unfortunately, the amendment will weaken regulations and allow more backyard breeding to occur.

I remind honourable members that the cap is on fertile female breeding dogs only. In addition to those females will be litters of puppies and male dogs, so a significant number of animals could still be under one person's care. Despite breeders being able to have a huge number of animals, they will still be required to comply with the source number and traceability aspects of the bill. That is important, and I am glad that Labor has not changed that.

Amendment No. 3 on sheet c2021-150K requires a code of practice. We agree with this requirement because our current code of practice is out of date. This is a good amendment moved by Labor. Amendments Nos 5, 6 and 7 relate to council fees. Our bill allowed councils to set that fee. However, this is a reasonable amendment. I understand that it is supported by Local Government NSW, which has been a long-term supporter of the bill. However, it wants to ensure that councils are able to recover their costs. Therefore we support those amendments as well.

Amendments Nos 8 and 9 would increase staffing ratios in the bill from one staff to five. We believe that our original staffing ratio was much better. We follow the EU Platform on Animal Welfare's responsible dog breeding guidelines. That is where we came up with that ratio. However, we acknowledge that the ratio proposed by Labor is consistent with the Victorian breeding code. Given the fact that at the moment there are no staffing ratios—so somebody could be the only person attempting to provide care for 600 dogs—it is a welfare disaster waiting to happen. Certainly 1:25 is a significant improvement on where we have been, so we will not oppose that amendment.

Amendments Nos 4 and 10 are the most substantive amendments proposed by Labor, but also the ones of most concern. They create a new category of so-called recreational breeders, with up to 10 fertile female dogs or cats, that are members of an organisation approved by the Minister. They will not have to be registered with council and they will not have the oversight. We are concerned with this major change to the bill, which seems to have been put together in a rush. It does not include any of the same oversight and reporting regulations on breeder organisations as the Victorian puppy farm legislation. Breeding organisations, as pointed out even by the member of the Shooters, Fishers and Farmers Party, greatly vary in their standards. None of them have enforcement powers, so they cannot undertake inspections. We heard that at the puppy farming inquiry. We also heard at that

inquiry that people who have been convicted of animal cruelty offences were often involved with, and members of, those organisations.

The other key change in this amendment will allow some breeders designated as "approved commercial breeders" to have up to 50 fertile females, with ministerial approval. Previously we had a hard cap of 10. This number conflicts with Labor's previous election platform to ban puppy farms that house more than 10 breeding dogs. It is unclear why Labor has abandoned its previous commitment on this animal issue. Again, this argument seems to have been drafted in a rush and not fully thought through. This is a significant increase in the number of animals that a breeder can have. When we talk about 50 fertile dogs, plus males and puppies, we quickly come to an intensive farming situation, which is technically what puppy farming is. The amendment also contains a requirement that a review of the bill be undertaken after five years, which is a sensible oversight measure that the Animal Justice Party supports.

Opposition amendments Nos 1, 2 and 14 on sheet c2022-187B exempt working dogs. I understand that lobby groups pushed for this. We are concerned that it creates a significant loophole. Our bill made sure that farmers' working dogs were excluded. But the amendment goes much further and will allow puppy farmers to claim their breeding working dogs. It creates a concerning loophole that allows them to get around the bill. Amendments Nos 3 and 5 increase the lifetime litter limits from two to five. Our bill originally set the limits based on the EU responsible dog breeding guidelines. But in the interests of passing the bill, we will not oppose the amendment, which brings the bill into line with the Victorian code of practice. Amendment No. 4 is a miscellaneous change. Amendments Nos 6 and 13 fall under the reforms introduced into the bill regarding pet shops. The amendments would convert pet shops into adoption centres and allow them to only sell cats and dogs from rescue and rehoming organisations.

The amendments would also allow pet shops to continue to sell animals as young as eight weeks old. That significantly weakens the bill. It is a particularly surprising move from NSW Labor, given that its 2015 policy was to phase out the sale of puppies from pet shops. I highlighted in my second reading contribution how pet shops often act as smokescreens for dodgy backyard breeders and puppy farmers. In fact, most reputable breeders and breeding organisations do not allow their members to sell puppies through pet shops. As Labor members have said previously, ethical pet shops are increasingly shifting their focus towards being adoption centres, and reputable breeders have a voluntary code that prohibits selling puppies in pet shops. Therefore, banning the sale of puppies in pet shops would only advantage non-reputable breeders. That was part of Labor's 2015 policy. It makes us wonder what other animal protection policies will be abandoned, which is a concern going into an election.

Victorian Labor highlighted that this piece of legislation was one of its most popular, and its legislation included a ban on the sale of animals coming from dodgy backyard breeders and puppy farms in pet shops. Dan Andrews recently posted on social media that it was one of the most popular pieces of legislation it had ever passed. It is a pity that NSW Labor will not be taking as strong a stance against puppy farming as Victorian Labor. But given where we are, we are not going to oppose any of Labor's amendments. We recognise that it would be a significant improvement from where we were. It would still require us to do a lot of work. We recognise that WA Labor has also tried to crack down on puppy farming by stopping the sale of puppy farm dogs and backyard breeding dogs in pet shops. While we will not be opposing the amendments, we will continue to campaign on that into the future.

The Hon. TAYLOR MARTIN (11:46): The Government opposes the proposed amendments. No set of amendments could address the fundamental issue with the bill. The amendments do not address the fact that the bill means that breeders and other companion animal businesses have to read and understand two pieces of legislation in parallel, administered by two different agencies and enforced by different organisations, to work out what they are required to do to comply with the law. The amendments do not address the exceptional cost burden being placed on local councils to administer and enforce this incredibly complex registration scheme, which applies to breeders, pet shops and boarding establishments, amongst others, and involves annual registration and inspection of every such business in New South Wales.

The amendments do not address the incredibly invasive powers of entry into people's homes that are set out under the bill and that are well in excess of equivalent powers in other legislation, including those available to New South Wales police officers. For example, under the bill enforcement officers have the power to enter a person's home only if they are of the opinion that entry is required urgently because of the existence or reasonable likelihood of serious risk to the health or safety of a dog or cat. The amendments do not address the fact that a wide range of companion animal businesses are captured and subject to mountains of red tape—for example, a teenager minding their neighbour's dog for a week in exchange for 100 bucks. That goes well beyond the stated focus on puppy factories as was intended.

The amendments do not address the complex and laborious process to apply for registration, which amongst other things requires a council to assess each applicant's financial position to determine if they may not be able to meet the expenses of running a companion animal business. To assess this, it is assumed that the application form will need to capture a huge range of information, including the financial status of a proprietor. In fact, there may be privacy limitations in asking for such information. Unless registration is standardised across councils, there is a huge risk of an inconsistent approach from one local government authority to another.

The amendments do not address the significant disproportionality of penalties that exist in the same piece of legislation. For example, a person that sets on or urges a dog to attack—other than a dangerous, menacing or restricted dog—or to bite, harass or chase any person or animal other than vermin, faces fines of up to \$22,000, whether injury is caused or not. However, the proprietor of a companion animal breeding business that has 11 fertile females instead of 10 could face fines of up to \$110,000, or two years' imprisonment, even if their dogs are in perfect health and are cared for to an exceptional standard. While many of the amendments are sensible enough in isolation, or do their best to make improvements to the bill, the improvements are marginal at best and negligible at worst. None of them will actually help achieve the purpose of the bill, which is to weed out puppy farms.

These amendments lead to more complexity and more red tape, which makes this bill even harder for the community to understand, harder for those affected to comply with and harder for enforcement agencies to police on the ground. The amendments create complex tiered systems with multiple carve-outs and do not help to improve oversight. They heighten the risk of poor operators slipping through the cracks. I think the Hon. Mick Veitch labelled them as "cowboys" in his speech. The amendments encourage poor operators to do their best to remain underground.

I turn to Opposition amendments on sheet c2021-150K. In regards to the commencement date, we oppose that amendment. This bill should not be supported regardless of the commencement date. The commencement date is irrelevant. Without good policy based on robust cost-benefit analysis supported by consultation and research, the bill is ill conceived and inappropriate. Whether the bill commences in one year, two years or 20 years is utterly irrelevant when the bill itself is so fundamentally flawed. The Government will oppose the amendment regarding microbreeders, which seeks to amend the number of fertile female dogs a microbreeder has. This bill should not be supported irrespective of whether it is amended to define microbreeders as having two fertile female dogs or cats or five fertile female dogs or cats. The amendment simply substitutes one arbitrary number with another.

As organisations like the Australian Veterinary Association have pointed out, significant welfare issues can occur regardless of the size of a breeding operation. The recent puppy farm inquiry received over 900 written submissions and over 6,000 survey responses. Whether microbreeders should be exempt from some legislative requirements was a point of contention for many stakeholders during consultation. Stakeholders argued that the bill should not concentrate on larger breeding organisations alone, as the same issues of animal welfare, breeder competency and genetic issues can apply equally to microbreeders as they can to large breeding facilities. This amendment ignores the fact that there can still be significant animal welfare issues with breeders of fewer animals.

The Government opposes the amendment regarding the code of practice, as I said. In August last year the Government published a revised breeding code. The breeding code sets the welfare requirements and guidance applicable to anyone in the business of breeding dogs or cats for fee or reward. The updates made to this code were aimed at ensuring that everyone who is covered by the code can understand and follow the requirements and guidance. The code has also been changed to improve responsibilities with enclosure or fence heights, vaccination requirements and mating ages.

Any move now to create a new business code of practice, whether it be for breeding businesses or pet shops, would simply duplicate what is already in place under the Prevention of Cruelty to Animals Act [POCTAA]. Further, it would pre-empt the broader animal welfare reform work of the Government, which includes a review of all the codes that sit under POCTAA. If this amendment was passed, we would be left with a situation in which codes of practice related to animal welfare would sit within multiple pieces of legislation, creating unwarranted complexity and confusion. Again, this just demonstrates how ill conceived and poorly drafted this bill before us is.

In relation to companion animal breeding businesses, this bill should not be supported, as I said before. Nor should any amendment of this sort, regardless of whether it defines companion animal breeding businesses of having either three or more or six or more fertile female breeding animals. Such amendment demonstrates the absurdity of selecting such arbitrary numbers. Such a number has been not tested with stakeholders or the community through consultation process. As the puppy farm inquiry demonstrated, opinion is divided on the most appropriate number of breeding female animals a breeder can keep that will ensure the greatest chance of desired animal welfare outcomes to be met. That is why the committee itself did not recommend a number but instead

encouraged the Government to closely consider the evidence for the introduction of such a cap. This bill will circumvent that recommended process.

Furthermore, the key industry bodies have voiced concerns about the adequacy of classifying a companion animal breeding business on the problematic definition of "fertile female breeding animal". Again, without capturing all breeders, animal welfare outcomes will not be improved across the board. Inappropriate regulation could have adverse consequences if it simply serves to encourage breeders to operate outside the regulatory framework. Regardless of the size of the breeding establishment, the same issues of animal welfare, breeder competency and genetic issues can still apply.

The Government opposes the amendment regarding registration fees. It is a clear indication that the bill has not been well thought out or tested with key stakeholders. In fact, this amendment is redundant as it requires councils to consult before fixing fees associated with the registration of companion animal businesses. However, community consultation is already a mandatory requirement for councils for any fee or charge under the existing integrated planning and reporting requirements enshrined in the Local Government Act.

An understanding of the costs and benefits of any proposal for an entire new regulatory framework for businesses—including a registration system, and inspection and enforcement regimes—is a minimum requirement for government when considering new or amending regulatory proposals. Any poorly conceived or untested registration system would have massive costs, resourcing implications and other unknown impacts to businesses, councils and communities across New South Wales. It would be remiss of this Parliament to pass the proposal without the benefit of a full cost-benefit analysis.

This bill and the amendments would not have passed Percy Allan's public interest test to ensure that the new bill is appropriate in meeting the needs of the New South Wales community. There is a lack of detailed answers addressing the need, cost or evidence to support the proposals in this bill and the amendments. Further, there appear to be no grandfathering provisions to consider the needs and impacts on existing businesses. The bill and the Opposition's proposed amendments appear to place more pressure on businesses already struggling following COVID and the countless natural disasters that have impacted communities across the State of New South Wales.

The Government opposes the amendment regarding staff ratios. As with so many of the other amendments, it simply replaces one arbitrarily decided number with another. The proprietor of a companion animal breeding business will require there to be a minimum of one staff member at the registered premises for every 25 animals kept at the premises. With the way that an adult companion animal is defined, where every puppy in a litter becomes an adult overnight once they reach 16 weeks of age, the required number of staff members could change in an instant overnight.

Any staffing ratios prescribed in legislation should reflect the nature and size of the business. They should be subject to appropriate consultation prior to their introduction. They should be considered in the context of a planned review of the breeding code intended to follow the passage of the new animal welfare bill and supporting regulations. Hence the Government opposes the amendment. It seeks to amend the bill to only apply the minimum staff-animal ratio to approved commercial companion animal breeders—that is, a breeder that can acquire more than the maximum cap of 10 breeding animals if they obtain ministerial approval to do so, up to a maximum of 50.

The proprietor of such a companion animal breeding business would require there to be a minimum of one staff member at the registered premises for every five animals kept at the premises. This amendment is impractical as it requires the requisite number of staff members to be present at all times, including in the middle of the night when the animals are asleep. In any case, the breeding code already includes outcomes-focused provisions aimed at achieving this intent. I note that this amendment would mean that the ratio only applies to approved commercial breeders. The approved commercial breeder scheme is red tape for the sake of red tape.

The Government opposes the amendment regarding recreational breeders, approved commercial breeders and the review. This amendment would introduce additional provisions setting out two new classes of companion animal breeders: recreational breeders and approved commercial breeders. Recreational breeders would capture breeders that kept between six and 10 fertile female dogs or cats, who are members of applicable organisations, meaning the breeder organisations that are approved by the Minister. These recreational breeders would be largely exempted from the regulatory scheme set out in this bill as long as they comply with their organisation's code of ethics. It would be up to councils to enforce these codes of ethics, something they would have neither the expertise nor the resources to actually do.

Approved commercial breeders would be able to acquire more than the maximum cap of 10 breeding animals if they obtain ministerial approval to do so, up to a maximum of 50. All approved commercial breeders would be required to be inspected annually by enforcement officers. This amendment would carve out this new

class of recreational breeders from all of the other provisions of the bill. This proposed amendment is extremely complex. It is not conducive to good animal welfare outcomes. This approach creates different animal welfare rules for different breeders, depending on the number of dogs or cats they keep or the organisation to which they belong.

Excluding recreational breeders from the source number scheme is also confounding. Instead of the universal number that was originally intended, now some breeders do not have to have a source number. Throw in the fact that the source number already duplicates existing advertising identification requirements in the Prevention of Cruelty to Animals Act 1979, and consumers will have no idea what numbers should be visible in any given advertisement, making those numbers absolutely redundant in supporting traceability. It sets up a process whereby the Minister must provide a separate approval on top of all the other requirements that are set out in the bill to approve a commercial breeder to have between 11 and 50 breeding animals. Again, that is red tape for the sake of red tape. It is not clear to me why a Minister should need to get involved with a whole new layer of approvals on top of the existing registration scheme.

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.

Visitors

VISITORS

The PRESIDENT: I welcome the boys from Belmore Boys High School, who are guests of Sophie Cotsis, MP. I also welcome to the public gallery Spencer Clark, a year 10 student at Wycliffe Christian School, who is currently doing work experience in the office of the Hon. Scott Farlow, MLC, the Government Whip. I trust Spencer will enjoy his time in question time today and that the behaviour of members in this Chamber will be exemplary.

Questions Without Notice

TEACHER RECRUITMENT AND RETENTION

The Hon. PENNY SHARPE (12:00): My question without notice is directed to the Minister for Education and Early Learning. After 12 years of this Government, more than one-third of teaching positions in New South Wales are now temporary and nearly two-thirds of teachers plan to quit in the next five years. What is the Minister's response to community concerns that the Government's approach to teacher recruitment and retention has failed?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:00): I thank the honourable member for her question. Regarding the work that the Government is doing on teacher recruitment, it is really important to put on record that New South Wales public schools have more than 92,000 teachers. That is the most that we have ever had and represents a growth of about 10,000 positions since we came to office.

The PRESIDENT: Order! The Minister has the call.

The Hon. SARAH MITCHELL: New South Wales is currently operating at about 12,000 teachers above the base level that is required, because record funding is going into our public schools. Government members have delivered record funding for public education in this State, and we are incredibly proud of that. The member has asked questions about the number of temporary and casual teachers in the system. As I have said many times before in this House, the biggest public education system in the Southern Hemisphere always has a mix of permanent, temporary and casual roles. For instance, there is a need for temporary staff in our system to fill vacancies due to parental leave, long service leave and sick leave. Government members have also made clear that we want to find opportunities for temporary teachers who are looking to take on permanent roles to do so.

As I have mentioned before, for six months last year we effectively had a moratorium through our staffing agreement with the union to let principals make some more permanent appointments of temporary staff. That issue was raised with me quite a bit following that six-month period, and we indicated earlier in the year that we would look at doing that. We have recently announced that there will be an opportunity for at least an additional 10,000 teachers and learning support officer staff to become permanent.

In answer to the inferences in the question that the Government is not managing our teacher supply, that there is not a good pipeline coming in and that things have failed under our Government, I argue very strongly that the opposite is true. We have many teachers in our system, good pipelines and a good teacher supply strategy.

Government members take that very seriously. We value our workforce and want to provide opportunities for those who are temporary to take up permanent positions. With record funding in our schools, more teaching positions are available than ever before. Many principals have talked to me about the certainty of Gonski funding and said they want to be able to make offers of more permanent employment. We are very happy to make sure that will be a reality, and we are proud of our track record when it comes to those matters.

The Hon. PENNY SHARPE (12:03): I ask a supplementary question. Will the Minister elucidate that part of her answer where she spoke of the 10,000 teachers that have been recruited in the past 12 years? How many or what proportion of those are temporary and how many are permanent?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:04): I will take the specifics of that on notice.

The PRESIDENT: Order! The Minister has the call.

The Hon. SARAH MITCHELL: As I said, there is always a mix of staffing roles. I am very happy to take that on notice and come back to the member with an answer, and I am pleased members opposite find that so amusing.

SOCIAL AND AFFORDABLE HOUSING

The Hon. CHRIS RATH (12:05): My question is addressed to the Minister for Families and Communities, and Minister for Disability Services. Will the Minister update the House on how the New South Wales Government is delivering more social and affordable housing in New South Wales?

The Hon. NATASHA MACLAREN-JONES (Minister for Families and Communities, and Minister for Disability Services) (12:05): I thank the honourable member for his question. The Liberal-Nationals Government continues to lead the way in New South Wales with its record investment in social and affordable housing because it is committed to supporting people to obtain secure, safe and long-term housing. The Government has delivered the largest social housing portfolio of any jurisdiction in this country—larger than Victoria and Queensland combined. It has invested over \$9 billion in the past 10 years. In fact, the New South Wales Government's social housing portfolio has increased by 10 per cent over the past 10 years, which is 4 per cent ahead of the country's total.

Furthermore, since this Government took over from Labor in 2011, it has reduced the social housing waitlist it inherited by 30,000 people, despite an increase in population. Over the next four years the Government will invest a further \$4.5 billion to increase housing supply, improve affordability and support our most vulnerable with safe and stable accommodation. The Government is opening new buildings in Orange, Bathurst, Tweed, Casino, Potts Point, Bankstown, Goulburn and Central Coast, to name a few. It is also turning sods in Port Kembla, Dapto, Newcastle, Glebe and western Sydney.

Last month I was in Lismore to announce two new affordable housing blocks as part of a \$20 million boost to local housing supply. That is one of the many examples of the Liberal-Nationals Government working in partnership with councils to unlock land and build more homes. Last month I joined Minister Roberts in Glebe to announce the new Prince's Trust development. The Government is transforming 19 aged-care dwellings into 75 new apartments and terraces, providing new homes for over 130 social housing residents in Glebe and creating over 170 new jobs during construction. That building will be world leading in its design, based on historic woolstore buildings and Glebe's iconic terraces. It will be eco-friendly, using recycled bricks and solar power.

The Government is also boosting social housing across the City of Sydney local government area, and the project in Cowper Street is one of three developments in Glebe. The projects will see social housing increase from 144 dwellings to 250. The Government's innovative funding programs include partnering with the community housing sector to deliver real outcomes for the people of New South Wales, particularly in regional New South Wales. The \$1.1 billion Social and Affordable Housing Fund that was created in 2015 is delivering 3,486 homes across New South Wales, with over 30 per cent of those located in regional areas. The Government is investing a further \$300 million over the next four years to support vital upgrades to almost 16,000 homes, protecting around 450 homes from becoming unlivable and supporting around 900 construction jobs in the process.

TOLL RELIEF

The Hon. JOHN GRAHAM (12:08): My question without notice is directed to the Minister for Metropolitan Roads. Given senior government officials indicated earlier this year that the Treasury toll review would be delivered before the end of the year, will the Minister guarantee the public will see it before Christmas?

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (12:08): I thank the honourable member for his question,

and I love talking about the toll review and the great work this Government is doing. It is just fantastic that we are undertaking that work, and it is magnificent that he loves it and has called for it. The Perrottet Government is securing a brighter future for New South Wales by taking pressure off families and small businesses, leaving them more money at the end of the week. We are conscious of cost-of-living pressures and the cost of tolling on household budgets. We know it is a pressure. That is why this Government has more than 70 cost-of-living rebates on offer right now.

The NSW Treasury toll review, which is supported by Transport for NSW, has commenced. Pleasingly, this is a government that is happy to have the tough conversations and address these issues. That is exactly what we are doing, and we have already done the first part. Work has already commenced. The Government announced a toll rebate as part of what it is doing in this area, and that is already on the table. We would love to see what Opposition members will be doing. At the moment there is a 40 per cent rebate across all toll roads in New South Wales. A driver can get up to \$750 cash back in their pocket, paid quarterly. We said we would deliver a toll relief package—

The Hon. John Graham: Point of order: My point of order is direct relevance. Would you draw the Minister back to the question of when the review will be delivered?

The PRESIDENT: The Minister has provided important context but will now directly answer the question.

The Hon. NATALIE WARD: I am being directly relevant. I was asked about the toll review—

The Hon. John Graham: Don't canvass the ruling.

The Hon. NATALIE WARD: I am happy to answer the question. I am not quibbling with the ruling at all.

The Hon. Walt Secord: Don't be challenging the President's ruling.

The Hon. NATALIE WARD: You are not in the chair, Mr Secord.

The PRESIDENT: Order! The Minister has the call.

The Hon. NATALIE WARD: For context, I was saying that the first part of the toll review, which has already been put on record, is the toll relief package. The Government has that in place right now. I would love to see what the Opposition will be delivering. I am being directly relevant. The member asked about the toll review, and the first part of that is the toll relief package as part of the budget. That is what the Government has delivered: a comprehensive toll relief package. Unlike those opposites who have spoken about the issue and the only policy they have come up with would be seeing motorists pay more, we have delivered.

The Hon. John Graham: Point of order: My point of order is direct relevance. The Minister has been directed to answer the question but she has continued down exactly the same path.

The PRESIDENT: While the question asked about the Treasury toll review, it also directly asks the Minister to guarantee whether the public will see the review before Christmas. The Minister will now direct her answer to that part of the question. We have had the preliminary context.

The Hon. NATALIE WARD: What we have seen before Christmas is this Government putting toll relief on the table for families. That is in place right now. Families will have that.

The Hon. John Graham: Where is the guarantee?

The Hon. NATALIE WARD: The Government has guaranteed that it will address cost-of-living issues; that is where the guarantee is. The guarantee is for 70 cost-of-living rebates and a toll relief package that is on the table right now. As the Premier stated, our focus in this review is long-term policy reform. We are not afraid to have these conversations.

The Hon. John Graham: So we won't see it.

The Hon. NATALIE WARD: There is running commentary from the Hon. John Graham. I am endeavouring to answer the question. If he wants to have a debate—

The PRESIDENT: Order! The Minister has the call.

The Hon. NATALIE WARD: The Government has a toll relief package on the table.

The PRESIDENT: Order! Conversations across the Chamber are not helping. The Minister has the call.

The Hon. NATALIE WARD: As members of a responsible government, we have the difficult conversations. That is what we have done in the toll review, which is led by Treasury and supported by Transport for NSW. *[Time expired.]*

WHITE RIBBON JETSKI PARADE

Ms ABIGAIL BOYD (12:12): My question is directed to the Minister for Women's Safety and the Prevention of Domestic and Sexual Violence. Today it was revealed that the jetski parade to mark Friday's White Ribbon Day, which has been widely criticised and described by many domestic violence advocates as offensive, is not actually being driven by White Ribbon Australia but instead was organised by the New South Wales Government. How much money is the Government spending on this tone-deaf and pointless stunt that could instead have been given directly to underfunded domestic and family violence services to help women and children fleeing violence across the State?

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (12:13): I am surprised at this question. The fact is that zero dollars are being provided by the New South Wales Government. These are volunteers at a fantastic event raising awareness of women's safety and the prevention of domestic and family violence. It is a magnificent event that has been conducted in Brisbane and here in Sydney. It was successful last year. Not only is it not costing us anything, but the volunteers who are out there—the SES and the other volunteers who are raising awareness on our beautiful harbour—are actually fundraising for the cause. They are not only raising awareness with their fantastic initiative.

I welcome working with anyone who wants to raise awareness of this issue and put women's safety and the protection of women and children at the centre of what they do. It is fantastic work. I am pleased that the work is continuing, because it backs in this Government's record investment—

The PRESIDENT: Order! The Minister has the call.

The Hon. NATALIE WARD: This is an initiative that raises awareness of a critical issue that this Government has prioritised. It is a Premier's priority.

The Hon. Rose Jackson: They don't need awareness; they need housing.

The PRESIDENT: I call the Hon. Rose Jackson to order for the first time. The Minister has the call.

The Hon. NATALIE WARD: The honourable member has asked for housing. This is a government that has put record funding in place. Almost half a billion dollars has gone to the core and cluster program to almost double the number of women's refuges in New South Wales. That is the Government's answer to housing. We have an answer in terms of legislation. We have core and cluster funding and the Safer Pathway program in place. We have a comprehensive response and a dedicated Minister who will back in opportunities to raise awareness in this place.

The display on Sydney Harbour will spark important conversations to help end the silence and the stigma surrounding violence and harassment. A flotilla of jetskis will come together in a ribbon formation under the Sydney Harbour Bridge to say no to violence against women and children. On Australia's most iconic waterway, the jetski display puts violence prevention front and centre. I will support any initiative that ensures we raise awareness and inspire people to take action and make change at every level. This is a government that will back that in. It does the hard yards, not only with funding but with legislation. I will always be supportive of the organisations that support us in what we do to raise awareness about women's safety.

I am pleased to be part of a government that has this as an absolute priority. I am pleased that we have put record funding and legislative change in place. Today we have seen the passage of the coercive control legislation. That is game-changing, historic legislation to ensure that the pattern of behaviour that robs women of their autonomy is addressed. I am pleased that this Government has the difficult conversations and is not afraid to address very difficult issues. It will continue to do so. It will continue to make record investment in women's safety and it will continue to have a dedicated Minister. So long as this is a problem in our community, Government members will be the ones addressing it.

Ms ABIGAIL BOYD (12:16): I ask a supplementary question. Will the Minister elucidate her answer by clarifying whether the ludicrous, tone-deaf flotilla of jetskis was, in fact, her idea?

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (12:17): I find it offensive that someone in this place can say that an initiative that will raise awareness of women's safety and the prevention of domestic and family

violence is a ludicrous idea. The Government has heard from the sector that more needs to be done. We know that we need to raise awareness of this issue.

The PRESIDENT: Order! The Minister has the call.

The Hon. NATALIE WARD: Not only is the event raising awareness, it is also raising funds for the cause. It is actually raising money. Volunteers are getting out there—

The Hon. Scott Farlow: Point of order: Some members have been called to order repeatedly, but they are flouting your rulings and calls for restraint. I ask that you put the members on a call.

The PRESIDENT: I warn members on my left that order will be enforced as we move along. The Minister has the call.

The Hon. NATALIE WARD: I am pleased to be part of a government that prioritises this work and that ensured consent legislation introduced last year by the Attorney General was backed in by the House. The Government has put coercive control legislation in place. We will do whatever we can to support frontline services and the women and families who face this problem every single day. So long as I can do whatever I possibly can to raise awareness and support organisations that want to do so—

Ms Abigail Boyd: Point of order: The question was very direct. I asked whether or not it was the Minister's idea. The Minister is not being directly relevant to the question.

The PRESIDENT: The Minister will be directly relevant to the question asked.

The Hon. NATALIE WARD: I do have lots of good ideas, but unfortunately they do not often extend to great initiatives like this one. I absolutely back the idea. I inform the House that I am advised that Roads and Maritime Services in New South Wales was approached by its counterpart in Brisbane. Brisbane held a similar event last year and will be holding another event at the same time as this one. I wish them well. I hope they raise a lot of funds and get a lot of coverage—and that the Government gets lots more questions to raise awareness about it.

REGIONAL NEW SOUTH WALES

The Hon. TAYLOR MARTIN (12:19): My question is addressed to the Minister for Regional Transport and Roads. Will the Minister update the House on the many achievements the New South Wales Liberal-Nationals Government has accomplished to secure a brighter future for regional New South Wales this year?

The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (12:19): Where is Greg Donnelly? He wanted to see some country clothing. It is a bit rude to wear hats inside, so I will not, but the Hon. Greg Donnelly should pay attention. This is quality country clothing. And he says that I never wear it in Sydney. I thank the honourable member for his fantastic question. The New South Wales Liberal-Nationals Government has got regional New South Wales moving again. Come March, regional New South Wales has a very clear choice between a government that put regional New South Wales on the map and an opposition that does not know where Bourke is and that knifed the only shadow Minister in its party that understands regional New South Wales.

It is a clear choice between a \$19.4 billion regional road and transport infrastructure pipeline or the \$30 billion infrastructure backlog that those opposite left the State with. For a decade, under the former Labor Government, New South Wales had the lowest jobs growth of any mainland State. In the last five years of Labor, New South Wales had the lowest business confidence of any mainland State government, the lowest housing growth in the nation and the lowest average annual rate of State retail trade. When Labor left office, there was undisclosed—

The Hon. Damien Tudehope: Point of order: I am loath to rise to my feet, but interjections are competing with the Minister's lucid and erudite articulation such that members are being prevented from being educated.

The PRESIDENT: I uphold the point of order. We have just had some wonderful students join us. Before I call the Hon. Mark Latham on a point of order, it is an opportune moment to welcome the member for Riverstone, Kevin Conolly, and his guests. The wonderful high school students are from Wyndham College, Riverstone High School, Australian Christian College, Norwest Christian College, Quakers Hill High School, The Ponds High School, St John XXIII Catholic College, Glenwood High School and Rouse Hill Anglican College. They are all very welcome here today. I am sure the standard of question time is about to be lifted by their presence. Please enjoy yourself and come back another time.

The Hon. Mark Latham: Point of order: It is about relevance. The Minister was not asked about alternative positions, but all he has done so far is talk about the former Labor Government and not about the achievements of this Government. As we say in the bush, he is all hat and no cattle.

The Hon. SAM FARRAWAY: He has stolen my hat.

The PRESIDENT: I direct the Minister back to the question.

The Hon. SAM FARRAWAY: The bigger the hat, the bigger the chequebook. New South Wales is an economic powerhouse and is rightfully back in its place as the premier State. The Nationals being in government means that regional New South Wales has a seat at the Cabinet table. That voice has delivered record funding for highway upgrades, better roads, better schools, better hospitals, better public transport and better services. It has created more jobs. It has seen regional New South Wales transform into a place where people want to live, work and raise a family.

The past couple of years have been tough on our nation, particularly regional New South Wales, which has copped one crisis after another, whether it be drought, bushfires, COVID and now flooding like we have never seen before. Living in the bush, you become conditioned to mixing a bit of concrete into the cereal each morning and becoming as resilient as possible. But there is only so much our communities can take, which is why the Government must continue to increase support for rural and regional communities to help them get through the tough times and to thrive in the good times.

The Hon. Courtney Houssos: Do you read this stuff before reading it out?

The Hon. SAM FARRAWAY: The Hon. Courtney Houssos would not know much about this, so she should probably listen. Members opposite could do with a bit of conditioning. It does not take much. By Wednesday afternoon, they get a bit tired and restless. New South Wales needs a strong economy and to continue to back regional areas. Only the Liberal-Nationals Government can do that. A strong government governs for all, not just western Sydney. We can condition ourselves to govern for the entire State of New South Wales, not by picking and choosing— *[Time expired.]*

MENINDEE LAKES AND FLOODING

Ms CATE FAEHRMANN (12:24): My question is directed to the Hon. Ben Franklin, representing the Minister for Lands and Water. The Menindee Lakes have been over 100 per cent capacity for around six months, and the people of the Menindee community have been extremely concerned about the potential inundation of their town due to large volumes of water coming down the Darling-Barka River system. For those six months, members of the Darling River Action Group have been calling on WaterNSW to release from Menindee Lakes at least 24,000 megalitres a day to create capacity in anticipation of this flooding event; however, far less than this has been released over just two months. Why has WaterNSW been ignoring calls from the Menindee community that would help mitigate the potentially catastrophic flooding of their town in the coming weeks?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:25): The question was directed to me in my capacity representing the Minister for Lands and Water. As it is not my portfolio, I am happy to refer the question to the Minister to seek an answer and provide it back to the member at the earliest possible convenience.

TEACHER RECRUITMENT AND RETENTION

The Hon. COURTNEY HOUSSOS (12:25): My question is directed to the Minister for Education and Early Learning. Given that 28,233 permanent teachers have left New South Wales public schools between 2010 and 2021, and that permanent teaching positions in New South Wales have increased by just 0.17 per cent, how does the Minister respond to community concerns that the Government's approach to teacher recruitment and retention is causing merged and cancelled classes in public schools across New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:26): I thank the member for her question. There are a few things there that I want to unpack. Firstly, I put on record that 2,400 teachers left the profession in 2012, and a similar number left last year. The amount of recruitment and retention has not changed dramatically over the past 10 years. It is also important to put on record that the Government hires thousands of new teachers into the system every year. For instance, I inform the honourable member that more than 6,200 teachers have been recruited in public schools so far this year. That is a 20 per cent increase compared to this time last year. More than half of those are new teachers in their first permanent appointments.

As I have said before, it is important to look at the data holistically, rather than cherry-picking parts of it. Teachers leave the system every year for a range of reasons. That has been the case since public education began

in this State. People might decide to retire, move sectors, move to another State or change careers, but thousands more people come into the system every year. That is an important point to make. The member referred to merged classes and cancelled classes in her question. I have repeated this multiple times when speaking about this issue in the Chamber over the past year or two: There is no doubt that the pandemic has had an impact on staffing and what that means, particularly when it comes to filling in for teachers who are sick and have to be on leave for a period of time because they have had COVID and have to isolate. There was also a fairly ordinary flu season this year, as many people would know. The data backs that up. So far this year, teachers have had to take nearly 800,000 sick days. For context, that is about two weeks off for every single one of our teachers.

There have been challenges in providing staffing at short notice for casual teachers—which is often when schools have to look at options like merged classes—because the demand this year has been so much higher than in an average year when there is not a pandemic and when schools can be kept open. There has also been a horror flu season this year after a couple of years of isolation that has caused people's immunity to not be as strong as it could be. There are clear reasons and justifications as to why there have been challenges this year. In 2019 teachers took just 550,000 sick days. We are talking about significant increases between pre-COVID times and now. That puts pressures on staffing in schools. The Government has a number of initiatives that it is rolling out, particularly the casual supplementation programs that I have spoken about before, where teachers that are employed in permanent roles are able to fill casual spots across a number of schools. There is a lot that the Government is doing in this space. [*Time expired.*]

The Hon. COURTNEY HOUSSOS (12:29): I ask a supplementary question. Would the Minister be able to elucidate that part of her answer where she spoke about the thousands of new teachers that are hired each year and provide a breakdown of how many of those teachers are in temporary teaching positions?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:29): Can I say again, when we talk about staffing, it is really important that those opposite understand that this is not a static system. We know, for instance, as I said, that teachers will leave and teachers will be recruited into the system. In my earlier answer I gave figures in relation to the number of teachers we have recruited this year alone. We know, for instance—I can tell you the advice I have—in the last fortnight we have had more than 200 vacancies filled.

In a system the size of ours you will always have fluctuation and movement in terms of staff: People will take on new roles in a school, they might move to a school and people will be recruited. The context of these figures is really important. Earlier in question time I took on notice a question from the Leader of the Opposition in relation to the additional teachers that have been brought into our system over the last decade. I have agreed to come back to her on notice in response to the proportion of those who are temporary and permanent. I am very happy to do that and I believe that will answer the honourable member's question.

REGIONAL YOUTH TASKFORCE

The Hon. WES FANG (12:30): 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 2022 Regional Youth Taskforce in-person meetings in Dubbo, Wagga Wagga, Sydney and Tweed Heads?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:31): I would be delighted to. I had pleasure in attending the 2022 Regional Youth Taskforce meetings in all of those places—in Dubbo, in Wagga Wagga, in Sydney and, most recently, in Tweed Heads. And what an incredible group of young people they are! The meetings were centred on the work ready, wellbeing, connectivity and community pillars of the Office for Regional Youth framework which aims to bolster opportunities to learn, work and achieve in regional New South Wales, and make sure that young people are mentally and physically healthy so that they can thrive in their communities.

As I have mentioned previously in this place, the Regional Youth Taskforce is made up of 18 young people between the ages of 12 and 24 that reflect the diversity of regional New South Wales. There are two representatives from each of the nine regions and, as Minister for Regional Youth, I officially meet with them four times a year. These meetings allow a direct line to government for these young leaders. I take the opportunity to thank a number of my friends and colleagues who took the time to meet with those members, including the Hon. Sarah Mitchell, the Hon. Matt Kean, the Hon. Victor Dominello, the Hon. James Griffin and, in particular, the Hon. Bronnie Taylor because, of course, this was a brainchild of hers to start with. It was such a meaningful experience for the task force members to speak face to face with Ministers who are responsible for mental health, education—

The PRESIDENT: Order! I know that members are very interested in the Minister's meetings, but a little less interest might better the cause of Hansard. The Minister has the call.

The Hon. BEN FRANKLIN: —who have direct responsibility and are able to take decisions and implement policies in the areas of mental health, education, digital government, energy and the environment, as

we know that those portfolios touch on issues that are high priorities for regional young people. They were the issues that the young people wanted to talk about and wanted to engage with those leaders on. Just last week I joined the task force for its fourth and final formal meeting, where members shared with me the areas of concern for their communities. After having a range of in-depth discussions, they developed their ideas on ways to improve their sense of connection to local communities. We discussed ways to elevate youth voices and encourage volunteering, and the importance of youth hubs in regional areas.

Mr President, this is what a good government looks like. We listen closely to what communities want, we engage with them directly and then we act to deliver meaningful outcomes on the ground. We understand the importance of putting the voices of our regional young people front and centre, especially with regards to policy that directly touches their everyday lives. I was able to have many insightful and meaningful conversations with all members of the task force. Seeing their faces light up when they raised issues that were genuinely important to them and that they were passionate about—sometimes the first time they were able to talk about these issues at all—was seriously the true highlight for me. I am so excited to see their great ideas come to life. It has been a real privilege getting to know them. I know that they will be leaders into the future. They are committed to making a positive difference to their communities, and it was an honour to spend time with them this year.

WILCANNIA WEIR AND WATER SUPPLY

Mr JUSTIN FIELD (12:34): I ask my last question in this place with a nod to my friend and the work of my friend Jeremy Buckingham, a former member in this place. My question is directed to the Hon. Ben Franklin, representing the Minister for Lands and Water. Will the Minister provide an update to the House on the status of the Wilcannia Weir replacement project? According to the March 2022 update, the project was meant to commence construction by the end of 2022. No doubt the rains have had some impact on that. What is the current status of the project? When does the Government now expect major work will commence and when can the people of Wilcannia expect the project to be completed?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:35): Before I commence answering the question, I make the following comments: I acknowledge the outstanding valedictory speech of Mr Justin Field last night, which was thoughtful and insightful, and I think provocative for everybody in the Chamber to remember why we are actually here. I acknowledge his extraordinary contribution to this place over many years.

In answer to the question, the New South Wales and Australian governments are working collaboratively to deliver critical water infrastructure projects, including a replacement weir in Wilcannia. This will provide long-term town water supply, and preserve and enhance the social, economic and environmental benefits for Wilcannia, its people and its surrounds. As the member rightly foreshadowed, due to recent flooding, access to the site is currently impossible, which is leading to delays in the project time line and therefore extending the delivery timetable. We acknowledge, as the New South Wales Government, the importance of this project. The project will clearly be reassessed after the flooding has subsided. I advise the House that work has started on the stormwater replacement component and construction of this will commence in 2023.

TEACHER RECRUITMENT AND RETENTION

The Hon. WALT SECORD (12:36): My question is directed to the Minister for Education and Early Learning. Given teacher resignations in public schools rose by more than 78 per cent in just five years, how does the Minister respond to community concerns that, after 12 years in government, her Government has failed to recruit and retain teachers needed for New South Wales schools?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:37): Mr President, I am not sure of the data source that the member is referring to—

The Hon. Walt Secord: To assist—

The Hon. SARAH MITCHELL: That would be great. Have you got it?

The Hon. Walt Secord: I'm just having a—

The Hon. SARAH MITCHELL: You have a think about it. I am always just a bit curious and questionable about the statistics that get put on.

The Hon. Walt Secord: To assist the member—

The Hon. SARAH MITCHELL: Yes, I am genuinely serious.

The Hon. Walt Secord: It was evidence provided to the upper House education committee.

The Hon. SARAH MITCHELL: By whom?

The PRESIDENT: Order! The member may wish to provide the Minister directly with some information, otherwise the Minister has the call.

The Hon. SARAH MITCHELL: Evidence provided to the committee, that is fine. I am not sure who.

The Hon. Walt Secord: Come on, answer the question.

The Hon. SARAH MITCHELL: I am happy to answer the question.

The Hon. Walt Secord: Or do you deny it?

The PRESIDENT: Order! The Minister has the call.

The Hon. SARAH MITCHELL: I was curious as to the data source, but that is fine, I can have a look and verify that.

The Hon. Walt Secord: You don't know what is going on in your department.

The PRESIDENT: Order! The Minister has the call.

The Hon. SARAH MITCHELL: I will largely repeat the answers that I have given to the first two questions in relation to teacher supply and what our Government has done—

The Hon. Greg Donnelly: Clearly separate issues.

The Hon. SARAH MITCHELL: Well, you guys are the ones asking the questions. In relation to filling our staffing vacancies, as I have said before, we have more teachers in the system than ever before. We are consistently recruiting teachers into our system. We know that the numbers of those who are leaving the profession have remained largely stable over the course of our time in government.

The PRESIDENT: Order! The Minister has the call.

The Hon. SARAH MITCHELL: We know, Mr President, that we have active recruitment underway for any vacancies that exist in our schools. We know that we have already done conversion of temporary positions into permanent roles and we are intending to do more of that. Again, I really do not have much more to add than the two answers I have already given in relation to this particular issue so far today. The data relating to the number of teachers in our system speaks for itself. In my view, we are doing amazing work with our Teacher Supply Strategy, which is bringing people into the system. This is an issue we take seriously. We are proud of what we have been able to deliver during our time in government.

The Hon. WALT SECORD (12:39): I ask a supplementary question. Will the Minister elucidate her answer relating to temporary positions? How many temporary positions have been converted into permanent ones? I would like that number by year for the past 12 years.

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:39): Was that written on the honourable member's sheet or did he ad-lib that one? He ad-libbed it. Many people in this House would have seen the number of folders that my office brings. Having said that, we do not bring down 12 years' worth of data into the Chamber.

The Hon. John Graham: Shame!

The Hon. SARAH MITCHELL: I know. Millie Burnett, my fabulous parliamentary liaison officer, would end up with arms of steel if she had to bring down 12 years' worth of records. I know that information about this issue was provided in the submission of the Department of Education to the upper House inquiry to which the member referred when he gave his original statistic. I am happy to take the specifics of the member's question on notice and come back with an answer.

SCHOOL INFRASTRUCTURE

The Hon. PETER POULOS (12:40): My question is addressed to the Minister for Education and Early Learning. Will the Minister provide the House with an update on the New South Wales Liberal-Nationals Government's record investment in public education infrastructure?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:41): I would be delighted to do so. Members of this House would be well aware of our Government's track record in delivering new and upgraded schools across the State. Since 2019 we have delivered more than 130 projects—42 in 2019, 50 in 2020, 21 in 2021—and we are on track to deliver more than 20 this year. As a government, we have delivered new primary schools in Catherine Field, Denham Court, Gledswood Hills, Schofields, Jordan Springs and Ryde. We have delivered new high schools in Oran Park and inner Sydney. We have delivered redevelopments at Parramatta Public School, Arthur Phillip High School, Picton High School and Ballina Coast High School. More

than 100 major upgrades have been delivered, from Monaro High School in southern New South Wales—which is where we were on Friday, which is absolutely amazing—to Pottsville Beach Public School on the North Coast.

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

The Hon. SARAH MITCHELL: Communities right across New South Wales have benefited from our major school building program. The New South Wales Liberals and Nationals in government have been able to deliver more schools than any government before, due to planning and our strong economic management. This Government picked up the pieces of an education system and repaired it after those opposite spent their time closing 90 schools and selling off land across the State. And it is not just the big projects that we are delivering. Our Cooler Classrooms Program is continuing to roll out. For the first time there is a dedicated program to install air conditioning in New South Wales public schools. To date more than 7,000 classrooms and 460 libraries have had air conditioning installed, with more being delivered. Almost 1,000 schools have been assessed, and we will continue to explore opportunities to include additional schools.

Government members understand the importance of improving the look and feel of schools and they know the difference it can make to a school community. Through our Regional and Metro Renewal Programs, we have partnered with more than 1,200 school communities to deliver capital improvement projects across thousands of schools—projects such as new covered outdoor learning areas, playgrounds and play areas, and canteens, as well as upgrades to toilets, science blocks, classrooms and libraries. Our LED Lighting Upgrade Program is also replacing hundreds of thousands of light fittings across thousands of schools. Schools also have an important role to play in our State's energy future. Our Smart Energy Schools Pilot Project is building on the more than 70 per cent of schools that already have solar photovoltaic systems, testing new ways to produce, store and share clean, renewable energy.

All these additions are fantastic, but it is also important to ensure that schools are well maintained. We delivered on our commitment to clear the maintenance backlog, and sustainable investment in school maintenance has continued to provide our students and teachers with the best learning spaces. The contrast could not be more stark. Under Labor, 90 schools were closed, with plans to close 100 more. Schools were left in disrepair with little investment in maintenance or major projects. [*Time expired.*]

COALMINE WATER DISCHARGES

Ms SUE HIGGINSON (12:44): My question is directed to the Minister for Aboriginal Affairs, representing the Minister for Environment and Heritage. The Environment Protection Authority [EPA] has approved water discharge from three coalmines into the tributaries of the Goulburn River: 71 megalitres per day from the Wilpinjong coalmine, 30 megalitres per day from the Ulan coalmine and 15 megalitres per day from the Moolarben coalmine. Considering the flooding crisis across the State and the demonstrated threat of flooding in the Hunter Valley, what consideration was given to the protection of downstream landholders? What proactive measures are being taken to manage the pollution loads from these serious discharges?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:44): I thank the honourable member for her question. I have been advised that the Environment Protection Authority has been working with the operators of those three mines—Wilpinjong, Ulan and Moolarben—to address the impacts of the current flood event. As a result of the extreme rainfall both on site and within the catchments, the sites were holding water storage volumes greater than the safe operating volume. This additional water presents potential environmental, safety and continuity risks.

The Ulan mine is operating under the provisions of its existing licence. Current discharges from this mine are within its usual operating process. The operator did not need or seek emergency provisions. Both the Wilpinjong and Moolarben mines are unable to manage site water inventories and site safety without additional approval from the EPA. To this point, both licensees have submitted a request to the EPA for variations to their operating conditions to provide temporary relief. These measures include consideration of all alternative feasible and reasonable options to manage water on site but still resulted in the need for additional assistance.

The EPA considered these requests thoroughly and promptly before coming to a decision to allow short-term changes for emergency discharges. This included an assessment of flow rates and overall contribution to the otherwise flooded and high-flow river system, which I understand to be an extremely small proportion of overall river flow. In coming to its decision to support the short-term and temporary dispensations, the EPA sought concurrence from other relevant agencies, including the Department of Planning and Environment, the Natural Resources Access Regulator and WaterNSW. These conditions will expire by the end of this year and will only be in place for another seven weeks. They are designed to account only for the current flood event; they are not intended to be a long-term change to the operation of these mines.

Ms Sue Higginson: Point of order—

The PRESIDENT: I think the Minister has finished his answer.

Ms SUE HIGGINSON (12:47): I ask a supplementary question. These are discharges from major coalmines. Will the Minister address the important part of the question that relates to the pollution of the discharge? Will these multimillion dollar profit companies be paying extra for their pollution loads on the environment and downstream users?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:47): I have nothing to add to my original answer.

The Hon. WALT SECORD (12:47): I ask a second supplementary question. The Minister in his answer talked about alternative options that were considered. If the Government did not approve the three discharges what alternative options were considered?

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (12:48): In the spirit of bonhomie and camaraderie in which I made comments about Mr Justin Field, I say also that I will miss the Hon. Walt Secord, particularly in my role as Minister for the Arts. I look forward to seeing him at many opening nights for many years to come. As I will remain the Minister for the Arts for many years to come, I will make sure that he stays on the opening night list. I think that deals with the supplementary question.

TEACHER WORKLOADS

The Hon. ROSE JACKSON (12:48): My question without notice is directed to the Minister for Education and Early Learning. After 12 years of her Government, full-time teachers are working on average 150 per cent of their contracted working hours and one in nine early career teachers have resigned in the past year. What is her response to community concerns that her Government is driving overworked teachers out of the profession?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:49): I am very happy to answer the member's question and talk about all of the things that we are doing when it comes to improving the workload of our teachers. The member talked about the workload of teachers and she made an inference that it means people are leaving the profession. I am really pleased to give her an update on the many things that we are doing to support our teachers, particularly when it comes to workload. I will touch on a few things. Members opposite would have heard me talk before about our policies around quality time. We are making sure that we free up teachers' time, particularly by removing low-value administrative tasks, and that is giving them the opportunity to focus on their areas of expertise, which is teaching and learning in the classroom.

We have targets set to reduce that administrative burden by 20 per cent by the end of the year not just for our teachers but also for our principals and school support staff. I am pleased to say that we are on track to meet that target. We have been able to come up with important initiatives because we have spoken to the workforce. We had hundreds of teachers tell us what areas we need to prioritise and how we can support them. One of the biggest things that teachers told us they need time for in their workload is lesson planning. That is not just work that the Government has done, it has also been backed in by the Grattan Institute, whose people have said that time for lesson planning will help support teachers with their workload.

The Hon. Courtney Houssos: Everyone else is producing it because you have done nothing for 12 years—nothing!

The Hon. SARAH MITCHELL: If those opposite do not like it, it does not mean it is not correct and not a good delivery. They are very narky on that side today.

The Hon. Rose Jackson: We're still going to say it, though.

The Hon. SARAH MITCHELL: You can say it; and it is not true. That rollout of curriculum resources aligns with our new curriculum, which has been streamlined and decluttered—again in direct response to the teaching workforce. As it gets rolled out for every year group, every lesson, every key learning area, it will give teachers the opportunity to access lesson plans as well as the resources and assessments to go with that. We estimate that will save teachers up to three hours a week on their lesson planning time.

The Hon. Scott Farlow: Point of order—

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

The Hon. SARAH MITCHELL: We have announced recently that we will start with a rollout of an additional 200 full-time equivalent roles. Those people will go to our school communities to help with some of

the administrative tasks that our teachers have. Effectively they will be assistants supporting our teachers. We are excited to see the rollout of that program. So there is a lot that we are doing. We have also added some additional staff development days. There will be an extra one at the end of this year, and next year as well.

The Hon. Courtney Houssos: Point of order—

The Hon. SARAH MITCHELL: From next year, teachers will also get more relief from face-to-face teaching time to help with the curriculum—

The PRESIDENT: Order! There is something wrong with the clock.

The Hon. SARAH MITCHELL: I can keep going if you want. I do not mind.

The PRESIDENT: It is alright now. Minister, please continue.

The Hon. SARAH MITCHELL: As I said, we have also announced that from next year there will be additional time each week for teachers in both primary and high school settings to get more relief from face-to-face teaching time. Again, that is designed to support them with their workloads. So we have a very, very strong track record on what we have delivered in this space. We know it is important that we work with our school communities and with our teachers to provide support for them. We recognise them as the professional experts that they are. We recognise their incredible qualifications and we want to make sure that we are supporting them when it comes to workload. As I said, we are proud of what we have been able to do. We have got more coming and we have done that in direct consultation with our workforce, with teachers on the ground each and every day in the classrooms, to make sure we are delivering what they need.

The Hon. ROSE JACKSON (12:52): I ask a supplementary question. Will the Minister elucidate that part of her answer where she mentioned the additional relief from face-to-face teaching that will be available. How much relief will be available for teachers at the primary and secondary level per week? Is it 15 minutes?

The Hon. SARAH MITCHELL (Minister for Education and Early Learning) (12:53): No, it is not 15 minutes. It is actually a record amount.

The Hon. Rose Jackson: What is the amount?

The Hon. SARAH MITCHELL: I am just trying to remember off the top of my head—

The Hon. John Graham: Hear, hear! There should be more of it.

The Hon. SARAH MITCHELL: No, I want to make sure I get it right. I am loath to do this from memory because I do not have the note in front of me. I am hoping the figure will come to me. In fact, it has. I can tell the member that primary school teachers currently receive two hours of release time every week. Under these changes, they will be guaranteed the equivalent of an extra half an hour per week in addition to that in 2023.

The Hon. Rose Jackson: It wasn't 15 minutes; it was 30.

The Hon. SARAH MITCHELL: Let me finish. That will increase to an extra 60 minutes per week in 2024 and 2025. Primary school executive staff will also receive additional release time. For our secondary school settings, those who currently receive five hours and 35 minutes of release time each week will be guaranteed the equivalent of an extra 30 minutes per week for three years. That effectively means in secondary schools it is the equivalent of a full teaching day a week for that face-to-face relief time to help with lesson planning and the like. I thank my team.

REGIONAL YOUTH AND STAND TALL

The Hon. SCOTT BARRETT (12:54): My question is addressed to the Minister for Women, Minister for Regional Health, and Minister for Mental Health. How is the New South Wales Government helping to boost the wellbeing and resilience of regional youth?

The Hon. BRONNIE TAYLOR (Minister for Women, Minister for Regional Health, and Minister for Mental Health) (12:55): It is the question time of regional youth. I thank the honourable member for his question. How great are regional youth? Being the former and inaugural Minister for Regional Youth, they are very dear to my heart and I will always take any opportunity to support them. What a fantastic job the Hon. Ben Franklin is doing as the current Minister for Regional Youth. He has really taken the portfolio to the next level.

For those unfamiliar with Stand Tall, it was founded 10 years ago by three wonderful mums—Janine Treharne, Angela Farr-Jones and Roslyn Hills—in response to the tragic level of drug use, depression, bullying, hopelessness and self-harm among high school students. Stand Tall is a TEDx-style event. It has always been held in Sydney at the International Convention Centre. It attracts about 6,000 students and teachers in person,

and it reaches about 70,000 more people via live stream. It has hosted many high-profile speakers, from sporting greats to Prime Ministers to pop stars. As we exited the pandemic, I saw the opportunity to get this fantastic event to the regions as a way to rebuild connection and help boost the collective psyche of regional youth. Through a \$1.5 million investment, we were able to bring Stand Tall to Tamworth, Dubbo, and down south to Pambula, near Moruya, over October and November. It wrapped up just last week.

The numbers were absolutely astounding. We had 4,083 students and 500 staff from 25 schools that converged on Tamworth. We had 2,194 students and 208 staff from 20 schools who travelled to Dubbo. Amazingly, nearly 2,500 students and 245 staff from eight schools recently attended tiny Pambula. The logistics to get them there were beyond what I thought could be possible—183 buses had to be found over a two-week period to get 9,000 people to three venues. Attendees heard from 11 inspiring presenters including actor Anna Cocquerel, Olympic high jump silver medallist Nicola McDermott, and the truly amazing Glen Gerreyn. I share a note with the Chamber from a student who attended one of those events. They wrote:

My home life is a little turbulent, my parents are in the middle of what is turning out to be a long and tiring break-up, my dad can also be pretty difficult, and my family does not have a lot of money. I have anxiety and today really helped. It hammered home that this feeling is not forever. That even though it's crap, it's just a stage. After today, I have hope. I know what to aim for. You are amazing.

Our regional youth are pretty fantastic. They are extremely resilient and they really are very much the future of our communities.

WINE INDUSTRY TAX

The Hon. MARK LATHAM (12:58): My question is directed to the Leader of the Government, representing the various economic portfolios. Why is the Government introducing the equivalent of a \$45 million new tax on the New South Wales wine industry by including wine bottles in the container deposit scheme? Have those small businesses not been through enough in recent times without hurting their finances and employment with a new cost burden? Does the Minister know of anyone who buys a \$50 bottle of wine so they can get a few cents back at a recycling depot?

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (12:58): I thank the member for his question. I have to say, we are two minutes away from the conclusion of question time and those opposite have not got the guts to ask me a question. How about that? How about that for a singular lack of ticker? Anyone who wants to expose the lack of policy ideas—

[Opposition members interjected.]

Here we go. They are all getting animated now because they do not want to hear about the deficiencies. I knew as soon as the Hon. Daniel Mookhey sat up the back that he had nothing to offer.

The Hon. Mark Latham: Point of order: I did not ask about the Minister's wine consumption in the past hour. I want him to answer the question about the industry.

The PRESIDENT: The Minister will return to the question.

The Hon. John Graham: If you want to add to yesterday's answer, go right ahead.

The Hon. Walt Secord: "Recalibrate!"

The Hon. DAMIEN TUDEHOPE: John Robertson, the chair of ICAC—icare! Make him ICAC, the former Labor leader John Robertson. No-one in this Chamber thinks that we should be reducing the Government's recycling program. Recycling is one of the great success stories of the Government. The billions of recyclable items, which are processed—

The Hon. Daniel Mookhey: Like recycled answers.

The Hon. DAMIEN TUDEHOPE: We certainly can talk about recycled policies, mate, because you haven't got any. Talk about a policy-free zone over there! He sits up the back and doesn't want to ask questions anymore. I will raise the issue with James Griffin, the Minister responsible, and I will get the member an appropriate answer. On this side of the House we have policies about that, unlike those opposite who are a policy-free zone regarding everything to do with the election. The people of New South Wales and the members of this Chamber will be particularly interested in this: When we make policies, we tell people the truth. We do not tell nurses and teachers mistruths about wages policy and ratios.

The Hon. Penny Sharpe: Mr President—

The Hon. DAMIEN TUDEHOPE: We do not tell them mistruths about what we will do for their futures.

The Hon. Penny Sharpe: Point of order: I am very concerned about direct relevance. The Hon. Mark Latham asked a direct question about a specific issue. The Minister should arrange for a dixer if he wishes to answer the question in the current manner.

The PRESIDENT: I uphold the point of order. There has been substantial ministerial drift. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: In conclusion to my answer to the member's question—I am sure he will get a much more fulsome response from the Minister involved—we should all be proud and acknowledge the great job that the Minister has done to enhance the recycling program.

The Hon. John Graham: He's an endangered species.

The Hon. Penny Sharpe: Your numbers are down.

The Hon. DAMIEN TUDEHOPE: See, there we go. The policy-free zones over there are the masters of interjection. [*Time expired.*]

The Hon. DAMIEN TUDEHOPE: Did you like the answer I gave to yesterday's question?

The Hon. Penny Sharpe: No.

The Hon. DAMIEN TUDEHOPE: I bet you didn't.

The Hon. Penny Sharpe: We loved it.

The Hon. DAMIEN TUDEHOPE: Why didn't you ask me a question about it?

The PRESIDENT: Order! Members will direct their comments through the Chair.

The Hon. Penny Sharpe: We didn't like it; we loved it. We want you to do more.

The Hon. DAMIEN TUDEHOPE: I gave you the answer.

The PRESIDENT: Minister, are we concluding question time or just having a chat?

The Hon. DAMIEN TUDEHOPE: There is too much noise in the Chamber.

The PRESIDENT: I am not sure the Minister is encouraging quietness.

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

COALMINE WATER DISCHARGES

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (13:03): I refer to the answer I gave to Ms Higginson's supplementary question about coalmine water discharges. Reading over my original notes, I realised that perhaps my response regarding the pollution element was not quite as substantial as it could have been. Therefore I am delighted to take her supplementary question on notice and provide any extra information that I can ascertain from the Minister for the member's benefit.

Supplementary Questions for Written Answers

WINE INDUSTRY TAX

The Hon. MARK LATHAM (13:03): The Leader of the Government promised to get a so-called "more fulsome" answer from Minister James Griffin about the adverse impact of recycling on the wine industry. Will the Minister deliver that tomorrow as a supplementary question for written answer?

TEACHER RECRUITMENT AND RETENTION

The Hon. COURTNEY HOUSSOS (13:04): My supplementary question for written answer is directed to the Minister for Education and Early Learning. Will the Minister elucidate that part of her answer to my question about teacher recruitment when she spoke about the Government's initiative, which matched Labor's announcement, to convert 10,000 temporary positions into permanent positions? When will those 10,000 positions be completed?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. JOHN GRAHAM: I move:

That the House take note of answers to questions.

TOLL RELIEF

The Hon. JOHN GRAHAM (13:04): I reflect on the Minister's answer to my question about toll relief. Christmas just got tougher for commuters. Hope died on the question of toll relief as the minutes ticked away during the Minister's answer. Asked for a guarantee that the important toll relief review would be released, he gave none. He gave no commitment that that important review would be released by Christmas. After years of denying that tolls were a problem, the review was this Government's first acknowledgement that there is a problem. That is why the review is important. It was due in September and then by Christmas. Now we hear from the Minister that it is not coming at all. The Premier and the Minister are backing away from releasing this important Treasury and Transport review, which is so crucial to commuters having any hope that the Government genuinely acknowledges what they are paying in tolls and its impact around the family kitchen table.

The Opposition has tried to be consistent in this space. We have said we are opposed to toll mania—not to tolls but to how far they have gone. It has simply become too much for families. We believe there is a need for more toll relief. The Government's package is a good start, but more needs to be done. Labor will not privatise the toll revenue from the Sydney Harbour Bridge or the Sydney Harbour Tunnel. We will keep it in public hands and apply it to toll relief. If a private operator gets a windfall gain from the Government intervening in the market, drivers should see the benefit of that. It should not go to the private operator's bottom line. They are the principles that the Opposition has consistently outlined.

The review that the Opposition asked about in question time today was an important acknowledgement. We asked for a guarantee that the public would see it before Christmas. That review is slipping away out of the public mind, which is a real shame. The Government is returning to the position that it has held for a long time that this issue is now fixed because toll relief has been delivered in the budget. It is not fixed for someone who lives in Rouse Hill, Penrith or Leppington and pays tolls. It is not fixed for someone whose household is paying more than \$6,000 a year in tolls on top of mortgage repayments and the rising costs of petrol and groceries. Tolls are going up too. The Minister's answer was deeply upsetting as commuters approach Christmas.

COALMINE WATER DISCHARGES

Ms SUE HIGGINSON (13:07): I take note of the answer given by the Hon. Ben Franklin to my question about coalmine water discharges. That very small portion of water that mines are contributing to flooding—in the Minister's words—holds a catastrophic potential for pollution. Water from mine sites is contaminated with metals, salts and fine sediments that concentrate in the environment over time. Every time floodwaters that are contaminated by mine discharges inundate environmental or agricultural land, contamination caused by prior flooding becomes further concentrated. It is not as simple as examining incidents in isolation.

How many times across the life of the mines have they contributed to the poisoning of valuable agricultural land or our precious environment? We are walking blindly into the future as we experience more and more catastrophic flood events. We have no real knowledge about the long-term effects of repeated inundation of land by mine discharges, to say nothing of the effects on estuarine and marine environments, in which toxic chemicals are concentrated through the food chain before some of us inevitably consume them. We demand deliberate and careful action when the consequences of our actions are unknown, but multibillion-dollar companies behave with reckless abandon under this Government's weak regulation and pollution compliance regime.

The Minister might find the destructive floods across the State relatively humorous, but I am here to say on behalf of my community of Lismore, those communities of the Central West that are today faced with annihilation, catastrophe and tragedy, and the communities of the Hunter Valley, that we expect better of the Government. We expect permanent pollution and climate disasters to be treated with the serious concern and responses that are needed.

We have seen pollution in the Royal National Park. Those mines are discharging above high levels of pollution, beyond what is lawful. It is a serious issue that we are allowing that pollution into our waterways and environment. Those enormous, industrial-scale developments are having significant impacts on the landscape. The fact that we are not taking into account the catastrophic impacts of climate change that we see across the whole landscape is an absolute indictment. We are walking blind. We need to open our eyes and prepare better.

[Business interrupted.]

Visitors

VISITORS

The DEPUTY PRESIDENT (The Hon. Wes Fang): I welcome to the public gallery students from Toongabbie Public School, guests of Mr Mark Taylor, MP. I hope they are enjoying the debate.

*Questions Without Notice: Take Note***SOCIAL AND AFFORDABLE HOUSING**

[Business resumed.]

The Hon. AILEEN MacDONALD (13:10): I take note of the answer regarding regional social housing. A strong economy means more money for services and community amenity and less pressure on households. The Government has committed \$13.7 billion over the forward estimates to reforms to provide long-term benefits to the State, including housing. This investment includes \$2.8 billion to deliver the Government's housing strategy to support housing supply and improve housing affordability. The Government's 2022 Housing Package will deliver \$708.4 million to help single parents, older singles and key workers to buy a home through a shared equity scheme. The two-year pilot program will offer 3,000 places a year. The New South Wales Government is partnering with the community housing sector to deliver real outcomes for people of New South Wales, particularly in regional areas.

The Community Housing Leasing Program is one of many programs funded by the New South Wales Government to support delivery of social housing. The program provides around \$86 million in funding to registered community housing providers to headlease properties from the private rental market to provide general and crisis-transitional housing. In 2021-22 community housing providers have delivered over 5,900 general housing dwellings under the Community Housing Leasing Program and more than 1,750 crisis and transitional housing dwellings.

SOCIAL AND AFFORDABLE HOUSING**WHITE RIBBON JETSKI PARADE**

The Hon. ROSE JACKSON (13:12): I take note of answers, starting with the answer given by the Minister for Families and Communities about the Government's social and housing program. Sometimes I have something to say when others are speaking. It's true; I'll admit it. You have to own up to your faults. In that instance, I was almost rendered speechless, which is quite difficult for me, as I'm sure that members will all appreciate. In a way, it is better to allow a response where there is absolutely no acknowledgment of the housing crisis that this State is facing. The answer was delivered as if into a void. It is as if the thousands of people who are sleeping in tents and cars, sitting on the social housing waiting list and desperately trying to find non-existent affordable private rentals do not exist.

The tone-deaf nature of the response seemed to seriously suggest that this Government is dealing with the crisis but without an acknowledgment of the incredible hardship that people in this State are facing. In a way, it is preferable to put that out there, because when you hear that response to the housing crisis that we have in this State, it honestly leaves you slack-jawed. Between 2017 and 2021, this Government built 2,257 social and affordable housing properties, which sounds great. I am sure the Minister could spend three minutes listing 2,257 properties. But the problem is that the Government sold or removed 3,269. We are going backwards by over a thousand. It speaks to the tone-deaf nature of the response from the Minister, which lacked any acknowledgment of the context that the housing crisis in this State is a lived experience for so many people.

Speaking of tone-deaf, I cannot fail to mention the response to the question about the jetski flotilla. It is good to hear that the New South Wales Government is not wasting any precious money on that project. Suggesting that a bunch of jetskis riding around Sydney Harbour is going to spark a conversation about domestic violence, instead of getting down to the real work of providing services that women and children need, is a complete misunderstanding of the priorities that the sector is calling on the Government to focus on. Women and children do not need people saying, "There are some jetskis on Sydney Harbour. That has something to do with domestic violence." The only conversation it will spark is, "What on earth is that about?" No-one is going to engage in a serious conversation because of a jetski flotilla. They just want housing. [Time expired.]

POLICE CIVIL LITIGATION PAYMENTS

The Hon. ROD ROBERTS (13:15): I take note of an answer provided to a written question on notice, No. 9408, directed to the Minister for Police. Earlier this year in a speech in this Chamber, I raised concerns about the level of compensation payouts the New South Wales police were making for civil liability claims. These are claims where the New South Wales police have paid compensation for torts such as unlawful arrests, improper searches and the unlawful use of physical force, amongst other things. I revealed that in the financial year 2020-21 alone, that payout was over \$33 million. I also informed the House that, over the five previous financial years, those forms of payouts totalled more than \$148 million. These figures are astronomical. I raised concerns that the payouts were climbing and action was lacking.

If you thought \$33 million in 2021 was bad, the answer to question No. 9408 revealed that in the 2021-22 financial year, those forms of payouts rose to over \$39 million—a 20 per cent increase. Equally concerning, 457 separate incidents led to compensation payouts by the police for their wrongdoings. That is 457 times that the citizens of New South Wales have had their civil liberties trespassed upon. If you think \$39 million is bad, it is only the tip of the iceberg. These figures do not include the legal costs incurred by police in litigating those claims. The Minister informed me that those costs are covered by insurance. We all know that the New South Wales police is self-insured through the Treasury Managed Fund. That, in turn, is taxpayers' money. So the poor, suffering taxpayer of New South Wales has stumped up well in excess of \$39 million to settle the claims.

The situation cannot be left unchecked and unrestrained. Something needs to be done by the management and hierarchy of the force, and Minister Toole needs to take affirmative action to ensure that it is rectified. I am not attacking the poor men and women on the front line of policing. They do a particularly hard and demanding job under the most difficult of circumstances, and I stand beside them. This is a continued failure by the senior executive of the New South Wales police, particularly those in charge of education and training. At a budget estimates hearing on 31 August this year, Commissioner Webb conceded that more training is required. On 22 March this year I called on the Minister for Police to step in and ensure that police officers in this State receive the education they require—and deserve—to carry out their role efficiently and effectively, without giving rise to situations that expose them to civil claims. I will not let this issue drop. In the next term of Parliament I will continue to raise what is becoming a financial black hole.

REGIONAL NEW SOUTH WALES

The Hon. TAYLOR MARTIN (13:18): I take note of the answer by the Minister for Regional Transport and Roads. I will do so without the use of a hat this time. It was great to hear that this side of the House has been so successful in delivering a \$19.4 billion infrastructure pipeline. It shows that the Coalition Government is dedicated to securing a brighter future for everyone across the State, wherever they live. That includes regional and rural people in New South Wales especially. We do not forget them on this side of the House. Whether it is the pothole fund, the regional apprenticeship card, the uni student travel cards, the Newell Highway upgrade project, the Coffs Harbour bypass or any one of many other projects across the State, members on this side of the House are improving the daily lives of our citizens. We build what matters for the future, particularly in regional and rural communities.

That is why we are delivering \$50 million for emergency pothole repair. The Minister has spoken about this several times this week and last week. It is much needed around the State. I know through my travels across the Hunter region and also the Central Coast that that money is going far and fixing what most people are reaching out on, with all the rain that we have had destroying our local road network. These funds support eligible regional local government areas not only to repair those damaged roads but also to build back better from the recent wet weather events.

I note the \$312½ million betterment fund that local areas are benefiting from. In contrast, last time Labor was in power it left our State with a \$30 billion infrastructure backlog, the slowest economic growth of any major State and the lowest jobs growth of any mainland State in Australia. The people of New South Wales know that Labor cannot deliver for regional New South Wales because it cannot manage finances. They know that only the Coalition in government can improve daily life and build the infrastructure that the citizens of New South Wales need to secure a brighter future.

TEACHER RECRUITMENT AND RETENTION

The Hon. COURTNEY HOUSSOS (13:21): Today in question time the Opposition asked a series of questions to the education Minister about the chronic teacher shortages that are plaguing our New South Wales schools. Question after question quoted specific examples of how teachers are leaving the workforce and how there are more and more temporary positions instead of permanent positions. In response we heard plenty of spin but not many specifics. The Minister went so far as to query the stats we quoted, which showed that there has been a more than 78 per cent increase in the number of teacher resignations in five years. Well, I can allay her fears. They are the stats that the Department of Education provided to the upper House inquiry into teacher shortages. All of the statistics that we quoted in question time today are real.

We know from our upper House inquiry that there are three key drivers behind the teacher shortages. The first is pay. The second is the rise of temporary teaching positions. The third is the administrative workload. Teaching used to be a profession that someone could plan and base their life around. It used to be a permanent and secure role. Now in New South Wales, under the New South Wales Liberals and The Nationals, more than one in three jobs are not permanent. This is a fundamental change to the way that the teaching profession has worked in the State. The Minister wanted to talk about how the Government hires thousands of new teachers, but

in the next breath she admitted that only "more than half" of the 6,200 appointed last year were permanent, which maintains that one-third figure of temporary positions.

This is a fundamental problem with the way that teachers are working in New South Wales. The Minister can quibble about the figures or try to poke holes in the argument but, fundamentally, teachers are leaving the workforce because they do not have a job where they can take out a mortgage, plan to have a family or even plan what they are going to do next year. The second part was about the administrative workload. A parliamentary survey found that 92 per cent of teachers said that this was the biggest factor behind them leaving the profession. It is because this Government cut the literacy experts, the curriculum experts and the numeracy experts 12 years ago. That has led to the administrative burden on our teachers. That is why they are leaving. New South Wales has the fastest falling education outcomes in the world. That is the legacy of this 12-year-old Government. Thirteen per cent of year 9 boys cannot reach the national minimum standard. *[Time expired.]*

SCHOOL INFRASTRUCTURE

The Hon. PETER POULOS (13:24): I take note of an answer provided today by the Minister for Education and Early Learning in relation to the record investment the Government has committed to public education infrastructure. In the 2022-23 State budget, the New South Wales Government announced it is investing \$8.6 billion over the next four years, continuing its program to deliver 160 new and upgraded schools to support communities across the State. This builds on more than \$9.1 billion invested in projects delivered since 2017 and a program of \$17.7 billion in public education infrastructure, and—wait for it—it is the largest investment in the history of New South Wales. Members opposite cannot take it back because the Government is making it happen. The 2022-23 budget also continued funding for programs designed to drive improvements into our schools while supporting and benefiting local communities.

I am committed to excising the misinformation of those opposite. The New South Wales Government is building new and upgraded schools to meet economic and population growth in western Sydney. Some of the key milestones include over \$2 billion for western Sydney-specific school projects. More than 60 new and upgraded schools have been completed in western Sydney since 2011. More than 50 new and upgraded schools are currently in construction or design planning. Let us take a look at some of the initiatives since 2011 in western Sydney—just to name a few. A new school, George Bass School, has been built. Six new schools have been completed: Oran Park High School, Oran Park Public School, Spring Farm Public School, Yandelora School, Gledswood Hills Public School and Barramurra Public School.

Planning is underway for the second stage of Gledswood Hills Public School. Upgrades to Quakers Hill East Public School, Schofields Public School and Riverstone High School are complete. The new Galungara Public School at Schofields opened on day one, term 1, 2021 and construction has begun on a second stage. Planning is underway for upgrades at Schofields Public School and for a school at Nirimba Fields. A new school at Edmondson Park is being fast-tracked and planning is underway for a new high school at Edmondson Park. Finally, there is an upgrade to Passfield Park School, which opened on day one, term 1, 2022. *[Time expired.]*

The DEPUTY PRESIDENT (The Hon. Wes Fang): Order! Before I call on another member to speak, it is incumbent upon me to make two points. First, I remind the House that one member in the Chamber is on two calls to order. Second, I apologise to Hansard for the cacophony of noise in the Chamber. I do not want to call a member to order for a third time and see them turfed out.

TEACHER RECRUITMENT AND RETENTION

TEACHER WORKLOADS

The Hon. ANTHONY D'ADAM (13:27): I take note of the answers of the education Minister to a range of questions on job insecurity, teacher exits and overwork. It was apparent from the answers she provided that she just does not know the practical reality of the schools in our education system. She repeats the lines from the department. The tropes that they give are nothing new. There is no acknowledgment or recognition that there is a problem with teacher supply. There is a teacher I know. A couple of days back, she had organised to take her kids on an excursion. She was up till midnight preparing materials for a casual to take a class the following day. She comes home the following day and she tells me, "Well, actually we couldn't get a casual. We had to split the class." As a result, all that work was wasted. All that time, working till midnight, was to no avail and no purpose. That is all because the school was not able to source a casual teacher, which is indicative of the problem that is faced day to day in our education system because there is a teacher supply problem.

I also take note of the answer to the question about the efforts of the Government to relieve the administrative burden through the Quality Time program. If the teaching workforce cannot notice the difference under that program—and the reality is the Quality Time program makes no discernible difference to the

workload—then one really has to question its utility. The Minister spoke about the additional relief time that has been provided, which is all well and good, but if those opposite cannot find the casuals then how will they cover the relief? That question has not been answered by the Government, and it just emphasises the fact that this Minister refuses to acknowledge that there is a problem. Quite frankly, how can members opposite solve the problem if they do not even recognise that it is there in the first place?

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. LOU AMATO (13:30): I take note of answers given by the Minister for Mental Health, the Hon. Bronnie Taylor. Had the Minister not seen the opportunity presented by the fantastic Sydney-based Stand Tall event, people in regional New South Wales would never have been able to attend one themselves. The number of schoolchildren and teachers who attended is quite honestly astounding. Nearly 10,000 people attended the three events, which had not been seen before. They were treated to a line-up of outstanding inspirational speakers. Stand Tall's website states:

This TedX style event for secondary students is now in its 10th year, bringing a host of speakers together in one room to arm students with the skills of resilience, the strength to stand up to bullying, the keys to motivation, the power of perspective and the benefits of making good and wise decisions. These come together to build hope for the future in these teens, a vital component to their mental wellbeing. And it happens all in one day.

Events like Stand Tall are usually only available to children in the city, yet this Government found a way to bring it to Tamworth, Dubbo and Pambula. Those down south had done it particularly tough following the bushfires, and this was an opportunity for schools in areas like Cobargo to join other schools in celebrating their youth and their resilience. I commend the New South Wales Government for making that possible. I also congratulate Angela and Nick Farr-Jones and Jeanine Treharne, who are behind that fantastic event, as well as all the staff and volunteers who put huge hours into delivering the three events. I really hope to see Stand Tall back in regional New South Wales again next year.

I also take note of an answer from the Hon. Ben Franklin. The last Regional Youth Taskforce meeting was held in Tweed Heads on 5 and 6 November and was on the community pillar of the Regional Youth Framework. Task force members are also being engaged for their views on several issues impacting regional youth by other New South Wales Government agencies and external organisations, in between their official face-to-face meetings. For example, on Tuesday 27 April the Mental Health Commission of New South Wales engaged with nine task force members for a 1½-hour online consultation on the update of the *Strategic Framework for Suicide Prevention in NSW*. Elka Devney, a 2021 task force member from Moree, is assisting the 2022 task force members as a mentor. The recent meeting in Sydney was also an alumni conference where current task force members were connected with alumni to establish connections and come together to brainstorm ways to make life in the regions even better. [*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

INSURANCE AND CARE NSW EXECUTIVE SALARIES

In reply to **the Hon. DANIEL MOOKHEY** (15 November 2022).

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations)—
The Minister provided the following response:

The most recent available data is at August 2022.

SIRA publishes return-to-work rate [RTW] on a 12-month rolling average based on the date the claim was entered on the insurer's claims system [DEIS]. icare also publishes RTW rates using this measure.

Additionally, icare also monitors RTW on a three-month rolling average based on the Date of Injury [DOI], to provide a more contemporary leading marker for RTW performance.

Using the DEIS 12-month rolling average, the four-week RTW for the Nominal Insurer was 66.2 per cent in August 2022 (up 2.2 per cent from December 2021) and for the Treasury Managed Fund was 70 per cent in August 2022 (up 7 per cent from December 2021).

Using the DOI three-month rolling average, the four-week RTW for the Nominal Insurer was 66.94 per cent in July 2022 (up 3 per cent from December 2021) and for the Treasury Managed Fund was 77.20 per cent in August 2022 (up 13.69 per cent from December 2021).

*Bills***INTEGRITY LEGISLATION AMENDMENT BILL 2022****NSW RECONSTRUCTION AUTHORITY BILL 2022****GOVERNMENT SECTOR AUDIT AND OTHER LEGISLATION AMENDMENT BILL 2022****POINT TO POINT TRANSPORT (TAXIS AND HIRE VEHICLES) AMENDMENT BILL 2022****First Reading**

Bills received from the Legislative Assembly.

Leave granted for procedural motions to be dealt with on one motion without formality.

The Hon. DAMIEN TUDEHOPE: I move:

That the bills be read a first time and printed, standing orders be suspended according to sessional order for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

The Hon. DAMIEN TUDEHOPE: According to standing order, I table statements of public interest with respect to each of the bills.

Statements of public interest tabled.

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

The DEPUTY PRESIDENT (The Hon. Wes Fang): The question is that the bills be considered urgent bills.

Declaration of urgency agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

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

Motion agreed to.

CRIMES LEGISLATION AMENDMENT (COERCIVE CONTROL) BILL 2022**Messages**

The DEPUTY PRESIDENT (The Hon. Wes Fang): I report receipt of a message from the Legislative Assembly agreeing to the Legislative Council's amendments to the bill.

ABORIGINAL LAND RIGHTS AMENDMENT BILL 2022**PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (PROHIBITIONS FOR CONVICTED PERSONS) BILL 2022****Returned**

The DEPUTY PRESIDENT (The Hon. Wes Fang): I report receipt of messages from the Legislative Assembly returning the bills without amendment.

*Documents***ANTI-SLAVERY COMMISSIONER****Reports**

The DEPUTY PRESIDENT (The Hon. Wes Fang): According to the Modern Slavery Act 2018, I table the report of the Anti-slavery Commissioner for the year ended 30 June 2022.

I will now leave the chair. The House will resume at 3.00 p.m.

*Private Members' Statements***AGE OF CRIMINAL RESPONSIBILITY**

The Hon. ADAM SEARLE (15:00): I make a short contribution on the issue of the age of criminal responsibility and the exposé conducted by *Four Corners* when it obtained a copy of a secret report prepared for the Council of Australian Governments on the topic. The media had attempted to obtain the document, but it was protected from freedom of information requests because it had Cabinet secrecy attached to it. Unsurprisingly, the

report recommends that no child below the age of 14 should be prosecuted for criminal offences and that the age of criminal responsibility should be lifted to 14.

Australia is one of the only developed countries in the world to prosecute and detain children as young as 10. Often we put behind bars Indigenous boys and girls with disabilities and neurological impairments such as fetal alcohol spectrum disorder and who have experienced homelessness, domestic violence and substance abuse. Of course the report also concludes that the system of incarceration or youth detention often creates criminals rather than solves criminality or criminal-like tendencies. This issue was touched on in the report of the Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody, which I had the great privilege to chair. I draw the attention of the House to page 77 of the report and recommendations 11 and 12. Based on the evidence before it, the committee firmly recommended that the age of criminal responsibility should be lifted and children under 14 should not be placed in juvenile detention. Importantly, however, the committee also said:

By raising the minimum age of criminal responsibility, we do not intend to create a gap where young people are left to their own devices. Rather than criminalising children at a young age, there needs to be strong interventions that reduce the risks posed to themselves and others, with clear referrals to diversionary programs and/or other supports. The committee therefore agrees with the recommendation put forward by the NSW Bar Association for the establishment of a taskforce to develop a whole of government approach to therapeutic pathways for children ...

That statement flowed on to form recommendation 12. The committee suggested to replace the criminal law and criminal sanctions with other supports and mechanisms to protect young children who are at risk and posing a risk to themselves and others, but without bringing them into the criminal justice system, which bitter experience has shown they often do not escape. In my view as a lawyer and as a parliamentarian, it is a continuing scandal that, given all the creativity and the resources that we have as a society, we are not able to come up with a better way of treating young people who, through no fault of their own, are at risk of becoming criminals themselves. We must do better. I hope that in the future we will.

SMART CITY AWARDS

The Hon. SHAYNE MALLARD (15:03): Recently the World Smart City Awards recognised the Liberal-Nationals Government of New South Wales for delivering the Smart Western City Program. Having received 373 proposals from 60 countries, the awards judges included the Smart Western City Program as a finalist. The winner will be announced tonight. The city awards category is awarded to cities for "developed global strategies combining projects, initiatives and policy implementations for their citizens." New South Wales joins Kyiv in Ukraine—this will be a favourite—Bogotá in Colombia, Seoul in South Korea, Curitiba in Brazil and Toronto in Canada as a finalist in the category.

The awards describe the Smart Western City Program as "transforming 100,000 hectares of Sydney into a hyperconnected, economic powerhouse" for New South Wales. In the heart of western Sydney, the Western Parkland City is based around Bradfield. The description continues, "Catalysed by the new Nancy-Bird Walton Western Sydney Airport, the population is set to double by 2036. Three levels of government and industry are trialling smart technologies to improve liveability, resilience and social equity."

The initial delivery stage of the Smart Western City Program is currently underway, establishing the foundations for consistent delivery of smart solutions in the Western Parkland City. Establishing foundations for the delivery includes policies like the cyber risk management framework; smart considerations in master planning and establishing planning requirements in instruments like the development planning controls in the city; and augmenting and testing data-sharing platforms like the Spatial Digital Twin. Getting these settings right is essential to ensuring government investment is effectively delivering the Smart Western City Program.

Proposed pilot projects underway receive funding via the Smart Places Acceleration Program and will be assessed on their merit against the program criteria. This ensures appropriate governance and controls are in place. Pilots currently underway include innovative smart kerbs and the Envisioning in 3D program. The smart kerbs program develops a digital inventory of kerbside space allocation with real-time analytics. It is on trial in the Liverpool local government area at the moment. The pilot is exploring innovative technologies and digital assistance to collect and collate data on kerb space allocation. Ultimately the data will be used to improve how kerbsides around the city centres are allocated and managed, providing opportunities for better active and public transport options and better safety outcomes for pedestrians and cyclists.

The second pilot is Envisioning in 3D, which is a partnership between the New South Wales Government and Camden Council to deliver a dynamic 3D model of the entire area to assist local planners and businesses. The World Smart City Awards Gala is being held in Barcelona and will commence at 10.30 p.m. tonight—I might seek a pair! I take this moment to congratulate Minister Victor Dominello and his department on the nomination and wish them luck tonight. After Minister Dominello's four-minute valedictory speech last night in the other

place, his record as a Minister since 2011, his outstanding contribution to innovation and his public service to the people of New South Wales, he leaves this State a much better place.

GREYHOUND RESCUE

The Hon. EMMA HURST (15:06): There are few more rewarding experiences than providing a loving home to an animal in need. Animals who have been exploited by industries that profit from them, like greyhounds, are particularly deserving of as much care and attention as we can give them. That is what makes Greyhound Rescue such an asset to our community. Greyhound Rescue is the only independent greyhound rescue facility of its kind in Australia. Since 2009 Greyhound Rescue has provided an essential service by working to rehabilitate and rehome greyhounds. The experienced staff at Greyhound Rescue work closely with potential adopters to find the best match. Through this process, Greyhound Rescue has rehomed almost 300 greyhounds over the past year.

Finding loving forever homes for these beautiful dogs is only one part of their work. The staff and volunteers at Greyhound Rescue also put in the time to teach greyhounds the skills they will need to adjust to their new lives. At Greyhound Rescue's Sydney centre, Greysland, volunteers teach greyhounds "how to dog". Until they arrive at Greysland, the lives of racing dogs have been so limited that they need to learn the basics of life in a home, like how to navigate stairs and glass doors. They even need to learn how to play. Greyhound Rescue does essential work helping these dogs manage the transition from a life of forced racing to life in a loving home. Greyhound Rescue takes on as many greyhounds from the racing industry as it can, but there is a long list of dogs waiting to come into its care. The facility depends almost entirely on donations and volunteer hours. Without government funding for indispensable charities like Greyhound Rescue, greyhounds will continue to fall through the cracks and simply be killed if deemed no longer viable for an industry that keeps them only for profit.

In particular, Greyhound Rescue needs government funding to support the construction of a purpose-built rehabilitation and rehoming centre at Greysland. This facility would include spaces to train volunteers and staff, rest accommodation for greyhounds who are ill or recovering from medical procedures, and security cameras for the safety of humans and animals. On behalf of all the greyhounds who have benefited from their care, I thank the staff and volunteers at Greyhound Rescue and I call on the Government to provide greater funding to Greyhound Rescue in recognition of the significance of its work to our human and non-human community.

NATURAL DISASTER RESPONDERS

The Hon. MICK VEITCH (15:09): In what may be my last private member's statement, I raise a couple of things. First of all, at lunchtime I was reflecting upon the terrible scenes of devastation arising from the flooding across regional New South Wales. I read with interest about the discovery of the body in Eugowra. I pass on my condolences to the friends and family of the lady involved, and I know that there is still a person missing. I draw attention to the volunteers in regional New South Wales and across the State during all circumstances of flooding and fire. They do a phenomenal job in sandbagging, supporting paid emergency services personnel and coordinating a range of preparations for the substantial amounts of water coming down the waterways. Those rescue services are critically vital and often forgotten about until they are needed.

Volunteers are well trained. I have been to a number of RFS and SES meetings where volunteers undergo training. As an MP, you are availed the opportunity to meet with the people involved with those organisations. I pass on my regards and thanks to those individuals. They leave their families and their homes to do critically vital volunteer work, often not knowing what is happening to their families and homes whilst they are doing that work. It does not hurt to pass on our regards to those individuals from time to time. They are extremely important to our regional communities. In saying that, there is a group of people who I want to talk about. They are often volunteers, but not always, and they are forgotten about. In my mind, they have an important but often terrible job to do. I am talking about the people from the Department of Primary Industries [DPI] and Local Land Services [LLS].

After the bushfires they had the terrible job of having to put down burnt stock. That in itself is a terrible job. Clearly they have a role to play after the floods, which are currently working their way down the waterways of New South Wales. I take a moment to reflect upon that. It has an impact on those individuals, and they are often forgotten when congratulations and thanks are extended. Quite rightly, we should extend our thanks and appreciation to the people doing this work. The people at LLS and DPI are often forgotten, and they should not be. They do a good job in terrible circumstances. We should all keep an eye on those wonderful volunteers in regional New South Wales.

GRACE'S PLACE

The Hon. LOU AMATO (15:12): It is not easy to talk about the tragic homicide of Anita Cobby on 2 February 1986. When the details emerged of the events, the entire community was in a state of shock and almost uncontrollable anger. Like most people, I believed the perpetrators deserved nothing less than to be erased from

existence, such was the horror that such evil could dwell among us. Having said that, there is no possible way that I could even remotely comprehend the heartache and torment that Anita's mother and father experienced at the death of their beautiful daughter, knowing that her final hours of life on this earth were attended with cruelty and suffering beyond imagination. The murder of Anita Cobby was absolute, pure evil. Many of us would be broken and the light of life would be extinguished in our hearts if we had to endure such a loss. The pain would be too great to bear. I remember when the news of the death of Anita's father, Garry Lynch, was first reported. I felt a great sense of relief for Mr Lynch. Only now in death is his unbearable suffering over.

I felt the same when Anita's mother, Grace, passed almost five years later. It is remarkable what Garry and Grace Lynch did with the tragedy they had been dealt. Instead of falling into despair and living out their torment in the shadows of grief, they rose above their pain and did good. They were the antithesis of the evil monsters who hurt their beloved Anita. Understanding from personal experience the grief that many go through, they devoted the rest of their lives to caring and supporting the families of victims of homicide. This week both the Federal Government and New South Wales Government announced the opening of Grace's Place, which will continue the work of the Lynches in supporting children who have been traumatised by the loss of a loved one to homicide.

Grace's Place will offer a safe environment for children and young people to begin the journey towards recovery. There is no doubt that the road to recovery after the violence and hatred associated with homicide seems a difficult one; however, we know that recovery is possible. We have been given the example of Mr and Mrs Lynch, who, when faced with unspeakable evil and intolerable grief, found a way to offer love and support to others. I thank the wonderful people of our State who rise above tragedy and use their own suffering as a means to help others heal. I thank Mr and Mrs Lynch for their work and pray that that they are now reunited in eternal peace with their beloved Anita.

POLAND MISSILE ATTACK

Reverend the Hon. FRED NILE (15:15): At 3.40 p.m. Polish time, a Russian missile landed on the village of Lubelskie and killed two citizens of the Republic of Poland. Poland was the first country in the world to recognise an independent Ukraine after the fall of the Soviet Union. Russia has not forgotten, nor has President Putin. Poland has been the most vocal supporter of the Ukrainian independent movement during the war since 2014. It is the chief corridor of supplies and has donated significant amounts of its own military hardware to Ukraine. Article 5 of the North Atlantic Treaty says that any attack on a NATO member "shall be considered an attack against them all".

Once a member invokes the principle of collective self-defence under the treaty, NATO can come to its defence with "such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area". The attack on Poland, whether deliberate or not, may have grave and global consequences for the entire world. A war between the United States of America and Russia would be cataclysmic and would be a possible trigger for numerous geopolitical conflicts across the world, including the invasion of Taiwan by the People's Republic of China, which we hope will never happen. I pray that the world moves away from the rumblings of war and towards peace instead. Pray for peace. Pray for Poland. God bless you.

GENDER-AFFIRMING HEALTH CARE

The Hon. GREG DONNELLY (15:18): As the pain and suffering continues to mount regarding what is referred to as "gender-affirming health care" for children and adolescents who may be or are gender dysphoric, it is distressing to see that the serious concerns of the individuals affected and their parents, along with expert clinicians, are being dismissed out of hand by the Minister for Health, the Hon. Brad Hazzard. I too, although not personally affected by this matter, have experienced the Minister's brush-offs when I have raised concerns about children and adolescents being placed onto the gender-affirmation conveyor belt. For the record, I have corresponded with the Minister twice on the issue. I pursued the issue at the most recent round of budget estimates hearings. In terms of brush-offs by the Minister, the one that he gave me at the supplementary budget estimates hearing held on 27 October 2022 was as blunt as they come. I draw members to pages 31 to 34 of the *Hansard* transcript of that hearing. In particular, I refer to the bottom of page 33, where the Minister said:

... I'm over it, okay? I will not engage with you on this issue.

The Minister may well say that he is over it. For so many children and adolescents in New South Wales, across Australia and indeed around the world who have been—and continue to be—seriously damaged by so-called gender affirmation health care, they and their parents will never be over it. Lest anyone think that I am going off on a frolic of my own, I draw specific attention to the Australian-produced document titled *Managing Gender Dysphoria in Young People*, the National Association of Practising Psychiatrists' guide. Relevantly, the guide points out that various countries including Sweden, Finland, France and the United Kingdom have reviewed and in some cases effectively overturned their general clinical guidance with respect to gender affirmation treatment.

Further, I refer to the document prepared earlier this year by Sweden's National Board of Health and Welfare [NBHW] titled *Care of Children and Adolescents with Gender Dysphoria: Summary*. The document states on page 3, under the heading "Recommendations and criteria for hormonal treatment":

For adolescents with gender incongruence, the NBHW deems that the risks of puberty suppressing treatment with GnRH-analogues and gender-affirming hormonal treatment currently outweigh the possible benefits, and that the treatments should be offered only in exceptional cases.

Once again, to the Minister, his successor and NSW Health, I strongly urge genuine engagement on this matter with those expressing serious concerns about the profound negative life consequences for children and adolescents being drawn into, placed onto and progressed through gender affirming health care.

UKRAINE ANIMAL AID

The Hon. MARK PEARSON (15:21): For the animals in Ukraine a crisis is unfolding. Animals in zoos, dogs, cats, horses and farmed animals are being killed or let starve to death by Russian troops. Food and basic animal care products are running out. Brave volunteers are distributing food and trying to save these animals. Animal ID, Dogs Trust Worldwide and FOUR PAWS International are coordinating donations and aid is being distributed by Ukrainian Pet Association Worldwide. The Australian War Animal Memorial Organisation, Australia's leading service animal charity, through its sub-branch Australian Animal Aid, is among many helping in the crisis. The organisation is sending a \$300,000 shipment of essential pet care supplies, including winter coats for dogs and horses. Ukrainian Pet Association Worldwide is delivering supplies across Ukraine. Its drivers are risking their lives taking food from transport hubs to the front line.

Nigel Allsopp and Peter Kotzur, from Australian Animal Aid, recently went to Ukraine. International PAWS coordinator, Oksana Blahovisna, took Nigel and Peter to a dog sanctuary 40 kilometres out of Lviv. Built for around 50 dogs, it is now housing 1,800. The staff are all volunteers and are doing an amazing and overwhelming job. Awash with muddy but fed dogs, Nigel Allsopp was swamped by dogs as he entered the compound, all trying their best to say, in their own way, "Pick me up and take me home." Limpopo Zoo has taken in many animals from other zoos closer to the front line. Some of the animals show signs of post-traumatic stress disorder. The zoo has taken in so many animals from other zoos that it is now Ukraine's largest wild cat zoo. It has 80 lions, tigers, cheetahs, pumas, leopards and jaguars. This zoo is in urgent need of a generator.

The Bear Sanctuary Domazhyr was initially set up to provide a home for bears abused as baiting or circus animals. In March 2022 it rescued five bears from a zoo that was being shelled. There are more than 100,000 horses in Ukraine, many caught up in the war. Finding sparse feed in war zones, comforting beloved horses during deadly raids and trying to evacuate between attacks are almost unimaginable tasks, but they happen many times a day in Ukraine. We commend all the people working so hard to save the animals of Ukraine.

GOVERNMENT PERFORMANCE

The Hon. TARA MORIARTY (15:24): Here we are on hopefully the last Wednesday of this sitting period, so we are hopefully at the end of this term of Parliament—I am touching wood as I say that—and hopefully at the end of 12 years of this Liberal-Nationals Government. It is time for change; it is time for a new government. As I reflect on my shadow portfolios at this time, there are some big concerns to be grappled with that certainly are not helped by the fact that two of the three Ministers who run portfolios that I shadow have already checked out and are halfway out the door.

In Corrections, over this period of government, we have witnessed a ballooning number of people in custody. In the first few years of the Liberal-Nationals Government, looking at the NSW Bureau of Crime Statistics and Research [BOCSAR] figures and taking a snapshot from 2013, there were around 9,500 people in custody in New South Wales, but the most recent BOCSAR figures released in September 2022 show that there are now roughly 12,500 people in custody. That is a 25.1 per cent increase between 2013 and September 2022. Of those in custody, we are seeing our First Nations people making up a larger proportion year on year.

This time last year there were 3,458, or 28.2 per cent, First Nations people in our prison system and now there are 3,639, or 29.2 per cent, of those people in custody. It is far too high and is heading in the wrong direction. I know that Corrections does not do the sentencing—it holds people while they are in custody—but the fact that the numbers have grown shows a failure of Government and other agencies that should be addressing many of the issues that lead people to the system.

People need to take responsibility for their actions—full stop. There is no question about that. You have to take responsibility if you do the wrong thing. But we need to make sure that the long-term failures in housing, Family and Community Services, education, health, rehabilitation services and much more are dealt with to ensure that people can stay on track and to ensure community safety. Staff shortages and not enough support for people working in this sector are also problems. Failed recruitment drives, particularly over the course of the last

18 months or so, and limited support for our very hardworking correctional officers make it harder for them to do their very important job.

In Youth Justice we have seen a decrease in the number of young people entering the justice system in recent years, which is very welcome, but there are still too many. Again it is often failures in other areas that lead to this. For almost every young offender in custody there has been a failure in the system before they reach that point. That is not to say it is not necessary. Again, people need to take responsibility—even young offenders—so that they can get their lives back on track and not have a path that keeps them in the justice system. But we need to make sure that all of the wraparound services that can be put in place to help kids before they reach the system are being improved.

NATURAL DISASTER RESPONDERS

The Hon. WES FANG (15:27): I guess it is an honour to be the final speaker on what will probably be the last Wednesday, as the Hon. Tara Moriarty has just identified, for private members' statements for this session of Parliament. I actually have not prepared a private member's statement, but I want to follow on from what the Hon. Mick Veitch was saying about volunteers in rural and regional communities. I was fortunate enough to join Dr Joe McGirr in one of the first groups escorted into Batlow after the bushfires passed through that town in 2020. I saw firsthand the work of Local Land Services members and other Department of Primary Industries people who were on the ground sorting out issues after the fire, including having to destroy burnt and injured livestock. I saw grown men in tears, and it is something that I will never forget. I have firsthand experience of what the Hon. Mick Veitch was saying. It is incumbent upon all of us to recognise those volunteers helping in our communities when fire, flood or any natural disaster hits.

As is always the case, the contributions of the Hon. Mick Veitch in this House have been poignant and strong. I pay tribute to him, even though I know he is recontesting. I hope we see him back here next time. I also pay tribute to the other members of the House who are bidding farewell to us at the end of this Parliament. Mr Justin Field has just arrived in the Chamber. There is also the Hon. Walt Secord, Reverend the Hon. Fred Nile, who is about to give his valedictory speech, the Hon. Adam Searle and the Hon. Shaoquett Moselmane. Have I forgotten anyone? There is also the Hon. Mark Pearson. I have had the honour of working with all of those members. Despite some small political differences and perhaps some large political differences as well, there is no doubt that they have acquitted themselves with great recognition of what it means to be a member of this House. No matter their political persuasion and no matter what brought them to this place, they have made a contribution that will last for many years to come.

The PRESIDENT: According to the resolution of the House of Wednesday 19 October 2022, proceedings are interrupted to enable Reverend the Hon. Fred Nile to give his valedictory speech.

Members

VALEDICTORY SPEECH

The PRESIDENT: Before I call the Hon. Reverend Fred Nile, I welcome into my gallery this afternoon for his valedictory speech his beautiful wife, Silvana Nile, his children Stephen and David, David's wife, Leonie, along with grandchildren and great grandchildren. I am pleased to welcome also Councillor Anne Dennis from the New South Wales Aboriginal Land Council, together with William Jennings and Kaliopi Diamantis. I welcome also a number of visitors in the public gallery, including Indigenous and religious leaders, representatives from various organisations and former Christian Democratic Party members and staffers. This is a most historic occasion, and you are all indeed very welcome. I now call the father of the House, Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE (15:31): I have said on a number of occasions that I would never leave this place until God tells me to. That would appear as though it has now occurred. I start my valedictory speech with a reading from the *Holy Bible*, God's word. Chapter 20 of Proverbs reads, "The glory of young men is their strength, grey hair the splendour of the old." I have the grey hair. I must be splendid indeed. At the conclusion of my final term in this Chamber, I will have served the people of New South Wales for 42 years. I believe this to be a record in our State, at least since the Legislative Council became a democratically elected body in 1978. It has been my cross, my public ministry and my absolute privilege to be here for so long. I will try to compress those 42 years into this one speech, which, I stress, is not an easy feat.

I acknowledge my family for travelling here today: my beautiful wife and political successor, Silvana, and my sons Stephen and David. My son Mark and daughter, Sharon, I hope, are watching on the internet. I know that most of them are here now. I am humbled to say that I have four children, eight grandchildren and two great-grandchildren. My family is my legacy, and to each one of them I say, "I am coming home." I pay tribute to my first wife, Elaine Nile, who was elected with me in 1981. At the time, our party was registered as the Call to

Australia Party, which only later, in 1984, became the Christian Democratic Party. Now I am proud to say that we have laid the foundations for a new party, the Revive Australia Party (Fred Nile Alliance), which will restore public decency, build our values and repair our broken society.

I have lived my life to be faithful to God's plan. Jesus Christ is my shepherd and saviour. My time spent here has come at considerable personal cost. I did not spend as much time as I would have liked to with my family. That is one of my greatest regrets. But I will make up for it now. I hope that in my time here I did them proud. I have longed to spend more time with my family, and I intend to do so now that my term concludes. I pay tribute to the lifelong friends I have made in this place, such as the Hon. David Clarke and, of course, his wife, Marisa Clarke. Both David and I were proud to be banned from entering Turkey by the Turkish Government because we dared to recognise the genocide against the Armenian, Assyrian and Greek peoples and took part in protest gatherings, particularly in Hurstville.

I note that the tyrannical President of Turkey threatened other peoples, individuals and countries. He threatened Greece with genocidal language, boasting of the success of his dictatorial regime, saying, "Greece, look at history; go back in time. If you go too far, the price will be high. I want to say only one thing to Athens: Don't forget Izmir." Izmir, originally known as Smyrna, was the subject of ethnic cleansing by the Ottoman Empire, with over 125,000 Greeks and Armenians brutally murdered. I have been proud to attend the annual commemoration at the Hurstville centre to remember those 125,000 Greeks and Armenians so brutally murdered.

As we hear these threats from the Turkish President, I believe that it has never been more important for us to remember history, to accept it and to learn from it. My Christian faith, a faith that many in this Chamber hold, has guided me in these years. I would like to live in a society that encourages and produces long-lasting, faith-filled marriages between men and women, a society without drugs or excessive drinking of alcohol, a society that treats gambling as the evil that it is, a society without the exploitative scourge of prostitution, a society where we have closed the gap between Indigenous and non-Indigenous Australians, treating everyone equally.

I was disappointed to see abortion decriminalised in New South Wales, as was euthanasia, becoming a legislative reality. These were long battles that I fought almost daily in this Chamber. They were debated in the other place for many years. I do not believe that any good will come from their enactment. I have not always had the blessing to pass legislation myself, but I would like to think that I have played an important part in the legislative conversation in this place, across the ideological divide.

In 2018 my original companion in the upper House, the Hon. Paul Green, and I introduced the Modern Slavery Bill for an Act to make provisions with respect to slavery, slavery-like practices and human trafficking; provide for the appointment and functions of an anti-slavery commissioner; and for other purposes. I am pleased that our first Anti-slavery Commissioner, Dr James Cockayne, has been appointed by the Government. I was delighted to meet him recently. He will do a tremendous job in this challenging but important space.

The banning of smoking in public places is something that I am proud to take personal responsibility for. In 1997 the Parliament passed the Smoking Regulation Bill, which accomplished just that. With my Smoke-free Environment Amendment (Motor Vehicle Prohibition) Bill 2008, I also sought to ban smoking in cars, especially when children were inside the vehicle. While the bill was not passed by the Parliament, the objective of the bill was achieved. New South Wales became the first State to make it illegal to smoke inside a car with a child present, under the Public Health (Tobacco) Act 2008. I thank the Hon. John Della Bosca, MLC, and former member for Bankstown Mr Tony Stewart for their work securing those objectives and for listening to my advice.

After a decade of my campaigning for Zoe's law to be passed, Attorney General the Hon. Mark Speakman introduced and oversaw the passing of the Crimes Legislation Amendment (Loss of Foetus) Bill 2021, which was very much the spiritual successor to my bill. I was very pleased to see that important legislative recognition of unborn life. It will bring justice to families. I have supported laws that have put me at odds with many. I supported the Aboriginal Land Rights Act in 1983 and as a result I received death threats, slurs against my faith and general insults against my character. Similarly, when I recently supported an Indigenous Voice to Parliament, racist activists were angered and threatened me.

I hope that my Aboriginal Cultural Heritage (Culture is Identity) Bill has started the legislative conversation for meaningful community-led protections for Aboriginal cultural heritage in New South Wales. The bill is well on its way to being passed. I hope that it will be passed very shortly. I implore the current and future members of this Chamber to work with and respect the Aboriginal community. That is what I have done. Only then will truly good legislation make its way back to this place. I pray that such legislation is first on the agenda of whichever party takes government on 23 March 2023.

Last year I was proud to sign a joint statement calling on the Federal Government to increase our refugee intake from Afghanistan following its takeover by the Taliban. I was extremely disappointed that those brave men and women of Afghanistan who stood for freedom, liberty and democracy were left behind by the West when they evacuated Afghanistan. I thank the Hon. Trevor Khan and the member for Auburn, Lynda Voltz, for drafting that statement, and I thank members across the Chambers and across the political divide for signing it.

Both in my parliamentary office and head office I have seen many wonderful and talented staff come and go. I would like to thank the following staff members for their work. First and foremost, I thank my long-suffering secretary, Ms Judy Russell. Judy served in my office for some 20 years. She kept a very tight ship and became a much-beloved friend of both Elaine's and mine. We stood together in solidarity and protected the vulnerable together. Our office was a place of salt and light. The vulnerable knew that our office was a place to go for all those who needed spiritual aid, whether or not they had ever read the *Bible*. I thank Michelle Raines for volunteering to help organise my office in years past, especially with our mailing list. I thank Mr Edwin Dyga, who was my chief of staff when the Christian Democratic Party had two members in Parliament and many staff and volunteers working in my office. Edwin kept a very busy office in order.

I also thank Ms Katherine Hawken for her support. She was a tireless worker who was chiefly responsible for my two parliamentary magazines, *Family World News* and *Salt and Light*. Much work and personal time was dedicated to spreading word about Parliament from a Christian perspective in those magazines, and I thank her for that. I thank the various volunteer interns, one of whom was Jemima. She is a young lady with an obvious career in politics. I wish her all the best in her Christian endeavours, wherever they may lead her in the future.

I also thank other members of my staff: Kylie Laurence, Michael McLennan, David Copeland, Kaia Thorpe, Peta Simpson, Belinda Dover, Barry Small, Angela McEnroe, Jeff Sorrell, Kay Allen, Kay Bolling and Ruth Dickenson. They have all been very faithful and loyal to me through the hard times and the good times. I thank each one of them wholeheartedly. I also thank the Evangelical Sisters of Mary for their annual Christmas nativity display that my staff and I have supported in the Fountain Court. Tonight the Sisters of Mary and I had photographs taken around the nativity scene. The display has been a parliamentary tradition for many years.

I thank my terrific staff—my last staff—Ms Kaliopi Diamantis and Mr William Jennings. Together they have brought a sense of professionalism, care and integrity to my office. I thank them for their loyalty and hard work. In particular, I thank them for their work on my bill, the Aboriginal Cultural Heritage (Culture is Identity) Bill 2022, which is the culmination of my life's work in working with the Aboriginal community and the fulfilment of my Christian faith. I thank other individuals in Sydney for their support and encouragement. In particular, I thank Mr Greg Bondar for being my supporter as a State director for the Christian Democratic Party. I thank him for his longstanding friendship and support.

I also thank the thousands of activists and volunteers who have helped me advance a Christian voice in our State Parliament over 42 years. They handed out how-to-vote cards during pre-poll voting and on polling day. They assembled to support me even in bad conditions such as heavy storms, rain and snow. They were proud to wear their Christian Democratic Party orange shirts at the polling booths in the mornings and the afternoons.

Those supporters and all the supporters in the gallery tonight gave me the privilege of representing them for the 42 years that I have led the Christian Democratic Party in this Chamber. I thank them for their trust in me, and I hope that I have not let them down. I thank the staff of the Parliament and the Clerk, Mr David Blunt, and his staff for all of their assistance. I especially thank the Assistant Clerk, the wonderful Kate Cadell, who has been here for over 30 years and is an institution in her own right. There are so many more to mention, but I felt that those I have mentioned should be on the record tonight.

I am proud to say that my wife, Silvana, will be contesting the 2023 State election for the Legislative Council. I hope, with God's help, that she will be elected. I have no doubt that her passion, empathy and godliness will see her continue my work in this State and in this place. I thank Silvana for all the care and love that she has shown to me over many years. Serving the Lord in this place has been a great privilege but a heavy cross to bear. I say farewell to this Chamber, where I have spent nearly half my life. I have loved every second of it. So long, farewell and God bless you all. Amen.

Members and officers stood in their places and applauded.

Bills

COMPANION ANIMALS AMENDMENT (PUPPY FARMS) BILL 2021

In Committee

Consideration resumed from an earlier hour.

The CHAIR (The Hon. Wes Fang): The Committee is considering all amendments on Animal Justice Party sheet c2022-220B, and Opposition sheets c2021-150K and c2022-187B. My intention is to put the amendments from the Opposition in globo from both sheets.

The Hon. TAYLOR MARTIN (16:01): We have heard from further stakeholders who would be most affected by amendments like these. The approach taken in Victoria is not fit for purpose and would result in unintended consequences. The amendments would do nothing to address the fundamental problems with the bill and would make it unsupportable. They do not fix anything and just make things more complicated for people to understand.

I turn to sheet c2022-187B. We oppose these amendments as well. They provide extra certainty that no animals other than dogs and cats will be captured by the bill. They also ensure that working dogs are not unintentionally picked up by the provisions of the bill, which were written with puppy farms in mind. This is sensible and makes sure that there is consistency throughout the bill, but they do not change the fact that the bill is simply not fit for purpose in regards to limitations on breeding. We do not support that amendment either. The increased litter limit of five is an improvement on the previous limit of two. However, it is still reducing welfare outcomes to an arbitrary number, without consideration of the particular circumstances. It also does not address the point that limitations on the number of litters are better regulated under the breeding code of practice.

We do not support a range of other amendments on that sheet. There is no detail given about processes outlined or what criteria may be. Amendment No. 13 also conflicts with others, which seem to exempt pet shops that are members of ministerial-approved industry associations from the entirety of the bill. It is a well-intended amendment, aimed at addressing the unintended consequences associated with the ban on the sale of animals from pet shops. But it applies yet another layer of red tape on top of the mountains of red tape that the original version of the bill seeks to put in place. The amendments in relation to age restrictions are sensible enough in isolation, reducing the age at which dogs and cats can be sold in pet shops to match the minimum age outlined in the breeding code. But it is already captured under the breeding code.

The proposed amendments introduce a new provision that would have the effect of excluding pet shops that are members of ministerial-approved industry associations from the totality of the bill. It is a complex approach, meaning that different pet shops will be subject to different rules. For example, pet shops that are not part of the approved association are only permitted to sell animals from rehoming organisations or approved breeders, whereas there are no such restrictions on pet shops that are approved by a particular association. This is ultimately another form of carve-out for some people affected by the bill, to try to mitigate its unintended consequences. The amendment that only cats and dogs are to be companion animals provides consistency, ensuring that the definition of "companion animal" applies consistently throughout the bill. But, again, there are fundamental issues throughout the bill.

I turn to the Animal Justice Party amendments on sheet c2022-220B. The amendments seek to carve out assistance dog providers from the scope of the bill, which is a perfectly sensible approach. However, how this would work in practice is ambiguous. The bill provides the exemption of members of either the International Guide Dog Federation or an accredited member of Assistance Dogs International. It is not immediately clear if individual breeders are members of those organisations.

For example, it is not clear whether a person who keeps fertile dogs on behalf of Guide Dogs NSW/ACT under a breeding arrangement would be covered by this exemption or not. Further, the provision requires the exempted assistance dogs' providers to provide a copy of the organisation's annual report. It is not clear what providing a financial document to the Minister for Local Government achieves in terms of animal welfare outcomes or the delivery of the objects of the Companion Animals Act. If the exemption applies to individual breeders affiliated with those organisations, they are probably not entities that are required to produce the annual reports asked for.

In relation to regulation-making powers, and defects and blood relations, the amendments allow for regulations to address the previously raised issue that "heritable defect" and "related by blood" were undefined and impossible for breeders to understand with a degree of certainty. However, the amendments do not address the key concerns that such bans may prevent responsible breeding out of heritable defects. They do nothing to resolve the issue until supporting regulations are made. As I have said throughout my speech, fundamental issues with the bill are left unresolved, despite all of the amendments. It is simply unsupportable. The Government does not support any of the amendments.

The Hon. MICK VEITCH (16:07): In my contribution, I forgot to give an indication of what the Opposition will do with the Animal Justice Party amendments. It was remiss of me. I indicate that we will be supporting those amendments.

Reverend the Hon. FRED NILE (16:07): I support the amendments and ask the Committee to support them as well.

The CHAIR (The Hon. Wes Fang): The Hon. Mick Veitch has moved Opposition amendments Nos 1 to 10 on sheet c2021-150K and Nos 1 to 14 on sheet c2022-187B. The question is that the amendments be agreed to.

The Committee divided.

Ayes 18
Noes 17
Majority..... 1

AYES

Boyd	Higginson	Pearson
Buttigieg (teller)	Hurst	Primrose
D'Adam (teller)	Jackson	Searle
Donnelly	Moriarty	Secord
Faehrmann	Moselmane	Sharpe
Field	Nile	Veitch

NOES

Amato	Franklin	Mitchell
Banasiak	Latham	Poulos
Barrett (teller)	MacDonald	Rath
Borsak	Maclaren-Jones	Roberts
Farlow (teller)	Mallard	Ward
Farraway	Martin	

PAIRS

Graham	Taylor
Houssos	Mason-Cox
Mookhey	Tudehope

Amendments agreed to.

The CHAIR (The Hon. Wes Fang): The Hon. Emma Hurst has moved Animal Justice Party amendments Nos 1 to 3 on sheet c2022-220B. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 18
Noes 17
Majority..... 1

AYES

Boyd	Higginson	Pearson
Buttigieg (teller)	Hurst	Primrose
D'Adam (teller)	Jackson	Searle
Donnelly	Moriarty	Secord
Faehrmann	Moselmane	Sharpe
Field	Nile	Veitch

NOES

Amato	Franklin	Mitchell
Banasiak	Latham	Poulos
Barrett (teller)	MacDonald	Rath
Borsak	Maclaren-Jones	Roberts

NOES

Farlow (teller)
Farraway

Mallard
Martin

Ward

PAIRS

Graham
Houssos
Mookhey

Taylor
Tudehope
Mason-Cox

Amendments agreed to.

The CHAIR (The Hon. Wes Fang): The question is that the bill as amended be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.**The Committee divided.**

Ayes18

Noes17

Majority.....1

AYES

Boyd
Buttigieg (teller)
D'Adam (teller)
Donnelly
Faehrmann
Field

Higginson
Hurst
Jackson
Moriarty
Moselmane
Nile

Pearson
Primrose
Searle
Secord
Sharpe
Veitch

NOES

Amato
Banasiak
Barrett (teller)
Borsak
Farlow (teller)
Farraway

Franklin
Latham
MacDonald
Maclaren-Jones
Mallard
Martin

Mitchell
Poulos
Rath
Roberts
Ward

PAIRS

Graham
Houssos
Mookhey

Taylor
Tudehope
Mason-Cox

Motion agreed to.

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

That the report be adopted.

Motion agreed to.**Third Reading**

The Hon. EMMA HURST: I move:

That this bill be now read a third time.

The DEPUTY PRESIDENT (The Hon. Chris Rath): The question is that this bill be now read a third time. Is leave granted to ring the bells for one minute?

Leave granted.

The House divided.

Ayes18
Noes17
Majority.....1

AYES

Boyd	Higginson	Pearson
Buttigieg (teller)	Hurst	Primrose
D'Adam (teller)	Jackson	Searle
Donnelly	Moriarty	Secord
Faehrmann	Moselmane	Sharpe
Field	Nile	Veitch

NOES

Amato	Faraway	Martin
Banasiak	Franklin	Mitchell
Barrett (teller)	Latham	Poulos
Borsak	MacDonald	Roberts
Fang	Maclaren-Jones	Ward
Farlow (teller)	Mallard	

PAIRS

Graham	Taylor
Houssos	Tudehope
Mookhey	Mason-Cox

Motion agreed to.

Motions

NATURAL RESOURCES POLICY

Mr JUSTIN FIELD (16:37): I move:

That this House notes the corrosive impact of the Coalition agreement between the Liberals and Nationals on evidence-based natural resources policy in New South Wales.

I acknowledge that I have spoken on this theme a few times in this House. There has been a big effort by my office and myself to work on areas of natural resources policy, particularly over the past four years. Our focus is on land management, land clearing, native vegetation more broadly—whether in our State forests, which are currently being logged, or with regard to sustainable agriculture—and water management. These are often seen as areas of environment policy, but they are also of great interest to regional communities and those who use the land to make a living, which is to say farmers. More and more, as climate change bites, it has become absolutely evident that there is a shared interest between people who use the land to make a living and all of us who exist in the world and require clean air, clean water and good quality soil for the food that we are all required to eat.

There is a shared value that comes from the sustainable management of the land. One would expect a good government to make decisions based on evidence-based policy to deliver sustainable and, ideally, regenerative land management for the people of New South Wales. That is not just because it is good environment policy or because it is the only pathway to restore nature and biodiversity. We are a global leader in extinctions. It is not just because it is good climate policy. Ultimately, protecting large trees in mature forests and retaining forests in the landscape is the single biggest thing that can be done to mitigate carbon emissions in New South Wales. It is not just because it is great water policy. Forests, vegetated land and clean water minimise the impacts of floods and retain water in the landscape, which minimises the impacts of drought. There is no end to the reasons why one would want to see good science-based and evidence-based policy driving decision-making around natural resource management in New South Wales.

What do we see instead? We see a discombobulated natural resource management policy framework from this Government. The Government does not know whether it is trying to protect nature or hand it over to a particular group with vested interests to rip up the land, destroy it and make a quick buck. The Government does not know whether it is trying to protect forests and koalas, despite what Government members say about wanting to double koala populations by 2050, or if it wants to let it rip with the foresters who are trying to take their last cut of the badly fire-affected and climate-affected forests. The Government does not know if it is trying to address the climate challenge by starting to phase out fossil fuel developments in New South Wales or if it is trying to open up new areas for coal and gas exploration in this State. That is what we see day in and day out. Liberal Party Ministers say one thing, then National Party Ministers say another thing, and we go nowhere.

I describe it as corrosive because we have seen incredible conflicts within the Government. It is not just the koala wars but also the conflict over coal and gas. The mining of the Liverpool Plains is a classic example of the unmanageable policy conflict inside the Coalition that has spilled out into the public. At the end of the day, it leaves the State with a set of policies around natural resources management that are destroying the fabric of the State's biodiversity and its natural systems and processes. The constituents of the National Party have the most to lose, but everyone loses when nature is degraded. It is the very thing that we rely on to live and to sustain our economies and communities. It has been a great frustration of mine that we have not been able to see better science and better evidence bases in the decision-making of the Government. I raise this today to give all members an opportunity to express their frustrations with this too—or to defend these terrible processes. I commend the motion to the House.

The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (16:42): I am pleased to report to the House that the Liberal-Nationals Coalition is not only stronger than ever but also delivering a balanced, evidence-based approach to how it manages the State's natural resources. Far from the claims of Mr Justin Field, the policy approach to natural resources has been guided by expert advice at every stage. The policy settings and governance arrangements for forests in New South Wales are informed by robust, independently reviewed scientific evidence that ensures ecologically sustainable forest management. The New South Wales Government has established the NSW Forest Monitoring and Improvement Program. It has delivered tailored plans to monitor the effectiveness of forest management in protecting environmental values and maintaining ecosystem health.

Mr Justin Field loves to talk down the State's hardworking forestry staff and industry, but the truth is that conservation is at the core of our forestry industry. State forests in New South Wales have been sustainably managed and regrown for more than 100 years. This careful management continues to ensure that they will provide environmental, economic and social benefits for future generations. The Government is creating a sustainable long-term source of timber for the people of the State. It is also creating long-term sustainability in other industries. There is the Future of Coal statement, which acknowledges the importance of the industry and the need for certainty, while also acknowledging that any future development needs to be responsible and address community concerns about the impacts of coalmining. There is also the Future of Gas statement, which provides a clear and consistent policy framework for gas exploration and development in New South Wales, and provides certainty to the gas sector, communities and landholders across the State.

With a rocky global economic outlook, reforms are needed to provide certainty to our mining and forestry industries while protecting our natural landscapes. While policy development is happening, the New South Wales Government is also creating renewable energy zones to foster investment in green power. It is creating more dedicated national parks than ever before. The Government is protecting its underwater ecosystems in marine reserves and setting an ambitious policy agenda as it strives towards a net-zero economy. The Liberal Party and The Nationals are united on all fronts in pursuit of these goals. The Government certainly does not support the motion.

The Hon. COURTNEY HOUSSOS (16:45): That was a remarkable contribution by the Minister to the excellent motion of Mr Justin Field. I take this opportunity to thank Mr Justin Field. He gave a beautiful valedictory speech last night. It was a careful and considered speech that showed how thoughtfully, carefully and responsibly he has taken his role as a member of the crossbench. All members would thank him for his time in this place and for the careful way that he has taken the responsibility and privilege that it is to serve the people of New South Wales. He will be sorely missed, and I thank him. That was a remarkable contribution from the National Party Minister, given what has played out over the past week in the New South Wales Parliament and outside of it. After 12 years in government, and with six days to go, The Nationals tried to rush through a narrow and divisive bill without getting the support of their Liberal Party counterparts. The internal war that has raged within the Liberal-Nationals Coalition has been on full display over the past two weeks.

For the Minister to provide that kind of contribution, saying that there has been some kind of careful, considered and managed response to natural resources, is remarkable. I have been the natural resources

spokesperson for the Labor Party for just over a month, and even I am in awe of the internal division and lack of action in this space over the past 12 years. I take the opportunity to commend the upper House for stepping into the breach. The upper House inquiry into the timber industry, which was an 18-month inquiry that made 11 findings and 24 recommendations, was a much more careful and considered response than anything this Government has delivered over 12 long years.

Last week I met with timber workers from the manufacturing division of the Construction, Forestry, Maritime, Mining and Energy Union, and they told me about the shortages that consumers are facing as a result of the negligence of this Government. The very first recommendation from the upper House inquiry is about having a clear strategy around timber supply. The reality is that the negligence of this Government means that consumers across the State are facing timber shortages. The timber industry, on average, needs about 15 years to turn around a plantation. If this Government had got itself moving once it got elected, we would be well down the path of having a plantation strategy in New South Wales; instead, consumers are footing the bill.

The Hon. SCOTT FARLOW (16:48): This is a strong Coalition Government. As such, I oppose the motion before the House. Science-based research outcomes play a key role in shaping policy, industry and environment management decisions that share a common aim: the sustainable management of forest landscapes, through active and adaptive management. The policies of the Liberal-Nationals Government have been developed following extensive research, and they ensure the protection of wildlife habitat across the landscape and the ongoing biodiversity of the State's forests.

The Government has taken a similar process in its approach to marine estates. Since 2011 the New South Wales Government has been reforming the management of the New South Wales marine estate, including our marine parks. The reforms are supported by an independent scientific audit of marine parks undertaken in 2012, the New South Wales Government's response to the audit findings in 2013, the creation and ongoing work of the Marine Estate Management Authority and independent Marine Estate Expert Knowledge Panel. The New South Wales Government has committed \$285 million to the delivery of this evidence-based strategy, which is delivering comprehensive outcomes to reduce the greatest threats to the New South Wales marine estate and improve the many benefits that the New South Wales community may derive from it.

Marine parks conserve the unique marine biodiversity that we have along our coastline. They can also be used for activities such as diving, boating, fishing and, of course, tourism. Marine parks present a unique opportunity to showcase our distinctive wildlife and also provide incomparable opportunities for scientists, students and educators to study our marine biodiversity in a relatively untouched estate. Marine parks include a variety of habitats stretching from the beaches and headlands of our coastline to three nautical miles—about five kilometres—out to sea.

Mr Justin Field may seek to mount a scare campaign about our forests and marine estates, but I can assure the House that the New South Wales Government, both Liberal and Nationals, continues to take a measured, evidence-based approach to the management of all of these areas. The Liberals and Nationals in New South Wales are indeed on a unity ticket when it comes to the management of our natural resources and the protection of our environment. Farmers and foresters are, of course, the original conservationists. The wellbeing of their environment is at the core of everything that they do. Their livelihood depends on healthy farms and healthy forests, and they want to preserve them into the future.

Ms SUE HIGGINSON (16:51): I commend Mr Justin Field for his motion. Truer words could not be spoken in terms of my experience of the Liberal-Nationals Coalition and the absurd arrangement that takes place. I am from the region, I have worked at the front line of this field now for 30 years of my life, and I have watched how the National Party manages the natural resource portfolios with nothing but contempt and ignorance, informed by no science at all. It has been politics from day one. It is absurd to suggest that we are in any way looking at evidence-based policy when the threatened species list has just grown and grown. What we have seen under this Coalition Government over the last 12 years, and what we are seeing right now happen in our public forest estate, is nothing short of woeful. This is not good policy in any sense of the term.

The Coalition is not unified; it is a complete fabrication. It is a front and a sham. There is no unity. We saw what the former Deputy Premier did. We saw what happened. We saw what happened just this week with the koala killing bill once again. When the Coalition talks about evidence-based and scientific-informed policy, the documents that inform the logging of our public forests—which the Government is currently relying on and its Forestry Corporation is perpetrating spin from—suggest that koalas actually prefer heavily logged forest to unlogged forest. It is quite absurd that we are in the predicament we are in.

The National Party holding the natural resource management portfolios has just got to stop. It has to end. What we have seen in terms of environmental degradation over the last 12 years is seriously shocking. To say otherwise is just not true. It is really important that the Liberal-Nationals Coalition face up to its record, face up

to the scarred landscapes, face up to our damaged natural environment, and wake up and hand over those resource portfolios. It is really important that we do not let The Nationals hold onto our natural resource portfolios for a day longer. It has been too long. The Liberal-Nationals Government has done too much damage and it will be great when it is no longer there.

The Hon. PENNY SHARPE (16:54): I speak to the valedictory motion of Mr Justin Field and take this opportunity to thank him for the work that he has done over a long period of time. Justin has always been thoughtful, he has always been scientifically based and he has also been, as he said in his speech last night, nuanced around the way in which we discuss these matters, which I have really appreciated. I will miss him when he is gone. I want to speak briefly about the model in relation to the Coalition agreement and what that means for natural resources in New South Wales. Other speakers have laid out a lot of the detail in relation to this, but I want to talk about the basic model that I have witnessed, being a close observer of politics for a very long time as well as a participant.

When Liberal-Nationals governments come to power, the first thing that they do—and it shows a remarkably familiar pattern—is to go through and look for cuts in public services. In and of itself, that is not a surprise, but what the experience has been is this: First to go are many of the scientists; second to go are all of the staff that do monitoring and compliance in relation to land clearing, water and many of the environmental parts of the portfolio.

We on this side very carefully move legislation. We try to adopt and ask for important environmental protections and then we ask very dedicated public servants to fulfil what we ask them to do. We ask them to do the monitoring and the compliance in often very high conflict zones around these matters. What happens every time The Nationals get in control of any of these portfolios is that the first to go are those that do that work. In the end, the monitoring and the compliance, and the very careful work that we spend a lot of time in places like this talking about as being important to uphold the wills of the Parliament, are fundamentally undermined by the actions of the National Party.

I particularly want to talk about the Natural Resources Commission. I am old enough to remember the creation of the Natural Resources Commission. I was young; I think I was still at school. Part of the issue with the Natural Resources Commission was that there were internal conflicts between Agriculture and other portfolios and Environmental and Planning portfolios. The Natural Resources Commission was always supposed to be the honest broker in the middle. It had strong support from the National Party because it was seen as being the honest broker.

What we have seen over the last 12 years is the complete erosion of support from the National Party for the very careful and very good work that the Natural Resources Commission does. That work genuinely tries to bring science to the table and tries to respond to the impacts of climate change, whether it is flooding, forests or any of the other issues. I simply say that the Coalition agreement and the National Party are doing us harm. This should not be a political issue; it is about the future of the State.

Mr JUSTIN FIELD (16:57): In reply: That is an extraordinary contribution by the Government. Liberal and Nationals members in their contributions have said, "We are on a unity ticket." Just think for a minute what that means: If you are a moderate Liberal voter at home, frustrated by this Government's environment policies, frustrated at how it is treating our natural resources, just listen to what that means, if they are on a unity ticket. Here is what it means: This Government is sitting on expert scientific reporting, which it commissioned, warning that forestry operations need to cease in our badly burnt forests or we will see the extinction of hollow-dependent species, recommending a moratorium of three years on logging in burnt spaces and a review of forestry Acts.

This Government is ignoring that report that it commissioned itself. If the Liberal and Nationals members are on a unity ticket, they are on a unity ticket about ignoring the Natural Resources Commission's report that warned that the Government's land-clearing laws are a statewide risk to biodiversity. The Natural Resources Commission warned of that three years ago in response to a secret review that the Government commissioned. That was the commission's report to the Government and the Government has ignored it and allowed an increase in land-clearing approvals—in the last three years over 500,000 hectares of land-clearing approvals—under law that the Government's adviser warns is a statewide risk to biodiversity.

Let us understand the meaning of being on a unity ticket when it comes to coal and gas. The consensus of the global scientific community, the World Bank and the International Energy Agency is to keep coal and gas in the ground. The Government's position is that we are heading towards net-zero emissions in New South Wales by 2050. So why is it not only approving new coal and gas mines—26 in the past six years—but also allowing today new exploration for coal, which, if found, would not commence being mined for five to 10 years?

I hope those moderate Liberal voters at home were listening. They are on a unity ticket. Those voters should not listen to moderate Liberal MPs who get up during the campaign and say, "Don't worry about what the Nats are doing. We have got a different view on this," because they heard it here that they are on a unity ticket to ignore science and the evidence when it comes to some of the basic things that sustain our life on this planet: clean air, clean water, and healthy ecosystems and soils. If you vote Liberal, you get National. They just confirmed it.

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

Motion negatived.

Documents

DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY

Further Return to Order

The CLERK: According to the resolution of the House of Wednesday 21 September 2022, I table additional documents relating to a further order for papers regarding the Design and Place SEPP, received this day from the Deputy Secretary, General Counsel of the Department of Premier and Cabinet, together with an indexed list of the documents.

Claim of Privilege

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

The DEPUTY PRESIDENT (The Hon. Chris Rath): According to the resolution of the House this day, business is now interrupted to enable Government business to take precedence.

Bills

MEDICINES, POISONS AND THERAPEUTIC GOODS BILL 2022

Second Reading Speech

The Hon. LOU AMATO (17:01): On behalf of the Hon. Bronnie Taylor: I move:

That this bill be now read a second time.

I am pleased to bring before the House the Medicines, Poisons and Therapeutic Goods Bill 2022. The bill repeals and remakes the Poisons and Therapeutic Goods Act 1966, which is the principal Act governing the supply of medicines, poisons and therapeutic goods in New South Wales. The poisons Act is over 55 years old and requires significant updating. The bill follows an extensive review of the poisons Act and the release of a consultation draft bill earlier this year.

The current poisons Act sets the regulatory framework for the supply of medicines and poisons, known as scheduled substances, and therapeutic goods in New South Wales. Scheduled substances and therapeutic goods are used in a range of industries and are vital in many health and veterinary products. However, there are dangers associated with their misuse, and some scheduled substances are liable to be diverted for criminal purposes. The regulation of scheduled substances must balance these factors.

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

Leave granted.

To achieve this balance, States and Territories have generally made laws applying the controls recommended in the national Poisons Standard (Poisons Standard). The Poisons Standard is prepared by the Commonwealth on the advice of expert committees (with State and Territory representatives). There are 10 schedules in the Poisons Standard, with medicines and poisons classified into the different schedules based on the need for access and on levels of risk. For example, prescription only medicines are listed in Schedule 4 of the Poisons Standard, dangerous poisons are listed in Schedule 7, and drugs of addiction, such as morphine, are listed in Schedule 8.

The Poisons Act sets out persons authorised to supply and wholesale supply medicines and poisons, and persons authorised to issue prescriptions based on the different schedules. However, the Poisons Act requires significant updating. It is one of the oldest Acts in the Health portfolio and can be difficult to understand and apply in practice. It is no longer fit for purpose as it was developed at a simpler time when health care models were based on a patient generally having one GP and one pharmacist. Contemporary healthcare models do not always follow this practice and we have gained new insights from the COVID 19 pandemic and natural disasters.

In April 2022, as part of the review of the Poisons Act, the Ministry of Health released a consultation draft bill and discussion paper. Over 80 submissions were received, including from the NSW Nurses and Midwives' Association, the Australian Medical Association, the Medical Services Committee, the Pharmacy Guild of Australia, the Pharmaceutical Society of Australia, industry groups, healthcare regulators and members of the community. The Ministry of Health also held targeted meetings with impacted professional groups and government stakeholders.

I want to take this opportunity to thank everyone who made a submission on the draft bill or provided feedback in relation to these important reforms. The submissions and feedback received have informed the development of the bill that is before the House today.

The bill updates and modernises the language used in the Poisons Act and creates mechanisms to more clearly recognise contemporary healthcare models. New emergency provisions have been included which will allow for a swift, transparent, and flexible response when needed in emergencies. Penalties have been updated to better reflect the seriousness of offences and modern enforcement tools, such as on the spot fines and compliance notices, have been included. The bill also simplifies the interaction with other legislation that regulates Scheduled Substances, such as the Drug Misuse and Trafficking Act 1985 (NSW), the Pesticides Act 1999 (NSW), and the Commonwealth Therapeutic Goods Act 1989.

I turn now to the detail of the bill.

The bill will automatically adopt the classification of medicines and poisons in the schedules of the Poisons Standard. The bill, as with the current Poisons Act, then applies particular rules to the various schedules based on recommendations in the Poisons Standard. For example, different rules apply in relation to who can supply a Schedule 4 substance (which is intended to be a prescription only medicine), compared to a Schedule 3 substance (which is intended to only be able to be supplied by a pharmacist without prescription). The automatic adoption of the classifications in the schedules of the Poisons Standard promotes national uniformity. However, under the bill, regulations will be able to make variations to the schedules, such as varying the Schedule in which a medicine or poison is included should there be unique or intrinsic issues that arise in New South Wales in relation to a particular medicine or poison.

Key interpretative provisions are also included in Chapter 1 of the bill, including updated definitions of "supply" and "supply by wholesale". These updated definitions recognise that authorised individuals and entities who obtain a stock of medicine are able to provide the substances to their authorised staff for on supply, administration or use; without this being considered supply or wholesale supply.

Chapters 2 and 3 of the bill set out the substantive operational provisions including who can wholesale supply, obtain a wholesale supply, non wholesale supply, and issue prescriptions.

Consistent with the existing Poisons Act, the bill generally requires wholesalers to be licensed. However, in recognition of safe and appropriate practice, certain wholesaling can occur without a licence, such as wholesaling between public health entities. There are likely to be other circumstances in which it is safe for certain wholesaling to occur without a licence subject to appropriate safeguards, including in relation to the transferring of stock between pharmacies. As such, the bill includes a regulation making power to allow other wholesale supply to occur without a licence and the Ministry will consult further with key stakeholders in relation to this matter.

In a welcome change, the bill also expressly allows stock to be returned to a licensed wholesaler.

The bill expressly recognises the persons and entities authorised to obtain a wholesale supply of Scheduled Substances. Authorised practitioners such as medical practitioners and dentists will be able to obtain stocks of medicines, which is consistent with current practice. However, the bill recognises contemporary models of healthcare by allowing certain organisations to obtain a wholesale supply for use by authorised staff. The bill will allow private health facilities, managed correctional centres, residential care facilities, public hospitals, the State Vaccine Centre, or a person with a licence, to obtain wholesale stocks for use by authorised staff. Regulations will be able to be made allowing certain other persons and organisations to obtain wholesale supplies directly, which will allow for a flexible response should there be other persons or organisations who need a wholesale stock of medicine.

The bill continues the existing right for authorised practitioners, such as medical practitioners, dentists, nurse practitioners, and veterinary practitioners, to supply medicines and issue prescriptions. Regulations can also be made allowing other persons to supply or prescribe which will ensure that the bill is future proofed should there be a change in clinical practice and needs. The bill also continues the power for the regulations to allow the Secretary to authorise certain activities. This power is consistent with the current Act and will allow the Secretary to authorise the supply of medicines on a case by case basis. Under the current Act, this power allows:

- nurse immunisers to be able to administer vaccines and thereby assist in the rollout of immunisation programs in schools and other settings; and
- appropriately trained individuals to be able to supply medicines in remote communities where there may not ordinarily be access to that medicine without a prescription.

The bill continues existing requirements for authorised practitioners to obtain approval from the Health Secretary before supplying or prescribing certain high risk substances in high risk circumstances. The medicines and circumstances which will require an approval will be listed in the regulations, allowing for a more flexible response to future changing levels of risk and practices.

Research activities are expressly supported by the bill. Section 39 enables the Health Secretary to authorise a range of activities including the supply or prescribing of Scheduled Substances for the purpose of a clinical trial, where those activities would otherwise be prohibited. The bill also strengthens the current regulation of Schedule 7 substances. Schedule 7 substances are dangerous poisons, such as cyanide, arsenic, and strychnine.

The bill will prohibit the supply or possession of Schedule 7 substances for domestic use, unless authorised under the Pesticides Act 1999. In addition, the bill requires a person to hold a licence to supply or wholesale supply high risk Schedule 7 substances prescribed by the regulations unless the person is authorised under the Pesticides Act.

In a continuation of existing powers, Part 2.8 of the bill enables the Health Secretary to make a "restriction order" to restrict a person from undertaking activities they would otherwise be authorised to do under the bill (such as supplying, prescribing, administering, or dispensing medicines). This power is currently used (and would be expected to continue to be used under the bill), where for example, an authorised practitioner has been supplying or prescribing medicines, including Schedule 8 medicines, in a manner that places the public at risk. However, the bill will create express review rights in relation to this power.

Part 3.5 of the bill consolidates the approvals which the Secretary can issue for the purposes of the Drug Misuse and Trafficking Act 1985 ('DMTA') via authorities called "DMT authorities". Previously, the Secretary had a range of inconsistent approval powers under the DMTA and the Poisons Act, which created a haphazard approach to the authorisation of activities (such as for scientific research) involving high risk substances.

In a continuation of existing arrangements, Chapter 4 of the bill applies the provisions of the Commonwealth Therapeutic Goods Act 1989 as a law of New South Wales. The Commonwealth Therapeutic Goods Administration ('TGA') has primary responsibility for regulating therapeutic goods nationally. For example, the TGA regulates medicines manufacture and access to medicines through a registration scheme under the Australian Register of Therapeutic Goods. For constitutional reasons, the Commonwealth Act applies only to certain persons and entities such as corporations. States and Territories have enacted complementary legislation to extend the operation of the Commonwealth Act so that it applies to the areas outside the scope of its constitutional legislative power, such as to sole traders and partnerships.

Chapter 5 and Chapter 6 of the bill update and modernise provisions relating to penalties, enforcement, and compliance. The bill will:

- generally increase penalties. The existing penalties in the Poisons Act relating to unauthorised supply of medicines and poisons are very low and are not commensurate to the seriousness of the offences;
- include specific penalty amounts that apply to corporations, rather than having the same penalty for individuals and corporations;
- allow for the issuing of penalty notices (on the spot fines); and
- allow for the issuing of compliance notices to require a person to remedy a particular contravention of the Act or Regulation.

Chapters 7 and 8 of the bill provide for a range of administrative matters such as establishment of the Regulatory Advisory Committee and Clinical Advisory Committee, which will replace, respectively, the Poisons Advisory Committee and Medical Committee.

Section 140 of the bill sets out a new emergency power of the Health Secretary to make a 90 day "public health risk authorisation order". This power will be able to be used when there is risk to the health or safety of humans or animals and authorisation is required to deal with the risk and its possible consequences. The order will permit something that would otherwise be prohibited under the bill. Recent emergencies, such as the COVID 19 pandemic, the 2019/20 bushfires, and the recent floods, have highlighted the need for a flexible and transparent response to deal with urgent needs. For example, pharmacists can only generally dispense a Schedule 4 medicine on prescription. But during a natural emergency, prescriptions may be lost or patients may be unable to see a medical practitioner. There needs to be an ability to grant exemption to the usual requirements in the bill to meet the immediate needs of the public during an emergency.

Medicines and poisons are integral to healthcare and industry. However, they also pose risks to patients and the community. As industry and clinical practice evolves and technology changes the way we operate, it is critical we have a flexible and contemporary framework to regulate medicines and poisons. This bill ensures that the framework is contemporary, robust, and fit for purpose.

I again thank everyone who contributed to the development of this important bill.

I commend the bill to the House.

Second Reading Debate

The Hon. COURTNEY HOUSSOS (17:02): I lead for Labor in debate on the Medicines, Poisons and Therapeutic Goods Bill 2022, representing my good friend and the shadow Minister for Health and member for Keira, Ryan Park. At the outset, I refer members to his lovely and learned contribution in the other place. He has been briefed and consulted broadly on this bill. As a result, we support it. The bill repeals and remakes the Poisons and Therapeutic Goods Act 1966, which is well due for an update. It ensures that the framework governing the supply chain for medicines is updated, robust, modern, fit for purpose and integrated with other legislation. The bill adopts the list of scheduled substances in the national Poisons Standard and sets out who can undertake activities with scheduled substances and therapeutic goods. The bill provides for a more modern and regulated supply chain.

The bill deals with wholesale supply. Generally, wholesale supply can be undertaken only by licensed wholesalers. The bill allows certain wholesaling to occur without a licence, to recognise safe, modern practices. For example, wholesaling between public health facilities will be allowed under the legislation. This allows public health entities, correctional centres, residential aged-care facilities, pharmacies, private health facilities and certain registered health practitioners to obtain a wholesale supply.

The bill allows certain registered health practitioners—for example, doctors, nurse practitioners and vets—to use non-wholesale supply in the course of practising their profession. Non-wholesale supply can be undertaken also by a pharmacist. However, the supply of particular high-risk medicines will still require the approval of the Secretary of NSW Health. Certain registered health practitioners—for example, doctors, nurse practitioners and vets—can issue a prescription in the course of practising their profession. The bill modernises enforcement options by providing the power for on-the-spot fines and compliance notices. It also increases maximum penalties to reflect the seriousness of offences. The legislation allows the Secretary of NSW Health to respond to public health risks more effectively, through a public health risk authorisation order. For example, as we have learnt during the most recent pandemic, these kinds of orders could authorise the wholesale supply of a COVID vaccine from a public health organisation to a residential aged-care facility.

This bill is important because it aims to reduce duplication and create more cohesion between legislative frameworks and the New South Wales and Commonwealth legislation. It is the result of extensive consultation across the sector, including with the Pharmacy Guild of Australia and the Pharmaceutical Society of Australia. It is critical that the community have safe access to drugs, poison and therapeutic goods. But it is important that strict

safeguards be in place and that the industry remain highly regulated. This regulation is important but should always be bipartisan. We respect and appreciate the ability to access good quality medication when needed. The industry needs to be safe, appropriate and properly regulated. We as legislators have a duty to learn from what happened over the past three years. It has been a once-in-100-year pandemic, and it is only appropriate that we learn from that and update our legislation appropriately. At the same time, we must legislate with an assumption: We are likely to face another pandemic. I hope it is another 100 years before we face a similar one. With those brief remarks, I commend the bill to the House and note that Labor supports the bill.

Ms CATE FAEHRMANN (17:07): As the health spokesperson for The Greens and on behalf of The Greens I make a short contribution in debate on the Medicines, Poisons and Therapeutic Goods Bill 2022. The Greens support the bill, which repeals and replaces the near-ancient Poisons and Therapeutic Goods Act 1966. I have discussed this bill with stakeholders, including the Pharmacy Guild. I understand that they are in support of the bill and that the Government has actively consulted prior to bringing this bill to Parliament. The bill modernises the legislation, given the healthcare system has changed significantly in the past 55 years. It does several things. Firstly, it introduces provisions to allow for wholesaling without a licence so that stocks of medicines can be transferred easily between public health entities, including between pharmacies. It introduces a regulation-making power that can alter the schedule in which a medicine or poison is included, giving New South Wales greater flexibility in how different substances can be used.

The bill recognises contemporary models of health care by allowing certain organisations to obtain a wholesale supply for use by their authorised staff, including private health facilities, managed correctional centres, residential care facilities, public hospitals and the NSW Vaccine Centre. We support the changes that grant the Health secretary a new emergency power to make a 90-day public health risk authorisation order. The example given by the Minister in his second reading speech—of a pharmacist being able to dispense a schedule 4 medicine to a patient during an emergency, without a prescription—shows why this change is important. The bill expressly supports research activities by allowing the Health secretary to authorise the supply or prescription of scheduled substances for the purpose of a clinical trial even if they would have been otherwise prohibited.

The Greens are pleased to see that included in the legislation. As we have seen over the past decade, substances that were previously maligned, such as cannabis, psilocybin mushrooms and methylenedioxymethamphetamine [MDMA], are now at the cutting edge of medical science for the treatment of a whole range of mental health issues, from post-traumatic stress disorder [PTSD] to depression. Like the early stages of cannabis research, psychedelic medicine research has, until recently, been an uphill battle, with governments reluctant to give researchers access to these substances, which are designated schedule 9 substances. This is an unfortunate by-product of the war on drugs, which saw extensive research into the medicinal and therapeutic value of psychedelics and cannabis shut down in the 1970s when the United States of America created its "Schedule 1" category for drugs, with no legitimate use, and other countries quickly followed suit.

In New South Wales trials are already being conducted, including a \$1.95 million trial to examine the efficacy of MDMA-assisted therapy to treat combined alcohol use disorder and PTSD, through the University of Sydney; a \$1.175 million clinical trial of psilocybin-assisted psychotherapy in anorexia nervosa, through the Lambert Initiative; and a clinical testing of the use of psilocybin microdoses on treatment-resistant depression by the excellent Dr Vince Polito. The Greens support the bill.

The Hon. LOU AMATO (17:10): On behalf of the Hon. Bronnie Taylor: In reply: I thank the Hon. Courtney Houssos and Ms Cate Faehrmann for their contributions to debate on the Medicines, Poisons and Therapeutic Goods Bill 2022. Medicines, poisons and therapeutic goods are constantly evolving, as are the associated industries and technology. It is critical that we have a flexible and contemporary framework to provide for appropriate regulation in this area. The bill ensures that the framework governing the supply chain for medicines, poisons and therapeutic goods in New South Wales is robust, fit for purpose, and reflects contemporary requirements. The bill represents one of the key functions of the healthcare system because it ensures access to medicines where appropriate, while mitigating the risk of adverse health outcomes and diversion to the criminal supply chain.

I take this opportunity to thank everyone who made a submission on the draft bill or provided feedback in relation to these important reforms. The submissions and feedback received have positively informed the development of the bill. 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. Bronnie Taylor: I move:

That this bill be now read a third time.

Motion agreed to.

NSW RECONSTRUCTION AUTHORITY BILL 2022

Second Reading Speech

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (17:13): I move:

That this bill be now read a second time.

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

Leave granted.

I am honoured to introduce the NSW Reconstruction Authority Bill 2022 and move that this bill be read a second time.

On 21 March this year an inquiry into the preparation for, causes of, responses to and recovery from the flooding events of 2022 was commissioned and led by the former Chief Scientist, Professor Mary O'Kane, AC, and former NSW Police Commissioner, Mick Fuller, APM.

The 2022 Flood Report was presented to Government in July. Recommendation 15 of the report was the creation of a NSW Reconstruction Authority to be closely modelled on the Queensland Reconstruction Authority [QRA].

As committed to by the New South Wales Government, an authority dedicated to disaster preparedness, recovery and reconstruction from natural disasters will be established in New South Wales under this legislation.

The bill presents the opportunity to set up New South Wales' response to future disasters on the strongest possible foundations.

Here in New South Wales, we have been faced with multiple disasters, year after year, and our emergency services personnel and volunteers, and our communities have faced and responded to these disasters head on.

Following years of drought were the Black Summer bushfires of 2019 and 2020. Then we faced the devastating floods at the start of 2020 and two years of pandemic.

Severe floods confronted our communities in March and September 2021 and again this year in February and March, July, September and October.

As I speak, we know that we are unfortunately facing another wet summer with already waterlogged soils and rivers full to the brim.

In spite of all these challenges, communities across New South Wales are working together tirelessly to recover from the devastating impacts of these disasters and this bill is the next step this Government is committed to taking to support our people in the face of any future disasters.

This government knows there is work to be done to ensure our future responses are an improvement on what has been done in the past.

Established 11 years ago and tested by time, the QRA has proven itself as being highly successful, experienced and the leading model for recovery.

Our colleagues in Queensland have shared their knowledge and experience from their own Reconstruction Authority, and we have pooled this with our collective experience to develop the structure for this new authority.

This bill and the establishment of the NSW Reconstruction Authority is this Government's commitment to learning from past challenges for the future betterment of our great State.

Importantly, this bill enables the establishment of an authority that will work hand-in-hand with our emergency combat agencies and councils to plan and prepare for future disasters, and will lead a coordinated response to preparation and reconstruction across the State.

[The Bill]

The primary object of this bill, and therefore the primary object of the NSW Reconstruction Authority, is to promote community resilience to the impacts of disasters in New South Wales through disaster prevention, preparedness and adaptation and recovery and reconstruction following disasters.

The design of the NSW Reconstruction Authority is informed by the structure and experience of the Queensland Reconstruction Authority, which was established in similar circumstances following consecutive disasters that devastated parts of their State.

Ninety-eight disasters have struck Queensland in the 11 years since the QRA was first established, and the QRA has played a significant role in rebuilding from and mitigating the impact of disasters throughout that time.

Members of the QRA have worked with us over recent months to share their invaluable knowledge and experience in establishing a new authority with such a critical remit. I would like to acknowledge their generosity and send our thanks for their willingness to help us stand up our own Reconstruction Authority.

While we rarely admit when Queensland set the pace over New South Wales—and you will never hear these words from me when talking about the State of Origin—here they have been great pioneers and this work would not have been easy for them.

Not only did the QRA help by opening their doors to me, my staff and my agency, they have been at the forefront of helping us get this legislation in today.

I also would like to acknowledge the member for Lismore, Janelle Saffin, a huge advocate for how Queensland respond to disasters. In fact, she presented me with Queensland's bill in demonstrating how our northern neighbour's model has been successful in supporting their communities.

I also acknowledge the mayor and general manager of the Lismore City Council, who are in Parliament today. They have been at the heart of the recovery in Lismore and are great advocates for their community.

The structure, functions and powers being proposed for the NSW Reconstruction Authority draw on our recent experience responding to the impacts of fires and floods, and provide a single point of reference for reconstructing infrastructure, strengthening government's recovery response and rebuilding our communities to be stronger and more resilient.

We are still feeling the pain of the recent floods, and we have not forgotten the fires of 2019-2020.

We need to act swifter and make sure every effort is taken to protect our communities and help them rebuild stronger.

We all know the impact of these disasters, whether it is the cost to life, the cost to livelihoods or the cost to the economy, and we will continue to improve our response to these disasters. This is the next step in being better.

I want to take a moment to thank our amazing emergency service staff and volunteers, who have tirelessly and repeatedly risen to the challenges of multiple disasters in the past few years. The devastation has not only taken a toll on our communities, but also on the people on the ground responding to the emergencies.

The authority will be required to work closely with the emergency service agencies and will establish formal agreements or memorandums of understanding with the combat agencies across all hazards to ensure effective collaboration across disaster prevention, preparation, response and recovery.

The Reconstruction Authority will be a new government agency headed by a chief executive officer who will be responsible for the day-to-day operations of the authority, whilst still being subject to the control and direction of the Minister for Planning.

The authority will also have an advisory board made up of State and Commonwealth experts who will provide advice on the strategic priorities of the authority, make recommendations on both priority infrastructure and projects needed for mitigation and reconstruction and provide other advice in relation to the authority's functions to the Minister and the CEO, on request.

The members of the advisory board will be experts in their fields, and this expertise will be invaluable when advising the Minister and the CEO.

[The Reconstruction Authority Fund]

The authority will also have responsibility for a newly created NSW Reconstruction Authority Fund, which will hold moneys from both the State and Commonwealth Treasuries for its work.

The fund will be used to pay for protection, recovery, and reconstruction measures for paying grants to affected community members for mitigation works that provide protection from future disasters.

The fund is key to making sure the authority can do what needs to be done to support the people and places of this State.

Critically, the fund will be able to accept philanthropic donations which can be used to support the authority's work. This in particular will ensure that those with the means to donate know the money can be spent helping their neighbours and communities who are hit by disasters without the restrictions and barriers we saw for the Rural Fire Service following the Black Summer bushfires.

While much of the bill has been guided by the experiences of our Queensland counterparts, it has been tailored to account for New South Wales' unique planning laws and to ensure that the bill operates cohesively in the New South Wales context.

Importantly, the bill ensures that the objectives, powers and functions of the authority are effective and appropriate for New South Wales.

[Powers and responsibilities]

The Authority will have the responsibility and power to:

- facilitate the protection, recovery and reconstruction of affected communities following a disaster;
- implement mitigation measures against the impact of potential disasters; and
- improve the resilience and adaptation of communities against future disasters.

The authority has all the powers of an individual including, for example, the power to enter into contracts, acquire, hold, deal with and dispose of property, and appoint agents, attorneys and engage consultants.

These powers will ensure that the authority is well equipped to exercise its functions under the bill.

Part 5 of the bill is significant and provides for the declaration of declared project and reconstruction areas by the Minister, and disaster prevention areas by the Minister, with concurrence from the Premier, by notice published in the *Gazette*.

The Minister's declaration of areas and projects will enable the authority to exercise functions to expedite decision making processes and to step in to manage projects and development where necessary to avoid delays in delivering of critical development or to pause development that is inappropriate in the face of a disaster.

Additionally, the authority will be able to acquire land, both by agreement and by compulsory acquisition where that land is within a declared disaster prevention area or reconstruction area. The power to acquire land will allow the authority to ensure the development needed to mitigate against the risk of future disasters is delivered when required.

The bill also gives the authority power to plan, procure and deliver effective planning outcomes for at-risk and vulnerable communities. Specifically, the authority will be able to plan for and advise on the development of infrastructure, new housing, and the relocation of affected communities.

One of the authority's biggest successes will be in ensuring development for the purposes of reconstruction and mitigation happen faster. The authority will do this by permitting development, supporting development approvals, and in some circumstances undertaking development where it is appropriate to do so.

Importantly, these are not powers that will be brandished haphazardly or without proper consideration. The powers are tempered by both the oversight of the Minister, and in some circumstances the Premier.

To assist the authority to achieve these outcomes, the CEO will enter into agreements with other New South Wales agencies to establish the circumstances and protocols in which these powers may be used.

The bill imposes strict caveats and limits on the use of such powers to ensure that they are used only when required.

The declaration of declared projects, reconstruction areas and disaster prevention areas can only be made by the Minister and Premier on the recommendation of the authority, and when the Minister is satisfied:

1. the declaration applies to a part of the State that has been directly or indirectly affected by a disaster;
2. is necessary to facilitate the protection, rebuilding and recovery of at-risk communities;
3. is necessary to mitigate against the impacts of disasters; and
4. will improve resilience for the at-risk communities for potential disasters through, for example, the betterment of the community.

The authority also has powers in Part 2 of the bill that are subject to strict constraints and are intended to only be used when absolutely necessary.

These are powers to carry out development on certain land in particular circumstances, and to direct a government agency, a State-owned corporation, a local council, or a person prescribed by the regulations to take particular action in certain circumstances.

The authority will only exercise these powers when immediate action is appropriate and required in the face of a disaster or an impending disaster.

I want to make it clear that a decision to exercise such powers will not be made lightly. The authority will only resort to using such powers when lives are at stake and when immediate action is required to combat an impending or unfolding disaster, and only to the extent necessary to alleviate the threat.

It is likely that the authority will rarely need to rely on these powers. However, they are an essential element in the ability of the authority to respond to a disaster or an impending disaster quickly and efficiently—an important point out of the inquiry report.

These powers are not designed to strong-arm or encourage unnecessary or unwanted development in New South Wales.

We can look to the lived example of our Queensland counterparts to see that equivalent provisions within the Queensland Reconstruction Act have been rarely used. In fact, Queensland has used step-in powers three times in 11 years and the direction power only once, and that was by request.

The powers exist to ensure that the red tape can be removed when action is required to protect people and property. They will ensure that the authority can work with local councils to keep things moving so that communities can recover from disasters as soon as possible.

The authority will also take a lead role in the preparation, mitigation and adaptation for disasters. The requirement to prepare a State disaster mitigation plan and disaster adaptation plans in Part 4 of the bill will ensure that disaster mitigation and prevention strategies are embedded into strategic land use plans at the local, regional and State level.

The alignment between planning for disasters and planning for places will be an integral part of how we design our future cities and towns.

[Transition period]

I am aware that concerns will be raised by the community that the establishment of the authority will disrupt existing emergency measures during the coming bushfire and storm seasons.

I assure the House that the authority will not disrupt our trusted emergency combat agencies or existing measures designed to minimise the impact of the coming bushfire and storm seasons.

The existing emergency response arrangements that are in place now will remain in place when the authority is established. Our emergency service personnel will still be there trained and prepared, ready and willing to help local communities who may be affected by the upcoming seasons.

Others, particularly those in the Northern Rivers, may be concerned that the new authority will derail the recovery and reconstruction efforts already underway, particularly those being led by the Northern Rivers Reconstruction Corporation.

Let me reassure the House that no changes will be made that undo the good work currently being undertaken by the Northern Rivers Reconstruction Corporation.

To be clear, there will be no change to how the Northern Rivers Reconstruction Corporation is operating, including in relation to buy backs and the building back better strategies adopted to help those in the region.

At this time, the Northern Rivers Reconstruction Corporation is a development corporation which can carry out activities such as construction, subdivision, and land acquisition, but the Northern Rivers Reconstruction Corporation still needs to obtain planning approval from the Department of Planning and Environment for this type of work.

The authority will have a direct relationship with the Planning Minister, and some powers to amend environmental planning instruments when needed in order to streamline the planning approval process.

The authority will work with the Northern Rivers Reconstruction Corporation to ensure its work continues and can effectively respond to community need but with quick and ready access to planning functions and relationships as a result of the role of the authority. This joined up approach will couple the on-the-ground experience of the Northern Rivers Reconstruction Corporation with the powers and functions of the new authority.

To provide the Northern Rivers community with the stability and confidence it needs, the Northern Rivers Reconstruction Corporation will remain as a standalone body until a transition plan is in place, which will be jointly agreed by the Deputy Premier.

Once the authority is fully established, there will also be a change to the position of the State Emergency Recovery Controller [SERCON] to support a close relationship between recovery and reconstruction after a disaster.

The SERCON is responsible for liaising closely with the State Emergency Operations Controller [SECON] during the response phase of a disaster or emergency, coordinating and reporting on the extent of damage and the need for recovery operations, and overseeing the preparation and maintenance of the State's recovery policies.

This alignment of roles and responsibilities will reinforce the close relationship between the authority and our emergency services agencies and eliminate any gaps between how the Government manages disaster responses, immediate recovery efforts, building back better and disaster adaptation.

For absolute clarity, both the State Emergency and Rescue Management [SERM] Act, and the NSW Reconstruction Authority Act, once made, will state that directions given by the SERCON under the SERM Act prevail over any given by the Authority or the CEO under this bill.

Removing the chance for doubt in this situation will avoid conflicting directions being given, or inaction by either or both entities in the aftermath of an emergency.

Over the coming months, the New South Wales Government will consider in more detail existing emergency management structures and policies, to ensure that they deliver what is needed to keep our people safe in the future and during the most difficult of times.

[Acknowledgements and concluding remarks]

This Government acknowledges that there is more work to be done to help communities rebuild, and to rebuild stronger and safer and better than before.

Local solutions will be needed to get this right. The authority will look to indigenous knowledge and local experience in developing appropriate strategies, actions and solutions for each place.

We have seen the importance of local voices and knowledge in getting people to safety in protecting lives and property this year. and the disaster prevention and disaster adaptation work of the authority will be able to harness this wisdom when we plan for future disasters.

I would like to thank all members of this place for your own efforts and actions to support your communities across this State and thank the members of our State Emergency Service, Rural Fire Service, Fire and Rescue NSW, NSW Police Force and Ambulance NSW for their continued efforts.

I would also like to thank our Minister for Emergency Services and Resilience, and Minister for Flood Recovery, Steph Cooke, for her tireless efforts in managing the many disasters that have occurred across the State.

Collectively, our people have faced catastrophic conditions over the past five years and have turned to their representatives, volunteers, and emergency services for guidance, support and help.

I thank all representatives, volunteers, and emergency service workers for going above and beyond to support your local communities in their greatest time of need.

Finally, I know I speak for everyone in this place when I offer my most heartfelt thanks to local communities across the State. Like every disaster before now and surely every one that is yet to come, it was the people of New South Wales who stood against significant odds to defend and support their local communities.

We remain indebted to our communities for what they do for each other in the face of extraordinarily challenging times. Time and time again, we see neighbours helping neighbours, friends helping friends, and families supporting families.

Together, our communities have worked to save lives, property and livestock. Our communities have offered shoulders to lean on and have never given up. The incredible work of local communities across New South Wales stands as a prime example to all of us of how great this State is and how strong our people are in the face of extraordinary odds. Thank you for your strength and your resilience, and thank you for your courage and your bravery.

To the people of New South Wales I say this, the Government is committed to improve disaster prevention, preparedness and adaptation.

The establishment of the NSW Reconstruction Authority is the first step we have taken to ensuring that our State is better prepared to manage the risks and impacts presented by disasters.

Our hope is that the authority will live up to the example that you, the community, have set. The NSW Reconstruction Authority will provide the foundations of a stronger, better State—one that is prepared to tackle disaster mitigation and recovery head on.

The NSW Reconstruction Authority will be the driving force behind the resilience, adaptation and mitigation measures that are aimed at improving the State's ability to protect its people now and into the future.

This bill represents the culmination of the New South Wales Government's commitment to the people of New South Wales in relation to disaster prevention, preparedness, adaptation, and recovery and reconstruction.

The bill guarantees all efforts will be directed towards disaster prevention, preparedness and adaptation and recovery and reconstruction in New South Wales.

I would like to thank my Ministerial office, and the hardworking staff within my agency, and of course Minister Cooke and her team for their tireless efforts in making the bill a reality.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (17:14): I speak on behalf of the Opposition on the NSW Reconstruction Authority Bill 2022. I indicate at the outset that Labor will not be opposing the bill. However, I note that Labor moved a series of amendments in the Legislative Assembly to improve governance, transparency and oversight arrangements. Before I get to Labor's contribution to the bill, I will make a couple of opening comments. The first is that obviously we are very concerned about the people in Eugowra, Cowra and other parts of the Central West, who are experiencing floods as we speak. Clearly, we have an unfolding disaster on our hands. We know that at least two lives have been lost. I do not want to get into the bill without acknowledging that loss of life and thanking all of the first responders who are working so hard to support those communities during a very difficult time.

Too many communities across this State have experienced the worst of floods and fires over the past few years. Some of us may have forgotten about the terror of the fires—it was two or three years ago, and then we faced COVID. But I do not think anyone who experienced those fires will ever be the same again—being under a bright red sky with fire falling from it onto your community is not something easily forgotten, let alone the loss of lives, homes, businesses, farms and livelihoods. Many people are still struggling to get back on their feet. Labor stands with them. We hope to continue to work with the Government to try to make things better for all who were affected.

I acknowledge the work of all the local members who have been supporting their communities through these natural disasters. Some of us in this Chamber do that work, but it really is members in the other place who become focal points for their communities during fires, floods and other disasters. They become information sources and distributors. They are often on the ground—literally—doing very important work, supporting people to pick up their lives. In particular, I acknowledge the member for Lismore, who experienced the Lismore floods personally, having to swim from her home to safety. Her staff member arrived to rescue her in an inflatable canoe. She sent him next door to her elderly neighbour's home. He saved her life. He is very modest about that, but we need to acknowledge that many ordinary people have done extraordinary things during these disasters.

The Reconstruction Authority is a response to seeing too many communities being devastated far too frequently by natural disasters over the past few years. We have not only seen loss of property and livestock but also, sadly, witnessed loss of life. Very few would forget the scenes confronting all parts of New South Wales during the Black Summer bushfires. Very few would forget the scenes confronting parts of northern New South Wales not once but twice in the past year, as floods destroyed homes and communities. Those who have been looking at images from the Central West in recent days will also not forget them in a hurry. Labor's thoughts are with the communities around the Central West and those who are dealing with considerable heartbreak today.

There are now very few Australians who do not recognise and agree that natural disasters are becoming more intense and more frequent, wreaking increasing damage and causing more loss of life. According to the World Meteorological Organization, the number of disasters has increased fivefold over the past 50 years. The United Nations reports that natural disasters happen three times more often than they did in the 1970s and 1980s. Let us call it for what it is: This is climate change. This is the impact of climate change, and in some ways this bill is perhaps one of the first and most serious adaptation bills that we have seen before the Parliament. I suspect, unfortunately, that there are many, many more to come in the coming decades, until we work together to turn around the impact that we are having on our heating planet. It is not only the profound impact of natural disasters on properties and communities but also their frequency that is an issue. As we have seen in Lismore, other issues impacting the economy, such as skill shortages, are also making it harder to carry out recovery work.

The bill establishes a body and tasks it with assisting communities to recover. The proposed NSW Reconstruction Authority will facilitate prevention, preparedness, recovery, reconstruction and adaptation for the impact of natural disasters throughout New South Wales. The new authority will have a big task in front of it. I was a member of the committee that conducted the floods inquiry. The committee members spent a few days on the North Coast listening to communities. We also listened to communities in the Hawkesbury in north-west Sydney. We heard their frustration with Resilience NSW, which no longer exists, and with other government agencies. The Government has tried to listen to that and, in this bill, create a body that can cut through the challenges of siloed government agencies and bring things together with communities so they can move quickly.

As outlined in clause 4 of the bill, the primary object of the Act, which is "to promote community resilience to the impact of disasters", will be achieved by establishing the independent NSW Reconstruction Authority; providing the authority with the powers it needs to facilitate the protection, recovery and reconstruction of affected communities; and providing oversight through the appointment of a CEO and advisory board. The authority is subject to the control and direction of the responsible Minister. The natural disasters it will seek to address are all-encompassing: bushfire, coastal hazards, cyclones, earthquakes, floods, heatwaves, landslides, severe thunderstorms, and even tornadoes and tsunamis. It also covers hazards caused by air pollution, water and soil contamination, and water insecurity. Its functions will be as all-encompassing as the natural disasters and hazards that it will deal with.

Among other things, the authority will be engaged in activities related to disaster prevention and preparedness; reconstruction and recovery; information provision and community engagement; coordination and development of whole-of-government policies and approaches; and provision of advice and support to local government. It will lead the management and coordination of housing and infrastructure renewal and recovery in affected communities. It will provide public education, research, and advice; implement funding schemes to provide financial support in relation to disaster prevention, recovery and preparedness; and carry out flood modelling and assist with the development of flood plans.

The authority will oversee the administration of a newly created special deposit account, the NSW Reconstruction Authority Fund. The authority will receive funds from Treasury into that fund, make payments from the fund to operate the authority and make payments from other funding schemes implemented by it. Importantly, the authority will be able to accept philanthropic contributions and donations, which will allow it to collect the contributions that so many of us are willing to make to support and assist communities experiencing or recovering from a natural disaster.

The bill has been modelled on the Queensland Reconstruction Authority. The member for Lismore suggested that the Queensland model should be examined closely for its suitability in New South Wales. I am pleased that the Government paid attention to that suggestion. The member for Lismore has studied the details closely and thought about them deeply. Front of mind she has always had the people of her community and others who are recovering from natural disasters. As part of her long and interesting career, the member has had extensive experience in overseas disaster recovery.

The proposed NSW Reconstruction Authority will be overseen by a chief executive officer and an advisory board. The chief executive officer will be responsible for the daily operations of the authority and will be entitled to attend and participate at meetings of the advisory board but will not be entitled to vote at them. The advisory board will consist of a chair, four other members nominated by the Minister and two Commonwealth appointees. The appointments are to be made reflecting the skills, knowledge and experience of individuals. The authority will be required to enter into memorandums of understanding and standard operating procedure agreements with various agencies, which will allow it to expand its knowledge base in dealing with individual natural disasters and communities while having clear responsibilities for different agencies before, during and after a natural disaster.

In addition to emergency response agencies being a priority, Labor considers that local government and Indigenous organisations play important roles in representing communities and understanding the land and water bodies where disasters often occur. From the beginning, their input and cooperation should be sought, gained and respected as a matter of priority. Never again do we want to see bureaucratic squabbles and turf wars as part of recovery and reconstruction processes. I urge members to read the transcripts of the public hearings of the floods inquiry, which document some of the horrific and ridiculous stories that resulted from people trying to do the right thing but being stuck in a system that was failing them.

The advisory board will be required to report to the Minister at the end of each quarter about the exercise of its functions during that quarter. To improve transparency, Labor proposed an amendment, which was accepted, that those reports be published on either the authority's website or another suitable New South Wales Government website. As a government entity, the authority will remain subject to the budget estimates process as an additional transparency measure. The authority will be responsible for developing a disaster mitigation plan for New South Wales. The plan will provide guidance about natural disaster mitigation and set clear priorities for action. The bill requires the plan to include or identify potential strategies and actions for mitigating the impact of disasters; priority areas for projects to mitigate disasters; and reporting and other matters associated with the plan. The plan will be reviewed and updated at least once every five years or as directed by the responsible Minister.

The authority may also be required to prepare a disaster adaptation plan specifying projects, strategies and actions aimed at minimising the impact of a natural disaster. Plans to respond to and adapt in preparation for a natural disaster are incredibly important. But, inevitably, much of the authority's work will be judged on its response to natural disasters, which will occur more frequently and with more intensity. To be ready for them, the bill provides the authority with a number of powers in certain circumstances. At times those powers will be

considerable and comprehensive. This aspect of the bill will be subject to significant debate. Again, the powers are modelled on those of the Queensland Reconstruction Authority. But it should be recognised that the Queensland authority has used those powers on only three occasions. Similarly, it is expected and hoped that the powers provided to the NSW Reconstruction Authority under this bill will be used rarely.

The bill sets the bar high for the exercise of the powers. For example, ministerial authorisation must be given to the authority for development approval powers. Such an authorisation can only be given if the chief executive officer has recommended it; it is given during a state of emergency or in relation to a declared project, reconstruction area or disaster prevention area; and it is required to protect public safety. Ministerial authority may also be given if the Minister is satisfied that exceptional circumstances exist, immediate action is required, and no other mechanism under the Act is appropriate in the circumstances.

In relation to a declared project, reconstruction area or disaster prevention area, ministerial declarations are needed before powers can be exercised by the authority. Again, the bill contains several tests that the Minister of the day must be satisfied have been met prior to a declaration being made. In many instances the concurrence or approval of the Premier is required. When it involves land that is the responsibility of the National Parks and Wildlife Service, the Minister responsible for the National Parks and Wildlife Act 1974 must be consulted. I acknowledge that some significant concerns have been raised in relation to that matter. I am sure that amendments will be proposed during the Committee stage.

Again, in the interests of oversight by this Parliament, Labor proposed that a joint select committee of the Parliament be established to review the operations of the authority regarding any natural disaster in which the authority exercises its statutory powers. We were pleased that the Government accepted that proposal. Labor considers it more than appropriate that the provision of strong powers to an independent authority requires strong, ongoing oversight by the Parliament. Similarly, amendments to the bill requiring time frames for proposed developments and declarations of disaster prevention areas to be set by gazettal were successfully moved by Labor in the other place. Our amendment did not set a specific sunset clause as the time required is likely to vary considerably in the different circumstances that may face the authority. It does not prevent a renewal, but any renewal will require another notice and a further time limit being set. We consider those to be sensible limits on the authority's powers and appropriate oversight by the Parliament of the authority's exercise of those powers.

In considering the bill, Labor has taken a cooperative approach because the authority will be dealing with life in our communities across the State. Labor fundamentally believes that there is no "Labor", "Liberal", "Nationals" or other political way of dealing with natural disasters. There is only a right way, which is for us to get people to work together and support communities that need it. My personal view is that recovery has to be led by the community. Having spoken to hundreds of people and listened to communities, a community leading its own recovery is a fundamental part of the way in which this authority will need to operate.

The right way is compassionate, it is sensitive to community needs, and it recognises that in the face of adversity we are all better off working together. While there is often a need to speed up decision-making and process in the event of a natural disaster—whether it is to step in in the days or hours leading up to an event, or whether it is in the long weeks, months and often years that it takes to recover from one—the transfer of powers in the interests of speed, flexibility and providing an agile response must be time limited. It should have a post-use review so that we can learn from the experiences of and responses to each natural disaster.

One of the key things that we cannot legislate is the approach and culture of the organisation that will be established by the passage of the bill. There will rightly be great expectations of the NSW Reconstruction Authority. No-one wants to see people left in states of limbo where decision-making has been delayed, responsibilities are unclear or funds are withheld unnecessarily or for too long. When a natural disaster happens, we need to be sure that the organisation or organisations tasked with helping to prevent it, mitigate against its effects, or respond to it can do so in a way that gives people confidence. They must provide people shelter, daily sustenance and a path to recovery that gets life and communities back to normal, or as normal as possible, as quickly and confidently as possible.

The new NSW Reconstruction Authority will have a big task in front of it as we collectively seek to prevent, protect from or recover from natural disasters. Such disasters, as I said, are more likely, more frequent and more extreme because of the impacts of climate change. The joint select committee that the bill now provides for, following a Labor amendment, will allow for additional ongoing parliamentary oversight of the NSW Reconstruction Authority so that, collectively, we can continuously improve our responses to natural disasters and the operation of the authority. Learning from each event, we can help to strengthen our collective arm in dealing with the next natural disaster and the one after that.

One of the biggest criticisms we have had from communities, whether that community has been through fire or flood, is that we do not seem to do anything differently from the last time, and the same problems keep

occurring. Hopefully the NSW Reconstruction Authority will be able to finally get on top of that. Labor will not be opposing the bill, because it is largely the approach that we were keen to progress, led by the member for Lismore. Most importantly, we want communities across the State to be confident that the Parliament has learnt from the events of the last couple of years, has reflected on how responses can be improved and is looking to do exactly that. The Opposition will have more to say during the Committee stage. I commend the bill to the House.

Ms CATE FAEHRMANN (17:32): On behalf of The Greens and as their planning spokesperson, I make a contribution to debate on the NSW Reconstruction Authority Bill 2022. From the outset, I send my thoughts to all of those across New South Wales, particularly in the State's Central West, who are experiencing devastating floods and weather events. I have heard reports today from communities saying they have never seen anything like it. Reports are coming in of a tsunami-like wave of water that has gone through towns. And we have not seen the end of it, which is incredibly distressing. So it is good to see that the Government has recognised that we need some kind of authority in this State that has responsibility for reconstruction after severe or catastrophic weather events, as well as responsibility for disaster preparedness. That is a good thing. The authority will have responsibility to work with communities, to help them better withstand and prepare for the inevitable increase in frequency and severity of storms, floods, fires, cyclones and other weather events that we will see as a result of the climate crisis.

The member for Ballina, one of my colleagues in the other place, has been part of exploring what a reconstruction authority would look like for New South Wales. I understand there was a trip to Queensland with other MPs, including the member for Lismore, to look at what the Queensland Reconstruction Authority has done. I note my colleague's contribution to debate on the bill in the other place. The Greens have very serious concerns about the powers in the bill. We are hoping to get support for some amendments that we will be moving at the Committee stage. The amendments will strengthen environmental and cultural heritage protection, or at least put some checks and balances into the bill, because, as the bill stands, there are simply none. We have been contacted today by very alarmed stakeholders from the environment movement and by experts in cultural heritage protection about the complete removal of protections in the bill. I note that Labor supports the bill, the genesis of which was in the other place. In particular, the member for Lismore put on record her discussions with the Government. She said in the other place:

I have now called for a wraparound economic and environmental recovery-cum-development framework so that as we retreat and rebuild it is staged and we do development of a different kind that gives meaning to "sustainable".

The bill before us does not do that. The bill does not guarantee sustainability. The bill does not mention sustainability. This bill does not mention climate. And that is extremely concerning, because it is important that we see recovery, construction and preparedness through the lens of sustainability and environmental protection. We should be ensuring that we have a stronger environment around us, as opposed to continuing to make the mistakes of the past by removing all environmental protections, allowing the wholesale clear-felling and destruction of national parks and allowing the destruction of cultural heritage, as the bill allows. I will outline some of the elements of the bill and our concerns with them. Part 5 of the bill will allow the Minister to declare a project as a declared project, or to declare a reconstruction area or a disaster prevention area. The bill states, under part 5, clause 39 (2), that the Minister may make a declaration of a declared project only if:

- (a) the Minister is satisfied the project will be carried out in a part of the State that has been directly or indirectly affected by a disaster—

if you think about that, that is a really big part of New South Wales right now—

- (b) the Authority has recommended making the declaration, and
- (c) the Minister is satisfied the declaration is necessary to help—
 - (i) facilitate the protection, rebuilding and recovery of an affected community, or
 - (ii) mitigate against potential disasters for an affected community—

again, that is a big part of the State when it comes to flooding right now—

- (iii) improve the resilience of an affected community for potential disasters through, for example, the betterment of the community.

Looking at the provision for "mitigating against potential disasters for an affected community", we saw 5.6 million hectares of national parks and forests burnt during the terrible Black Summer fires. That is a lot of the State that could potentially be declared an area that needs to be mitigated. The same clause says that the order must describe the land to which a declared project relates. Importantly for concerns of The Greens, it states:

An order under subsection (1) may also specify that an Act or a statutory instrument does not apply in relation to the declared project, including the circumstances in which the Act or statutory instrument does not apply.

That is for a declared project. The bill pretty much says the same in relation to a reconstruction area or a disaster prevention area. Again, given the predicted increase in the scale of floods and bushfires in this State as a result of the climate damage that has already been locked in—what the climate science is predicting at 1.5 degrees Celsius or two degrees Celsius warming, and we are pretty much there—it is not too far-fetched to see how the whole State might be indirectly affected by a disaster and declared a reconstruction area, with all environmental protection and cultural heritage protection laws bypassed. The bill also establishes a statewide reconstruction authority. It outlines a lot of the functions of the authority, including that the authority will:

... coordinate the development and implementation of whole-of-government policies for—

- (i) managing the risk of disasters in the State, and
- (ii) ensuring communities can recover, reconstruct and adapt effectively and efficiently following disasters, and
- (iii) improving the preparedness and resilience of communities for potential disasters,

It lists quite an extensive range of functions for this authority, including:

- (j) to lead public education on disaster risks and certain disaster preparations,
- (k) to carry out research, and provide advice, proposals, recommendations and reports to the Minister, about—
 - (i) disaster prevention and preparedness, and
 - (ii) recovery and reconstruction following disasters,

The bill and Minister for Planning Anthony Roberts' second reading speech in the other place fail to mention the word "climate". That is such a glaring omission. It is extraordinary. They do not mention "climate modelling". The bill mentions "flood modelling" at proposed section 10 (1) (d) (o). It says that one of the requirements is "to carry out flood modelling and the determination of flood planning levels, particularly in relation to high risk catchments". The bill mentions the cumulative impact of disasters and leading public education on disaster risks. It is extraordinary that it does not also mention climate risks in the same clause as it mentions flood modelling or the next clause, and that it does not insert a clause requiring the authority to be transparent about climate modelling and the risks associated with two degrees Celsius, 2½ degrees Celsius or three degrees Celsius of warming.

For too long, governments of all persuasions, at both State and Federal level, have had the science before them and have not been transparent and up-front with the community about what 1½ degrees Celsius of warming or two degrees Celsius of global heating look like. The bill is, in some ways, the first of its kind. It brings forward an authority that is going to look directly at disasters, recognising in some way that there will be increased frequency and severity of disasters. But there is a big silence yet again around climate, climate risk, climate crisis and climate change in the bill. They should be included so that we can be transparent about the science and undertake and fund modelling at a State level, making sure that the people and staff in the authority are making decisions based on the best available climate science and that they are up-front about it. Unless those are in the bill, I doubt that we will make sure the community is as informed as it can be about the science of a two degrees Celsius or three degrees Celsius hotter world—because, with COP27 right now, that is where we are heading.

Incredibly, the legislation would allow for broadscale development within our protected areas, including national park estate and potentially marine parks and aquatic reserves. The scale of the powers in the bill are unprecedented since the very creation of those protected areas. For example, say the Premier signed off on designating a parcel of national park estate as a disaster prevention zone because of the risk of bushfire in that area, the authority would have a blank cheque to clear that parcel of national park estate in the name of mitigation. That is what we are dealing with today. There are forces in this Government that would dream of having those powers and would not let a good crisis go to waste without using them.

Let us talk about the former transport Minister from the South Coast, Andrew Constance. I remind members of the time when he was very annoyed with all those roadside trees all over the State. If, when faced with massive bushfires, a lot of the State is declared a disaster area, then, with the right Minister, all the trees could potentially be cleared. I would not put it past the Liberal-Nationals Government to use the powers in this Act to do what some of its members have been wanting to do for a long time: get rid of some of our pesky national park estate. The Minister will claim that these are emergency powers and that that is not their intention. But the power is there nonetheless. As the climate crisis gets worse, we cannot predict to what extremes future governments—particularly future conservative governments—will go in a misguided attempt to mitigate bushfire risks. We just do not know what five or 10 years is going to bring.

Proposed section 65 of the bill requires that the planning Minister must consult with the environment Minister before making a project authorisation order involving land within a national park. However, this is a hollow protection, with the environment Minister and the National Parks and Wildlife Service itself given no say over any planning decisions. Proposed sections in the bill mention developments within national parks. One has

to wonder what developments need to occur within a national park that could not occur elsewhere. It is incredibly alarming that the bill mentions them specifically. I have also been contacted by a number of stakeholders with serious concerns about how the bill will interact with Aboriginal land under the Native Title Act and the Aboriginal Land Rights Act. They see the powers in the bill as a potential attack on those hard-won lands, which the State would have the power to acquire at will under this legislation.

Even though the State is facing—as I have already indicated and as some of us in this place are aware—increasing severity and frequency of coal- and gas-fuelled disasters, the solution is surely not to tell traditional owners that their land can be taken from them at any time without consultation and consent. Surely we can do better than that. I also note that the Fuller-O’Kane report recommended a NSW Reconstruction Authority. It outlines in some detail how a reconstruction authority would operate. The bill largely complies with that and operationalises the recommendations from the report in this regard. The Fuller-O’Kane report also makes mention of the global Sendai framework for disaster reduction. I note the framework states that one of its goals or guidelines is:

To protect or support the protection of cultural and collecting institutions and other sites of historical, cultural heritage and religious interest ...

Nothing in the bill does that, even though Fuller and O’Kane said the Sendai framework was notable. Another guideline or principle is:

To promote the mainstreaming of disaster risk assessment, mapping and management into rural development planning and management of, inter alia, mountains, rivers, coastal flood plain areas, drylands, wetlands and all other areas prone to droughts and flooding, including through the identification of areas that are safe for human settlement, and at the same time preserving ecosystem functions that help to reduce risks ...

Again, the bill does not mention preserving ecosystem functions, protecting biodiversity or acknowledge that the protection of ecosystem functions and biodiversity are essential to ensuring that we can live safely within our environment and that they help mitigate some of the worst bushfires, because logged forests burn so much more severely and quickly than protected national parks.

Another key principle is to strengthen the sustainable use and management of ecosystems and to implement integrated environmental and natural resource management approaches that incorporate disaster risk reduction. That is not in the bill and The Greens will move amendments to see what can be supported and included. But the make-up of the authority is pretty much entirely within the Minister’s purview, with a couple of members appointed by the Commonwealth. But I certainly hope that the people on the advisory board and who are working with the authority recognise that we need to make sure that we have healthy ecosystems and protect biodiversity as part of the authority’s work.

In the lower House, my colleague the member for Ballina flagged the absence of any Local Government NSW representatives on the advisory board. The Greens feel strongly about local government representation and feel that it is often the level of government best placed to understand how communities need to adapt to recover from natural disasters. The Minister has provided assurances that at least two representatives on the advisory board will come from Local Government NSW, and it would be good to get some confirmation from the Minister in this place that they will be among the four other members nominated by the Minister.

I note that the advisory board has essentially no real powers. It provides advice and recommendations to the CEO about the authority’s strategic priorities and about the need to declare projects, reconstruction areas and disaster prevention areas, but ultimately the decisions rest with the CEO and the Minister. Considering there are no requirements for any environmental protections, it is extraordinary to give such unfettered power to the one Minister—the planning Minister—without concurrence powers by the environment Minister. A declared project or a declared reconstruction area could contain significant environmental assets. To not require the concurrence of the environment Minister is frightening. That is why my office and others have been inundated with calls from concerned people from the National Parks Association, the Nature Conservation Council and other organisations who are extremely concerned about the powers of the bill and the fact that it is being rushed through in the dying days of this Parliament—and maybe this Government as well.

We support the joint select committee amendments moved by the Opposition. It is good to know that that committee can provide some oversight of the authority. To address some of the concerns I have raised, I will move a number of amendments on behalf of The Greens at the Committee stage, including to get some concurrence from the environment Minister for some of the decisions that will be made and to place national parks off limits. I look forward to hopefully receiving some support for what is a genuine attempt by me and The Greens to improve the bill.

I stated at the outset that I recognise the Government’s intent behind the bill. We need to have a statewide authority to look at reconstruction efforts that is funded, that can forecast what lies ahead and that can best help

communities come together to prepare a disaster management plan. We support the intent behind all of those things, but the bill did not need to include the ability for one Minister to override the national parks laws and cultural heritage laws that have been in place for a long time—and for good reason. I certainly hope we can improve the bill in Committee, and I hope that The Greens can ultimately support it. We want to, because the intent is there.

The Hon. JOHN GRAHAM (17:55): I join my colleague the Leader of the Opposition in this place to speak in debate on the NSW Reconstruction Authority Bill 2022. She has already indicated that the Opposition is not opposed to the bill and recognises it is a real step forward in adopting this approach. As the shadow Minister for the North Coast, I recognise some of the contributions of other members in this place and elsewhere. The first of those is our colleague the Hon. Walt Secord, who led the flood inquiry in this place and did a remarkable job, along with other members of the House. I thank him for the work that he did on that particularly important inquiry. I thank all of the members from the North Coast of the State and all members across the State who have been dealing with those issues, but I particularly thank the member for Lismore.

I report to the House some of her comments in the other place where she talked about visiting the Queensland Reconstruction Authority to get a firsthand account of how it operates, how it implements its legislative authority and its responsibilities. She talked about the same issue the Leader of the Opposition here referred to: the need for it to be community led. She said, "Connections with community are important, and that includes councils." She called for regional liaison officers of the same kind that the Queensland Recovery Authority has. I place those concerns before the House. I also recognise the member for Lakemba, Jihad Dib. He talked in the other place about being in Lismore on 6 March with the Labor leader and the member for Lismore, dealing with those issues and calling for a reconstruction commission to be established following the floods that devastated and destroyed communities in the Northern Rivers. I recognise the work he has done in this area. He said this in the other place:

... we do not have a crystal ball; we do not know when the next disaster will happen. But we can be better prepared.

That is the spirit and the philosophy behind this change. The previous speaker noted some concerns that have been raised with members of Parliament about how the bill interacts with other Acts, particularly the National Parks and Wildlife Act and the Aboriginal Land Rights Act. Opposition members have had similar concerns raised, so I place those on the record. There really is a concern about how the bill relates to protected areas and Indigenous owned or controlled land in the State, and whether it provides for an override of those protections. I put one concern plainly on the record:

As currently drafted, it allows the Authority to authorise or undertake development on a national park in fairly broad circumstances (eg, in preparation for future possible disasters) even if inconsistent with the National Parks Act and against the wishes of Aboriginal owners.

I place those community concerns on the record because they have been raised with the Opposition. I invite the Government to respond to them. One thing the Minister can do in response is put at ease those members of the community who know we do not have a crystal ball but want us to be better prepared next time, and who have legitimate concerns about how the bill interacts with the protections that are in place on the issues that are very important to them. Ms Cate Faehrmann made some observations about the track record of this Government that might lead those members of the community to be much more concerned about what the intentions were, and I agree with the direction she was heading in. It is reasonable to ask the Minister to respond to those concerns and put those members of the community at ease as this important change rolls through. Having raised those concerns and put those matters on record, I join with my colleagues in commending the bill to the House.

The PRESIDENT: According to the resolution of the House of Wednesday 12 October 2022, proceedings are now interrupted to enable the Hon. Adam Searle to make his valedictory speech without any question before the Chair.

Members

VALEDICTORY SPEECHES

The Hon. ADAM SEARLE (18:00): I commence by recognising the traditional custodians of the land on which this first parliamentary Chamber in Australia sits, the Gadigal people of the Eora nation, and pay my respects to their Elders past, present and emerging. I am honoured by the presence of so many of my colleagues from this House and the other place from across all the parties. I will not mention them all—that may come later—but I am very honoured to have them all here.

The road to reconciliation is long, and non-Indigenous Australia continues to miss key opportunities for change. I refer to the report of the Select Committee on the High Level of First Nations People in Custody and Oversight and Review of Deaths in Custody, which I chaired. The report was delivered on 29 April 2021, the

thirtieth anniversary of the report of the Royal Commission into Aboriginal Deaths in Custody. The majority of the recommendations, made unanimously and on a nonpartisan basis, remain neglected. In my foreword I said:

It is extremely disappointing that many of the recommendations made in one of the most influential reports of our time, the Royal Commission into Aboriginal Deaths in Custody, have still not been implemented, and that governments have even given up monitoring the implementation of those recommendations.

...

While many of the recommendations in this report go to dealing with the symptoms of over-representation of First Nations people in custody, it is clear that the multi-generational disadvantage that First Nations people have faced over time, in areas such as health, housing, employment and education, and the historical dispossession and systemic racism, which underscores each First Nation person's experience with the criminal justice system, must be addressed by government.

Sadly, there is no sign of government or society seriously squaring up to these challenges. It remains the great unfinished business of this State and this nation. I hope that those in this place who are here after the next election continue to work to realise the hopes and aspirations of those First Nations persons and ensure that the efforts of those who participated in good faith in this and so many other like inquiries were not in vain.

The work of this inquiry and of other inquiries discloses a key role of this house of review. It is not just to make laws or ask questions but also to hold government to account by exploring issues in depth, engaging with the community and experts, and proposing solutions for government to consider and for Parliament and the wider public to debate. Participating in and leading committees of the House has been a key part of my work here.

I would not have been here had Bob Hawke not invited himself to my parents' home on the far North Coast at Easter 1979. That visit sparked my awareness of and interest in public affairs and politics. I certainly would not have been here but for my friendship and association with the late, great reforming Attorney General Jeff Shaw, QC. He demonstrated that the practice of law could be made to serve a social purpose and effect improvements for working people. Working with him on the 1996 Industrial Relations Act, on special laws for those suffering asbestos-related diseases in 1997, the 2000 occupational health and safety legislation—sadly repealed by this Government—the first laws on workplace surveillance, the Privacy and Personal Information Protection Act, and so many other important changes showed that it mattered who got to be in Parliament. It mattered who got to be—to misquote *Hamilton*—in the room where it matters and to make the decisions on public policy.

In my working life, all I wanted to do was to influence and to make public policy to help make improvements for everyday people. As I said in my inaugural speech in this place on 31 May 2011, we are not or should not be here for our own benefit or careers but—in the words of George Black, one of the first Labor members elected to the other place in 1891—"to make and unmake social conditions." I have approached, or have tried to approach, my various roles and responsibilities in this spirit. Eleven and a half years ago NSW Labor put me into this Parliament to fill the vacancy caused by the resignation of former Labor leader in the upper House and Attorney General John Hatzistergos—subsequently a judge of the District Court and now the Chief Commissioner of the ICAC.

After the 2011 election result, the Labor Party was devastated and needed significant work to rebuild and regain the trust of so many communities right across the State. My party saw in me many of the attributes and skills it needed if it was to do this: integrity, forensic legal skills, experience working in government and recognised policy expertise. You do not get into the upper House on this side of politics without significant support from the trade union movement. I acknowledge the support that was given to me at that time by the unions, in particular the Electrical Trades Union and its former secretary and Labor Party president, Bernie Riordan, now a member of the Fair Work Commission, in enabling me to become a member of this House. In my inaugural speech I thanked many people who helped me to get here, so I will not give another recitation. They know who they are.

In the following decade, my colleagues here entrusted me with the deputy leadership and then the leadership of our party in this place: to be the architect and navigator of Labor's agenda here. In that role I worked tirelessly and, I hope, effectively, using the relationships and credibility built up incrementally to put forward Labor's agenda. In that time I variously fulfilled the roles of shadow Minister for Mental Health and for the Housing, Small Business, Industry, Resources, Energy, Climate Change, Planning and, of course, Industrial Relations portfolios. In each of those roles I tried to lay down some intellectual and policy foundations that I hope will be taken up by the next Labor Government.

The first is a comprehensive and modern industrial relations agenda helpfully set out in my contribution to *Preparing to Govern: Ideas for the next NSW Labor Government* and our 2019 policy document. The second is the plan to tackle wage theft. Before the laws in Queensland or Victoria or Federal Labor's commitment, it started here in New South Wales in speeches given and plans announced at our State conference. I gave notice of a bill in this place on 10 June last year and it is available to anyone who is interested to pursue that matter, as I believe my party will in the future. The third is industrial manslaughter laws, which have now passed this House and await debate in the other place. We want every worker to come home safe at the end of the day.

The next intellectual and policy foundation is legal rights for gig workers, which the Hon. Daniel Mookhey has pursued in the future of work inquiry. The next is a real plan for housing affordability for key workers and others in those pay brackets, as outlined by me in this place on a number of occasions. The next is measures to ensure the integrity and transparency around mental health funding, to ensure it was not absorbed into overall health expenditure. The next is improved legal rights for small businesses, including protections from big business and unfair contracts. The final one is comprehensive reform of the law and operation of the Coroner's Court, involving significantly improved support for bereaved families.

My commitment to industrial manslaughter law started at university in 1992, under the watchful eye of Suzanne Jamieson, when I did some research and came to the conclusion that unless such laws were put in place, workplace safety would not ultimately be taken seriously. In 2004 I was one of a panel of lawyers engaged by then industrial relations Minister John Della Bosca, along with Professor Ron McCallum, Peter Hall, QC, as he then was, and Adam Hatcher, who is now Acting President to the Fair Work Commission. We made some recommendations that there was a need for special laws to deal with workplace deaths. That was a commitment Labor made in the 2019 election. We followed that through with committee processes here and, of course, legislation.

The policy was announced with the Cassaniti family in December 2019, whose son Christopher was tragically killed at work in April 2019 on a construction site. I recognise the powerful work of Patrizia and Rob Cassaniti and their charitable foundation Touched by Christopher, which aims to provide financial and other support to families who have lost loved ones, and their continuous campaign to improve workplace safety awareness in the construction industry. I can inform the House that last Friday, at the request of Patrizia Cassaniti, I became the chair of that foundation. It is work I am looking forward to doing. I worked on the original workplace surveillance laws with Jeff Shaw in 1997. We committed to doing a review of those laws in 2019. As part of the future of work inquiry, chaired by the Hon. Daniel Mookhey, we have produced a report that embodies powerful recommendations that will address that, which I outlined yesterday.

One of the areas in which I have tried to make a contribution is energy and climate change policy. Using the skills I acquired as a barrister, I think that—for a politician—I obtained a certain amount of technical and policy knowledge and engaged with a range of stakeholders in government and business to develop a framework for transitioning us from a centralised coal fire-based electricity generation and distribution system to one based on renewable energies in a more decentralised system.

The process was also informed by the use of the committees of this House. The Select Committee on Electricity Supply, Demand and Prices in New South Wales developed the evidence base and helped shape a cross-party consensus. That was Labor's policy at the 2019 election. It then became the Government's policy and was legislated in 2020. There is now a bipartisan and settled energy infrastructure for the State for the next decade. I acknowledge the role and commitment of the State's Treasurer, and energy Minister, Matt Kean, in bringing his climate-denying Coalition colleagues to see that these reforms were necessary. The trick now is to implement them swiftly and competently.

My interest in this area has not diminished. On my recent study trip to Europe, I looked at energy and climate policy and outcomes over the past two decades and the opportunities and challenges for Australia and New South Wales in the uncertain international climate. The changed circumstances mean that our current energy policy and settings will not be adequate. Both the current Government and the Labor Opposition need to have a second wave of comprehensive reforms in this area if they are to ensure reliable and affordable energy for homes and businesses going forward and to make inroads into decarbonising the economy. It will be unsurprising for members to learn that I am giving thought to these matters.

In my time here, I have served on parliamentary oversight committees of the Parliament relating to a number of key integrity agencies, including the Independent Commission Against Corruption, with the Hon. Rod Roberts; the Law Enforcement Conduct Commission; the Ombudsman; and the Crime Commission. I was involved in a range of activities that led to important legislation, such as the public interest disclosures legislation that the Government finally brought forward. As Labor leader, I worked with my caucus colleagues and other parties after the last election to modernise and improve the standing orders and procedures of this House; overhaul the committee system; extend question time, including take-note debates and the capacity for additional questions to be asked; introduce a full and appropriate regime of budget estimates to better enable the scrutiny of Ministers and Government policy and spending; and introduce more opportunities for members to be involved in the activities of this place and hold the Executive to account.

This has included a much more frequent use of the powers of the House to call for State papers—which the Hon. Damien Tudehope is no doubt thrilled by—to expose to the light of day the wrongdoings and poor administration within this Government. While the Government has not conceded this, it has even been made to produce documents that went to Cabinet to inform decision-making—obviously, on a voluntary basis. It is case

by case. I give two examples of why this is not frivolous and why it is important. In 2012, after the Parliament had changed its work health and safety laws, there was an attempt by the Government to discontinue hundreds of serious prosecutions for breaches of work health and safety standards. It came to light because of a call for papers. It was exposed and, in the ensuing public outcry, the efforts to stop those criminal prosecutions were dropped.

In a more recent example, there was a call for papers to do with the Barangaroo sightlines that led to the establishment of a committee. There was a successful challenge to the privilege claimed over those documents, and the documents were then used to question witnesses to inform the public about whether or not there was any public benefit to the transaction. The power of this House is a very important one and can be used for important objectives. When the Government has claimed privilege over documents and sought to withhold them from public scrutiny, I, like others in this place, have been a frequent disputer through the Independent Legal Arbitrator process. To date, I do not think I have lost one yet.

Even though there is politically a centre-right majority in this Chamber, through working collegially with the Hon. Robert Borsak from the Shooters, Fishers and Farmers Party, Mr David Shoebridge from The Greens and others, we have built a shared agenda around transparency and integrity, which has enabled the whole Parliament to more effectively hold the Government to account. That is for the public good. It has culminated in the new standing orders of the House that will soon go to the Governor for approval. It was not the work of any one person, but it is an important reform to the operation and procedures of this House.

I mentioned the importance of an improved budget estimates process. I had to examine and cross swords with every Premier of this State from 2011 to 2021, every Treasurer from 2011 to 2019, as well as a range of other Ministers. Some of that work has been more recently brought to a wider audience through the satirical YouTube program *Friendlyjordies*, which has covered some of those hearings. I had not heard of *Friendlyjordies* until I was informed of it by my children. With over 600,000 mostly centre-left subscribers, the program has popularised the world of State politics with an audience that had not usually followed it.

I know that there are media outlets and journalists who do not regard the program highly. They say that they are not really journalists and that sometimes Mr Shanks gets a bit edgy, but it is true that it is reaching audiences that do not otherwise follow politics. Whether you regard them as commentators, participants or journalists, the misuse of the police's Fixated Persons Investigation Unit against political critics of the Government should concern all MPs and media outlets. It would not have been brought to light but for the budget estimates process.

Just as the advent of *Friendlyjordies* reflects the changing media landscape, it mirrors changes in our body politic. There used to be two major catch-all parties of the centre-left and the centre-right. We have seen in recent elections the rise of Independents and other parties. While the major parties still have the responsibility, their base and their core beliefs, they have to pitch to the centre ground and have a program of governing for all. The challenge is that there is a rise of political parties that are what one would call narrowcasters that are targeting certain audiences and certain issues. That is not a complaint but a recognition that electoral politics are changing. The issue of optional preferential voting at a State election, with exhausting votes often not flowing, is a particular issue emerging for the centre-left of politics. The Labor Party will have to address that in the coming election.

I acknowledge the modern slavery laws that have finally been proclaimed in this State. I acknowledge the work of former member Paul Green in bringing those laws forward and getting them enacted. The bigger problem, which took up much of my time, was pursuing the Government to proclaim those laws. It was a process that took years. It is shameful. I acknowledge the efforts of the Hon. Greg Donnelly, who is now the chair of the joint parliamentary oversight committee. I also welcome the appointment of Dr James Cockayne as the first Anti-slavery Commissioner. We got there in the end, but the regime needs to be strengthened.

During my time in this place, I was pleased to be able to support long overdue reforms of the law relating to the termination of pregnancy and to voluntary assisted dying. These were conscience matters where members debated and voted without party discipline. The success was the result of broad community support for change over many years and members of each House working collaboratively on the shared objective, drafting the legislation and consulting on amendments and the like. I acknowledge the work of the member for Sydney, Alex Greenwich, on both issues. He was here in the President's gallery. He would be the first to acknowledge that he stood on the shoulders of those who came before for decades on these matters, most importantly those who worked tirelessly in the community for change.

I also acknowledge the work of the Hon. Trevor Khan, now His Honour Trevor Khan, on the Voluntary Assisted Dying Bill 2017. I never expected that issue would be one that I would be particularly associated with, but I was pleased to be the chief sponsor of that legislation in this place. It is a change born of compassion and to give those near the end of life the choice of the timing and manner of leaving, as opposed to the suffering and vagaries of terminal illnesses. I acknowledge Alex Greenwich and the other 27 sponsors across both Chambers

for their support and guidance during that long process. I also acknowledge Tammie Nardone from Alex Greenwich's office. Her knowledge and expertise in the area was invaluable.

These are just some of the things that I have been involved with since 2011. With this record of service, I had hoped that I would be afforded a further term in this Parliament, hopefully serving in a Labor government. I regret that I was not able to persuade my party to support me for a further time. I have established that I still have plenty of hard work and inspiration left in me to give. I have no regrets about coming in here, the causes that I have taken up and the people I have supported or associated with. I have always acted with complete integrity, and I have never brought any disrepute upon myself, the Parliament or my party. I thank my party for the opportunity and the privilege of serving in Parliament. I thank them for supporting me as part of NSW Labor's leadership team for a decade and affording me the chance to make the contributions I have. When you are elected on a ticket of a party, you must never confuse your presence here with a personal mandate, except when dealing with conscience votes.

I thank the Clerk of the Parliaments, Mr David Blunt, Ms Kate Cadell of his office, the Deputy Clerk, Mr Steven Reynolds, and all the Clerks who work with them. Their diligent and professional approach to serving the House and all who sit in it is scrupulous in its integrity and impartiality, informed by principle and historical practice. They are the custodians of the traditions of this place, but never afraid of innovation designed to improve the operation of the Chamber. Their support and advice over the years has enabled me to better discharge my responsibilities, and I know other members will feel the same. I know all members will join me in acknowledging that without their contribution, this Chamber would not be the effective house of review that it is, in all its multiple facets. I thank the committee secretariat who assist in the producing of outstanding reports of the Legislative Council, the attendants, the special constables and all who serve in this place.

I should touch briefly on the controversy surrounding your election, Mr President. I will not go into the details, but the unflappable calm of the Clerk and his office and the integrity with which he conducted himself to all, including the Government, in very difficult circumstances was a credit to the institution. Mr Blunt has written a very good paper on the subject, which is well worth a read. I note that our standing orders have now been updated to reflect the will of the House in relation to the election of the President. It is important to reflect that parliamentary law is not some mere black-letter technicality; it is what Parliament does in practice over the years.

I must say that what occurred in that situation was no adverse reflection on the Hon. Natasha Maclaren-Jones, her capability or her integrity. It occurred at a time of heightened conflict between the House and the Executive. The then Premier purported to choose the President, as if it were a part of the Executive, when the Hon. John Ajaka retired. It was important that the House chose its own custodian. While the path that was followed, chartered by me and supported by most of the non-Government members in this Chamber was the subject of some criticism within my party as well as outside it, I think it has proven to be the best outcome, not only for the House but also for the Hon. Natasha Maclaren-Jones, who is now a Minister.

I thank my family for their love and support in this endeavour that I have been engaged in for 11½ years. I thank my partner, Alison, and our amazing three children, Grace, Eleanor and James, whose childhood has passed by while I was here and, all too often, not there with them. I could not have done what I have done without their love and their day-by-day support. I am so appreciative of that, especially as this undertaking is not one that they wanted me to pursue. For the difficulties it has caused them, I apologise, and I hope that I have time to make it up.

Grace is now an amazing 22-year-old woman. She is nursing in far west New South Wales, currently in Wilcannia. Eleanor is doing wonders at Sydney University and soon to be studying at Edinburgh. James, now 17, will be undertaking the Higher School Certificate next year and is emerging as a beautiful and thoughtful young man. I cannot be more proud of my children. To my partner, Alison, who will be watching from home, I say I love you. You are an amazing partner and mother. Alison is an outstanding professional in her own field of work and an accomplished gardening author who has recently completed work on the second edition of her book, which is more like a comprehensive new work. Neither she nor my father was able to get me into gardening, but I promise her that I will keep trying.

I thank my mother, Gloria, who advised me to always follow my dreams but have a trade to fall back on. This is why I have always kept my barrister's practising certificate current—and that is quite fortuitous, as things have turned out. I extend love also to my two sisters, Emily and Josephine, who are watching, and my in-laws, Jan and Les Chivers, my sister-in-law, Roz, brother-in-law, Paul, and their respective families. I know that there are friends from the far North Coast, where I grew up, watching this: my childhood friend, Melanie Smith, who sent me a lovely message today; my adopted godmother, Denise Finley; and friends of my father, Damien Wilkinson and Cate Molloy, and many others who cannot be mentioned.

I thank those who not only supported me entering this place but those who also supported me remaining here, both those in Parliament and those in the union movement. I will not name them, for obvious reasons, but I am very appreciative of their efforts. I thank the ALP branch members in the Blue Mountains and, of course, my friend from school and university and the Blue Mountains longest serving mayor Mr Mark Greenhill, OAM. I also thank friends like Shane Prince, SC. Shane Prince and I came to the Bar at the same time and he has been a friend and confidante along this long journey.

Former work colleagues Bruce Grimshaw, Shaughn Morgan, Peter Lewis and Liz Jurnnan have remained in touch since Jeff Shaw's days. Jacquelynne Willcox-Bailey has been a source of good comfort and advice. There are so many other people I could mention and should mention, many of whom I did thank in my inaugural speech and I thank again, but there are many others I cannot mention because it would embarrass them. They know how much they have supported me personally and how much I have valued their support for me over the years. Politics can be a brutal and sometimes lonely business. They say if you want a friend in politics, get a dog. It is true that there are some fairweather and transactional folk who disappear when the weather gets heavy—and that is a long list, as most people in politics will eventually experience—but there are those who remain steadfast, and I thank them.

I thank my mates Mark Buttigieg, former leader Michael Daley and, of course, my friend from university Anthony D'Adam. There is a wider circle of friends who have also day by day given me support, friendship and advice: my local MP and friend, Trish Doyle; Janelle Saffin, whom I have known since the early 1990s when she was first the candidate for the then safe National Party seat of Lismore before she came to the upper House here; David Harris, who has been the source of much fatherly advice over the years; and Peter Primrose, whose advice on the workings of this House is without peer. I also thank the Hon. Mick Veitch, the Hon. John Graham, Kate Washington, Yasmin Cattley, Lynda Voltz, Paul Lynch, Marjorie O'Neill, Jenny Aitchison, David Mehan, Steve Bali, Liesl Tesch—I cannot name them all and I do not want anyone to read anything into it just because I did not read out the whole list. I am honoured by the presence of all of my parliamentary colleagues here tonight.

The collegiate nature of this place has also enabled the development of friendships and collaborations with those from other parties. I mention the Hon. Trevor Khan—now his Honour, a magistrate—former President John Ajaka and Niall Blair, a former Nationals leader in this place and Minister. There has been collaboration with the Hon. Robert Borsak and with Mr David Shoebridge, now departed for the Senate. Of course, I have worked collaboratively with The Greens, Animal Justice and even One Nation. The Hon. Rod Roberts and I have worked particularly well on the ICAC oversight committee.

I have also enjoyed working with a range of Ministers to effect good outcomes in the public interest: the Attorney General, Mark Speakman; Rob Stokes in relation to planning matters; Matt Kean on energy policy; health Minister Brad Hazzard, whom I have known, I realise now, for nearly three decades; and Kevin Anderson and his Chief of Staff Gavin Melvin on building reforms. I also enjoyed working with the Leader of the Government in this place, the Hon. Damien Tudehope, a tough and effective fighter for his causes but a man of integrity—when you give your word, you do not renege. That is not a universal experience in public life, so those things should be recognised.

I give my thanks to my staff who have loyally and effectively assisted me. Rob Allen has been with me for almost the whole time I have been serving in this House. Rob is loyal to a fault and what he does not know about the workings of the Labor Party has not been known by anybody. Cara Punch—who works for the Whip, the Hon. Mark Buttigieg—is an amazing, diligent and hardworking person who, when she worked for me, made me look far better than I should have. I again acknowledge the work of Jess Sparks, whom I spoke about at some length last night. No doubt there are people I have forgotten to mention that I ought to have. I see Dylan Parker, the mayor of Randwick, has joined us. I am honoured by his presence and that of so many other people.

I would like to conclude on this note because I know another valedictory speech will soon be given in the other place by Guy Zangari, which we would all like to get to. You do not always get to decide when you have the opportunity to serve in public life or in Parliament and you do not always get to choose when you leave. What you do choose and what counts is what you do with that great opportunity. I hope you will all agree that I have made good use of the time that I have had in the public interest. Thank you.

Members and officers stood in their places and applauded.

The PRESIDENT: I will now leave the chair. The House will resume at 8.00 p.m.

The PRESIDENT: According to the resolution of the House of Wednesday 12 October 2022, proceedings are now interrupted to enable the Hon. Walt Secord to make his valedictory speech without any question before the Chair. Before I call the honourable member, I welcome to the gallery this evening his beautiful wife, Julia Secord, for a very important valedictory speech. You are most welcome tonight, and every night.

The Hon. WALT SECORD (20:02): I wish to acknowledge the traditional owners of the land on which we gather and pay my respects to Elders past, present and emerging. I did a quick check, and since May 2011 I have spoken more than 1,300 times in this Chamber. Today's contribution is likely to be my last speech. Over 11 years I have held more than a dozen Opposition portfolios, including Deputy Opposition Leader in the Legislative Council from April 2015 to July 2019, shadow Treasurer, shadow health, shadow mental health, shadow police, shadow counterterrorism, shadow roads, shadow Minister for the North Coast and shadow Minister for the Arts. I have served under five different Opposition leaders. In addition, I am proud to have served as the Deputy Chair of the Parliamentary Friends of Israel and the Deputy Chair of the Parliamentary Friends of Armenia.

A mere three months ago I was on the Labor frontbench as a member of the senior leadership group. However, as everyone in this Chamber would be aware, my speech today is in the context of my stepping away from politics at the March election. Over the weeks I briefly chatted with many of you, and I want to thank those who offered me kind words and understanding. Surprisingly, some of the kindest came from my so-called opponents in the Liberal, Nationals, Shooters, Fishers and Farmers, and One Nation parties. I deeply appreciated a warm public hug from the arts Minister Ben Franklin at a Sydney Opera House arts function.

This was the day after I announced that I would not be standing again. It was so generous and kind that my wife, without my knowledge, thanked him. Ben has been a real mensch, which is Yiddish for a person of integrity and honour. I told a friend about the incident and he remarked, "Ben Franklin's parents should be proud, as they raised him well." Honourable members, I will let you in on another secret. The Legislative Council Deputy President and Nationals Party warrior Wes Fang and I have a unique bond. We both know what it is like to be an interracial child growing up in a country area, and we have shared similar experiences.

To people who have been less kind—those who have relished my resignation from the frontbench—I gently remind you, based on more than 30 years in and around politics, that we are all only ever one hour away from resigning. We are all just visiting, and everyone and everything comes to an end. A genuine mistake or miscalculation will see you removed from this Chamber in minutes. During these few months, I have had many people seek me out and reconnect, including friends like Kirk Fitis, Sabina Husic, Yosi Tal, Sam Dastyari, Eric Roozendaal, Byron Danby, Justine and Craig Elliot, Sassoon Grigorian, Tim Gleason, Shoshana Lenthén, William Nemesh and Clare Sneddon, who invited us to her wonderful pop-up wedding to Manny Sumer. In addition, I thank David Ossip, Lesli Berger and Michael Gencher, whom I went to university with in Canada and bumped into in Sydney and who is a councillor on the northern beaches.

I also thank Henry Benjamin, Gareth Narunsky, John and Patricia Azarias, Kristina Vesk, Jacquelynne Willcox-Bailey, Dr Colin Rubenstein, Darren Bark, Daniel Weizman, Wajiha Ahmed, Dr Ron Weiser, Simon and Rebecca Ehrlich, and Ian and Josie Lacey. Josie holds a special place, as she has been my adopted Aussie mum since 1988. On that note, it would be remiss not to mention my mother and my sister. My sister carries so much responsibility, as she holds our family together in my 34-year absence from our reserve in Canada. I also thank my daughter, Rachel. Incidentally, today is my mum's birthday. She is 73. Happy birthday, Brenda.

I give a special thankyou to Nora Goodridge. I do not know how it transpired but she and my wife, Julia, are good friends. They share a love of Russian language and culture. They go on weekly walks and have long talks. I often ask, "What do you talk about?" Julia always replies, "It's between us." I think they just like being in each other's company. By the way, in 1951 Nora's father was the inventor of Twisties, the snack. I dare say that is a contribution to Australian childhoods that few of us could match. I have also found deep support from my synagogue, the Emanuel Synagogue, and its Rabbinic team, and from the New South Wales Jewish and Armenian communities. I deeply appreciated the personal message from the Executive Council of Australian Jewry, a recent letter from the NSW Jewish Board of Deputies, and the humanitarian award from Jewish House last week.

My greatest pleasure in the past few months has been spending more time with my wife, Julia. Please bear with me, as I am going to speak about her a bit more than she will probably want me to. I smile when I think of her. She has changed my life and has made the prospect of stepping away from politics something to look forward to. Julia has a goal: to keep me alive and well, starting with an exercise regime every morning and Latin dancing once a week. We recently celebrated our first wedding anniversary, but we met some eight years ago. It was a blind date at Shuk in North Bondi, introduced by mutual friends. We were so engrossed in conversation that we both left the cafe without paying. It was not until I got back to my inner west home did I realise our oversight and had to return to pay.

Julia is extraordinary. She is the most glamorous grandmother I know, among other things. I love her deeply. I also want to thank Julia's family: her mum, Maiia, who survived World War II and escaped Nazi-occupied Ukraine; my stepdaughter, Ellie; and my stepson, Stan, and his angel wife, Dorin. We now have time to share and enjoy Julia's three grandsons: Isaac, Noah and Jacob. We treasure them. Julia said that she had

always wanted to be the matriarch who saved her family from oppression in Russia and build a new life in the West. She did just that. She left Moscow, where she had a major career as a theatre designer. She had designed sets and costumes for productions throughout Russia, including Siberia. She even worked on Tennessee Williams' *The Glass Menagerie*.

She does not like it when I mention this, but she and her then director husband were among the first to have nudity on the Russian stage in the late 1980s. This was in a town called Andropov, named after the KGB boss and the then Soviet leader. The town is located north of Moscow on the Volga River. It is said that crowds lined up around the street to see their production of *The Last Woman of Don Juan*. Members of Julia's family were famous refuseniks who secretly studied the *Torah* in Hebrew and fought for Soviet Jews to be allowed to migrate to Israel. They were contemporaries of Russian Jewish activist Natan Sharansky, the Israeli politician, human rights activist and author who spent nine years in Soviet prisons as a refusenik in the 1970s and 1980s. The then Australian Council of Trade Unions leader and later Prime Minister Bob Hawke and Australian Jewish leader Isi Leibler were directly involved in helping members of Julia's family escape the Soviet Union.

Julia is now in the final stages of the production of her novel, *The Girl From Moscow*, a historical thriller set in 1980s Soviet Union that parallels the current police state in Russia. It is the product of 10 years of work. In March this year it was shortlisted as one of four finalists in the Australian Society of Authors' commercial fiction prize for best unpublished manuscript. Since then she has secured a New York agent and has sold the Australian and New Zealand rights. It should be on bookshelves in Australia in less than 18 months and hopefully overseas too. I cherish every minute with Julia. I want to pass away before her so that I am not on this earth without her.

Now I turn to a deeply personal matter that I have shared with very few people. About a year ago I went to a counsellor and asked why I was having so many nightmares. The nightmares were about my childhood growing up on an Indian reserve in the 1970s in southern Canada. The dreams and nightmares were unrelenting. Every morning I would wake up devastated and exhausted. After a number of sessions, my counsellor said it was probably because I was now secure in my life with Julia and it was finally safe to revisit the tragedies and difficulties of my unusual past. Upon reflection, I think he was right. Since meeting Julia, I have never been happier or more content. But it also allows me to see my childhood and earlier life with clarity. Through that clarity, there is the good with the bad.

Honourable members will not be surprised that, for the shelter my parents provided, my environment was not always happy or safe. Now, I have seen real bullying and real intimidation. I have experienced physical and mental bullying that would never seem to end. School holidays were the only reprieve. I remember the day I proudly won a spelling bee competition held at a reserve school. My pride was short-lived when my sister shook her head and said in desperation, "Why did you win it?" "Because," she said, "you're going to get it in the school yard at recess and after school." She was not wrong. Bullying where I grew up was seldom subtle or strategic. It descended into violent physical assault. I have a deep gash on my left wrist, which is a permanent reminder of the violence on a school bus one day.

The violence got so bad in year 3 that my mother withdrew me from the reserve school. The principal at the time offered no assistance. My mum kept me out of the classroom, in protest, for five months. Looking back now, some of that bullying was what we would probably call criminal. We are not referring to people talking over each other in meetings. We are not talking about raised voices because someone missed an important deadline or someone supplied work not worthy of a leader. I will return to this later. I think it is clear to me now that what helped me survive growing up on an Indian reserve and what made me successful at the cut and thrust of politics also made me vulnerable in politics to attack. Growing up as one of two mixed-race children on an Indian reserve forced me to make a decision. The decision was that I had to be tough, I had to stand up to a crowd and I had to be assertive. Often I was the only person against the mob.

Several years ago, as I said, after a string of deaths in my immediate family and among close friends from university in Canada and, most recently, at the height of COVID, I observed that we are just specks in the universe. Against this perspective, what cause is there to begrudge the ups and downs of a privileged career? Life goes on. We dust ourselves off and we get on with life. Over the past 30 years, I have worked at the highest levels in Australian politics. This included with two Premiers, as a chief of staff from 2009 to 2011 and as a director of communications from 1995 to 2005. I have held similar roles for a Federal Opposition leader and several State and Federal Ministers as well as a State Treasurer. In that career, I have been to the top of Australian politics three times and I have been to the bottom three times. Even those upheavals and downturns are not peaks and valleys; they are mere ridges on a high plateau when I consider how unlikely I was to have achieved these heights at all.

I grew up on an Indian reserve in Ontario, the Mississaugas of the Credit First Nation, and migrated to Australia in September 1988. I was actually born only two years after First Nations people in Canada were given the vote in Federal elections. I am the product of a bicultural relationship, which was unusual at the time—unusual in that my mum was white and she joined my father's people. It was virtually unheard of at the time. My late father

was a Mohawk-Ojibway Mississauga First Nation and my mother, who was of European descent, was a teenager when she gave birth to me. My father was born on a kitchen table during World War II. His childhood was soaked with alcoholism, poverty, violence and illiteracy. He was one of 10 siblings with two parents in a two-bedroom house. He had served time as a juvenile offender for car stealing. His incarceration was the first time in his life that he had three square meals a day.

In my own childhood home, we did not have running water or sewerage until I was a teenager. In fact, my first experience with a showerhead was at university. I still remember as a 17-year-old sitting in residence at York University on the edge of my bed and reflecting that I was now safe for the first time in my life. Five generations earlier, my great-great-great-grandfather was one of those who had actually agreed to a treaty in 1787 ceding the very land where my university had been built. My growing up on an Indian reserve has made me acutely aware of the challenges of First Nations people here, but they are different to the Canadian experience. You cannot compare the situation. Canada had treaties but Australia did not and does not. Let us hope that will change soon.

I was the first member of my family to complete high school, go to university, do postgraduate study and fly on an aeroplane. I often tell this story: One of my late father's sisters actually asked if I was coming back to Canada on the weekends. Since leaving Canada I have been to places that my family members would have never dreamed possible or would not have even known about—Israel, the Palestinian territories, Iraq, Artsakh, Bangladesh, Jordan, Oman, Armenia, Georgia, Morocco, Turkey, Egypt, Brazil, Argentina, Uruguay, Sri Lanka, Gibraltar and most of Europe.

I have been to the United States Holocaust Memorial Museum in Washington; the Jewish Museum Berlin, which is the largest Jewish museum in Europe; Yad Vashem in Jerusalem, which is the World Holocaust Remembrance Center; the Nanjing massacre museum; and the national genocide museums in Iraqi Kurdistan and Armenia. I have also visited Auschwitz-Birkenau in Poland in the bitter winter and the haunting museum of the so-called "disappeared" in Buenos Aires. I have met Syrian refugees seeking asylum in Germany and visited historic Lisbon and Jakarta mosques.

In 2018 I visited both Singapore and Portugal to understand the full breadth of drug policy. I wanted to see both a liberal, health-based approach and an uncompromising law enforcement one—two different approaches. Without canvassing old positions, my views on drugs are very progressive. For a number of years I have maintained that illicit drug use requires a broader policy response than just policing; it is a health challenge. I do not believe that we can arrest our way out of the problem.

I have also been fortunate to gain experiences and work in environments that I never thought possible. I got to work with leaders and help set directions for an entire State. In New South Wales we set up Australia's first medically supervised injecting room for people addicted to heroin. We legalised prostitution to reduce police corruption and to protect sex workers. We improved literacy and numeracy standards to world-class levels and unfortunately then saw them slide away under this Government. We expanded the national parks system in New South Wales, and we were the first Australian jurisdiction to apologise to the Stolen Generations.

Most recently I chaired the parliamentary inquiry into the State's massive floods and worked to ban the Nazi swastika in New South Wales in the face of rising antisemitism across the State, Australia and the world. Incidentally, the floods inquiry was the first and only inquiry in my 11 years in this Chamber that I got to chair. The pain still being experienced on the North Coast is extraordinary. There is so much work to be done to repair those communities, but it is one of the very few reports to have the Government accept all of its recommendations.

On a personal level, I am proud to have been associated with Shalom Gamarada, a partnership between the Jewish and Aboriginal communities that supports the education of First Nations doctors and other professionals. It has so far supported 27 doctors, which is remarkable when one notes there are 175 Indigenous doctors in Australia. That means more than 15 per cent of all Indigenous doctors in Australia were associated with Shalom Gamarada.

On a related note, I am also very proud of bringing attention to genocide and supporting the annual Myall Creek massacre commemoration in northern New South Wales. I am still staggered by the then Attorney General, John Plunkett, who in 1838 insisted the stockmen who murdered 28 unarmed Aboriginal men, women and children be put on trial for their atrocities. Plunkett deserves more recognition for taking that stand, which sparked uproar in the colony at the time. Legal academics speculate that the course of action he pursued was in fact one of the first war crimes trials in the world.

I often spoke in this place about Aboriginal deaths in custody, closing the gap, constitutional recognition, an Indigenous voice to Parliament and the Stolen Generation. There is still so much more work to be done in that policy area. It is deeply disappointing that Indigenous adults remain 15 times more likely to be jailed than

non-Indigenous Australians and juveniles are 26 times more likely. The fastest growing prison population is Indigenous women. As a nation, how can we rationalise those confronting statistics?

On a more positive note, I was delighted to host the activities of the Religions for Peace New South Wales chapter since 2012. Chaired by Mrs Josie Lacey, Religions for Peace comprises spiritual leaders and adherents of the Buddhist, Baha'i, Jewish, Muslim, Sikh and Hindu faiths as well as various Christian denominations. It has since added Indigenous beliefs and Zoroastrianism. The group is a model for how we should conduct ourselves and carries out all of its activities with dignity and respect for others. As I said earlier, my term will come to an end in March 2023. Provocative British politician Enoch Powell wrote:

All political lives, unless they are cut off in midstream at a happy juncture, end in failure, because that is the nature of politics and of human affairs.

On that point, I recommend a book that has helped me understand recent events—Michael Ignatieff's work *Fire and Ashes: Success and Failure in Politics*. It details his time from 2008 to 2011 as the Leader of the Opposition in Canada. It is a rare political biography written from the perspective of not getting there. Ignatieff never became Prime Minister of Canada. It is a book full of wisdom and profound insights, and he writes with brutal honesty about himself. Yet we all know that even those who succeed to the highest offices rarely escape the eventual fall, such is the nature of politics. Paul Keating said:

We all get carried out in the end ... The big question is what sort of a trail can you blaze, and with what sort of elan.

While I do hope that I have offered members some moments of elan in this Chamber, my Jewish friends and family might say that chutzpah is more apt. But I hope that—working with others, of course—I have blazed some trails and made some paths to opportunities just a little broader and a little brighter.

Incidentally, having gone from working 17 hours a day to more civilised hours, I have discovered that I like reading biographies. I shrugged once when shadow Treasurer Daniel Mookhey said he rarely read fiction and he relished biographies, but I now realise he was onto something. In a very short span, I have consumed biographies on Golda Meir, Upton Sinclair, Ben Hecht, Yitzhak Rabin, Benjamin Netanyahu, Groucho Marx and Joe Hildebrand—yes, that Joe Hildebrand, and I thought I had an unusual childhood! But I digress.

It is time for a new generation of politicians from more diverse backgrounds to take over the New South Wales Labor Party, and I will spend the coming months working towards a new New South Wales Government with Chris Minns as our next Premier and Prue Car as the Deputy Premier. I believe that NSW Labor stands its best chance to form government in the State since early November 2018. It would be remiss of me if I did not address the elephant in the room. I admit I was a tough operator in the New South Wales Labor Party and in the Parliament, but I assure you there are tougher ones. I was brought down when two forces conspired around a goal—getting me out of Parliament. Those cliques comprise mainly disgruntled supporters of the former Labor leader and a pocket of vicious anti-Israel actors.

Addressing the first group, I do not at all regret starting the May 2021 process as shadow Treasurer that eventually saw the removal of the former Opposition leader. To the contrary, I am proud of my role in those events and in shaping Labor history. NSW Labor is in a much stronger position today than we were then. Anyone who denies that really needs to get out and talk to the community more often. As to the latter group, again I regret nothing. I believe it is imperative that there is always a strong Labor voice in support of the Jewish community and the State of Israel. This is akin to one person standing up to a mob and on that issue I proudly stand on my record.

In the support of Israel I have gone head to head with those in my own party who want to see the destruction of the Jewish State. I fought the vile and antisemitic boycott divestment and sanctions of the BDS movement against Israel and I fought for the International Holocaust Remembrance Alliance definition of "antisemitism". As a strong supporter of Israel and the Jewish community and now a Jew myself, it would be shameful of me to stand by and do and say nothing. I fought for the ban on the Nazi flag in New South Wales, and thankfully the New South Wales Government agreed.

While I did not hesitate, in the face of relentless attacks, to step aside to avoid damage to the Labor Party, I can say that I have yet to physically see even one of the anonymous and untested complaints made against me, after they were announced with such public fanfare back in August. I note also that they were vented by a well-known anti-Israel journalist at a press conference. The tactic was clear: Use a press conference called to report on dozens of specific incidences of bullying, harassment and outright assault presented in the Broderick report and then throw one person's name in the mix as loudly and vaguely as possible. To use the report for vindictive political purposes was disgraceful.

Not surprisingly, a random allegation that emerged after the report had been concluded came from a former staff member of mine. He made the bizarre claim to a journalist that I had banned any discussion of a two-state

solution between Israel and the Palestinians in my parliamentary office. It was a blatant lie. On many occasions, including in this very Chamber, I had spoken in favour of a two-state solution. I think I am one of the few who still holds onto that view. The overeager complainant quickly withdrew the matter when confronted with the prospect of a defamation action. Separately, three colleagues claimed to journalists that I was too forceful in a meeting in defence of Israel against a BDS motion. It was also suggested that I was conflicted as a Jew and a Zionist. For the record, I am proudly both.

For those who have a problem with that terminology, they should open their dictionary or a history book. Therefore, in their words, I should not be allowed to debate or discuss Israel because of so-called dual loyalty. Anyone with a knowledge of history of antisemitism knows this is one of the oldest tropes. It is pretty disgusting stuff, actually. This came from the very same person who, earlier this year, taunted me in the canteen and asked whether I was going to have the pork dish for dinner. But I digress. Honourable members, I say, try being the top bicultural student on an Indian reserve in Canada in the 1970s. So here we are, three months later. I have yet to be provided with a single written formal complaint and I have been advised by my lawyer that there are no complaints about me in the Broderick report. My name is not even mentioned.

For the record, the accusations were vented through the media and not formally submitted to the Parliament. I am now considering legal action. Honourable members, maybe I should have fought on, like the member for Bankstown or the member for Newtown, or the member for Shellharbour in relation to a different matter. Maybe I should have fought on, but I made my decision at the time and I stand by it. I did not want to be an obstacle to Labor leader Chris Minns becoming Premier. I did not want my story to be a distraction from the serious and vital work arising from the report. I do know that the forces who united against me would have continued their vicious campaign and, as a result, it would have been challenging to win a preselection.

Because of this, stepping down was the right thing for Labor. I know so. So it is time to retire from politics and, as a friend observed to me, "You fought for a party for 11 years and they're likely to form government. But, like Moses, you will not go with them." It is pretty presumptuous to use the Moses analogy, but I thank him for the observation just the same. I will step away at the March 2023 State election but I will maintain my links to Labor and the Jewish community. I also pledge to continue to oppose and confront antisemitism and anti-Israel activities in all forms in New South Wales and Australia.

As I mentioned before, I have been the deputy chair of the Parliamentary Friends of Israel for 11 years. I have served under three separate chairs and the current one, Scott Farlow, was the most knowledgeable on Israel and the Jewish community. His interest and support for the Jewish community and Israel is genuine. I have visited Israel on three lengthy trips. As I said, I have been to Auschwitz-Birkenau and to Yad Vashem on four separate occasions. In June 2020 I converted to Judaism. I got married to Julia under the chuppah, which is the Jewish wedding canopy, 13 months ago. I am learning Hebrew—but do not test me, as languages have never been my strong point. This is a long and unusual road for a boy who grew up on a First Nations Indian reserve in southern Canada, but those who know me know that my support for Israel and the Jewish community goes back to my childhood.

My childhood mentor growing up on an Indian reserve was a holocaust survivor. Godel Silber and the woman who later became his wife both survived Auschwitz-Birkenau. He changed and shaped my life. He taught me that education was a great leveller in an unfair society. I would not be standing here if it were not for him and the Canadian education system. That is why I am so disappointed by the dramatic deterioration in education standards under the Liberals and The Nationals. We have seen New South Wales education standards plummet. In New South Wales the proportion of Indigenous final year high school students attaining their HSC has gone backwards from 46 per cent in 2017 to 45 per cent in 2020 and 43 per cent in 2021.

My personal background and my connection to Mr Silber made me acutely aware of genocide and the horrors of intolerance and racism. That is why I have been involved with the Armenian, Bosnian, Rwandan and First Nations communities. Mr Silber also taught me about Tikkun Olam and that we are all responsible for each other. At Mr Silber's urging I studied and studied. I completed high school and went to university. I became a journalist in Canada and worked at the *Toronto Star*, the nation's largest newspaper. Those who know me are aware that I also worked at the *Australian Jewish News* from 1988 to 1991, after moving to Australia. I actually worked there for three weeks before they realised that I was not Jewish yet. By then, I had proven myself and I worked there for four years.

On that note, I mention a special friend Rabbi Mendel Kastel. He officiated at my late father-in-law's funeral and conducted part of the ceremony in Yiddish, so the elderly friends who spoke only Russian and Yiddish could understand. As well as being a rabbi, he is a lifelong friend. A number of years ago Mendel observed that I was sad. He asked me what was wrong and whether I needed to talk about anything. I replied quickly, "Mendel, I'm not Jewish." This was before my conversion. He turned to me and he said, "Walt, you are a human being." We had a chat and he was a great comfort. Rabbi Kastel has been a great friend and a wonderful human being.

Such is the kind and ethical leadership that Rabbi Mendel Kastel has brought to my life and to others. I thank the Emanuel Synagogue's rabbinic team: Rabbi Jeffrey Kamins, Rabbi Jacqueline Ninio, Rabbi Rafi Kaiserblueth, Rabbi George Mordecai and Reverend Sam Zwarenstein, who will soon become Rabbi Zwarenstein. They have always been supportive.

As I depart and reflect on my time in the New South Wales Parliament, I know that New South Wales will be in safe hands if Chris Minns is elected Premier. He leads a strong and deep frontbench ready for government. Prue Carr will repair the education system. The Hon. Daniel Mookhey and Anoulack Chanthivong will be a formidable economic ministerial team. Ryan Park will be a great health Minister. Paul Scully will be a fantastic police Minister. The Hon. Courtney Houssos will be a great Minister—and she should get a senior portfolio. The Hon. Penny Sharpe will be a great protector of the environment. The Hon. John Graham will be a wonderful Minister for the Arts, a portfolio that we both deeply cherish. The Hon. Tara Moriarty—I am sorry—she has handled prisons well, which means she will probably keep the portfolio.

Greg Warren, the little battler, will be a great Minister for Western Sydney and Minister for Veterans. Steve Kamper will stand up for businesses and multicultural communities—his work will be so important. David Harris will be a fantastic Minister for Aboriginal Affairs and Minister for Treaty. As a person from a First Nations background in Canada, I wish David Harris well on the path to reconciliation, truth-telling and social justice for First Nations Australians, and on treaty—or treaties, for that matter. I also note the entry of extraordinary talent into the party, including: the member for Strathfield, Jason Yat-Sen Li; Dubbo-based barrister Steven Lawrence; and the member for Bega, Dr Michael Holland, whom I have known since 2006. All three are great candidates for the front bench; in fact, Jason and Stephen would make fantastic attorneys general in a Minns government.

I end with a few observations. Some in this Chamber want us to believe that the Lord's Prayer is an encroachment on democracy in this place. Reciting prayers has occurred in the United Kingdom Parliament since 1567 and in the American and Canadian equivalents since 1789 and 1877 respectively. I do not believe that we should scrap this longstanding and valued tradition in Australia's oldest Chamber. On 26 September 2019 I became the first Labor MLC in more than 10 years to read the prayer in the Legislative Council. I think the Hon. Tara Moriarty was the second. Usually the protocol is that the prayer is read by the President and if the President for some reason objects or is unable to, it is read by the Clerk. It was an honour and a privilege to recite the prayer.

I say this to highlight the false premise of those who see this simply as a left versus right or conservative versus progressive equation. My point in this example is that we are all complex. I support retaining the Lord's Prayer but I do not support a conservative social agenda. I strongly support a woman's right to choice. I support drug law reform. I oppose the death penalty. I vehemently oppose mandatory sentencing. I despise gay conversion therapy. The recent prayer debate has revealed—and former US President Barack Obama has recently pointed this out—that there is a genuine lack of empathy in public debate on sensitive matters. He encouraged his audience to understand the complexity of human beings. Those whom you oppose still love their children.

Unfortunately, there seems to be a trend in so-called progressive circles—I see it often in this Chamber—where some believe that simply telling others how you think they are wrong is enough. President Obama's remarks on political correctness are relevant to what we see today and every day, for that matter. For heaven's sake people, spend less time on social media. Twitter is not the real world. If there is a single, clear message from both the 2022 Australian Federal election result and the 2022 US midterm elections, it is that there is still a vast majority of citizens with diverse but largely centrist views who want respect and compromise to be pillars of how we reconcile our different views. Extreme and uncompromising positions may attract clicks and likes but they are not gaining votes.

On my regrets and disappointments, I am very disappointed that former Premier Bob Carr and I are now so distant. I worked as his director of communications for 10 years and dealt with him on a daily basis, often seven days a week. Today we are polar opposites on Israel and the Middle East because of his harsh criticisms of Israel and his attacks on what he calls the "lobby". I put the inverted commas around the lobby. He often forgets that Israel is the only democracy in the Middle East. The Jewish community and I are dismayed and deeply upset by his words and actions. That contrasts with my friendship with Kristina Keneally. I worked with her as her chief of staff for two years. I hope that she is happy in her new position as Sydney Children's Hospital Foundation chief executive officer.

I thank Bob Nanva, Dom Ofner, Gerard Hayes, Graeme Kelly, the Hon. Greg Donnelly, Gerard Dwyer, George and Courtney Houssos, Dan Walton, Ed Ovadia, Sarah Michael and James Cullen. I also deeply thank my former staffers: Luke Maxfield, who now works for the Premier of Victoria as his health adviser; Michael Buckland; Michael Baker; Ruben Allas; Sachin Saxena, who now works for Chris Minns; and Nikoletta Louverdis. Sachin Saxena wrote the first question on the now disgraced former member for Wagga Wagga, Daryl Maguire, and the Riverina Conservatorium of Music. Talk about starting an avalanche!

Nikoletta and I had a great time taking then Premier Barry O'Farrell to the NSW Civil and Administrative Tribunal. I represented the Opposition with Nikoletta by my side, and we came face to face with the State's Crown Solicitor. All three of us were quite amused. Eventually, we got the documents. Nikoletta has a strong, sharp legal mind and is now a lawyer in Canberra. She is an expert in the law of the sea. I also thank Gabriel Sassoon. Slightly over a year ago we dumped him in the deep end, but he rose to the occasion and was responsible for chairing our question time committee.

I thank the Legislative Council staff, including David Blunt, Steven Reynolds, Stephen Frappell, Beverly Duffy, Susan Want, Jenelle Moore, Shaza Barbar and Kate Cadell. I thank everyone at Hansard and the council attendants, John, Richard and Mark. I regret that I cannot acknowledge in person the late Greens MLC Dr John Kaye. We were the first non-Government members to successfully amend a Government bill from opposition. At the time, that was unusual. I still remember Legislative Council staff being sceptical about our chances, but we were the first. It was about, of all things, children and the regulation of e-cigarettes. It is now common to amend or defeat a Government bill in the Legislative Council, which makes it a genuine house of review.

Beyond the people that I am grateful to have worked with, there are also moments to cherish. A small highlight, which occurred some years ago at Martin Place, was when I noticed Hansard subeditor Bronwyn Robins racing up some stairs. She passed a homeless man who was asking for money and, without thought, she gave him a \$20 note. For some reason, that image has always stayed with me. As I said earlier, a person's character is most evident in how they treat those who are not in a position to reciprocate or retaliate or when no-one is looking.

I thoroughly enjoyed delivering the Opposition's reply to the Hon. Sam Farraway's motion on World Squash Day. It was truly a mischievous highlight. I even made myself laugh. Look it up; it happened on 23 September 2020. Another small joy that I cherish occurred just last week in this place when The Nationals MLC the Hon. Scott Barrett spoke during private members' statements. I still remember the Hon. Courtney Houssos arguing for more family-friendly measures for parliamentarians and staff, including having children in the Chamber. I thought to myself, "Well, I never had that. I missed swimming carnivals. I often got home when my daughter was fast asleep." Courtney pointed out that things had to change, and she is right. I cheered when little Henry jumped into Scott's arms while he was addressing the Chamber.

I have had many issues to canvass in this place over the years as a senior member of the Opposition. Many of those issues are deeply sad, such as the St Vincent's Hospital chemotherapy underdosing scandal; the teething problems at the privatised Northern Beaches Hospital; the Bankstown-Lidcombe baby gassing tragedy, which saw the end of then health Minister Jillian Skinner's tenure; and the horrific baby cremation mix-ups in western Sydney hospitals. Some matters are memorable for different reasons. The Bentley blockade is one of those. I will always remember sitting around the campfire and talking about coal seam gas with the Knitting Nanas. It also did not escape me that I was the most conservative person at that entire rally. Some matters seem perennial, like the Powerhouse Museum. Yes, the Powerhouse Museum. It took eight years of inquiry. Thank you, the Hon. Robert Borsak.

Mindful of time, I end with another Paul Keating story. He used to recall his weekly visits to legendary Labor figure Jack Lang. Lang said, "Mr Keating, you'll never be anyone until you have a reasonable stock of enemies." Keating replied:

It is just so true ... And of course having enemies worries some people; for me, it is a badge of honour. I don't care about it – it has never worried me that a group of people would have not a bar of me.

Unsurprisingly, after all I have just said, a big part of me is actually looking forward to stepping away from politics and beginning the next stage of my life. It is unlikely to be a retirement in a traditional sense but whatever the future holds, I am and will always be exceedingly grateful for the immense pleasure and privilege of being a member of the New South Wales Parliament and its Legislative Council. So few people get to be parliamentarians and get to represent the community; it is quite rare. I may leave with some enemies but I also leave with many very close and loyal friends. In my experience, friendships are never too many nor too few but always sufficient. As I always say at the end of every one of my parliamentary contributions, I thank the House for its consideration, and I truly do so. Thank you.

Members and officers stood in their places and applauded.

Bills

NSW RECONSTRUCTION AUTHORITY BILL 2022

Second Reading Debate

Debate resumed from an earlier hour.

Mr JUSTIN FIELD (20:53): I contribute to the debate on the NSW Reconstruction Authority Bill 2022. The Parliament is having a debate about the need for better preparedness for our community and better ability to respond to natural disasters for the very real reason that over the past four years the State has felt like a continuous disaster zone. Where I live on the South Coast, the 2019-20 fires, which were not just limited to the South Coast but which occurred across the State, surpassed everyone's expectation of just how catastrophically damaging fire could be.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): Order! There is too much audible conversation in the House. Members will take their conversations outside the Chamber.

Mr JUSTIN FIELD: The fires surpassed everything I expected was possible from catastrophic fire conditions. Now it feels like we have been living through one flood after another, with communities again so widely spread across the State. A couple of things are clear from that. One is that climate change is here today. It is delivering what the scientists have always said, which is more severe and more regular extreme weather events, and their destructive power is increasing at an exponential rate. We have known that. It has also highlighted that there are significant gaps in our preparedness but also in our ability to respond, given the breadth of the impacts. So it is right that governments are reflecting and, where required, bringing legislation to ensure that we are better able to respond to those needs of the community.

This bill is extraordinary in a lot of ways. Extraordinary powers are sought to be given to the authority and the Minister through this bill. Reading the name "NSW Reconstruction Authority Bill", it is almost as if we have recognised that there needs to be a coordinating central body for assisting communities to recover from extreme events, but this bill goes far more broadly than that. It is not only in the recovery. It is also in the immediate response and the preparedness. I am absolutely prepared to accept that it makes sense to have a coordinating authority to deal with all levels, preparing for extreme events, responding to the immediate need and then the reconstruction. They are quite separate things, but it makes sense to have some alignment in that.

We can do that in a way that appropriately recognises the complexity of these issues and the need to work, engage and consult with communities and does not throw out all of the different laws, structures and institutions that have built up around how our community and our civil society works, such as protected areas, Indigenous control, involvement and co-management of land, and the role of councils and community bodies in deciding the future of their communities. This bill has extraordinary reach to wipe away what some might call red tape but what are necessary arrangements set in place over time. I must be honest. We have had rolling disasters for four years in this State, and there has been debate and inquiries about the adequacy of responses in the past. But, with a day and a half of Parliament to go before an election, this bill with extraordinary powers is expected to be passed by this House with little time to fully understand its breadth and impacts.

I, like others who have spoken already on this, including Ms Cate Faehrmann, the Hon. Penny Sharpe and the Hon. John Graham, have recognised some of the concerns of constituent groups in particular, the potential impact of development on protected areas but also the potential impact on Aboriginal-controlled or -owned land. At the stroke of a pen, it seems from reading, the authority and the Minister can do whatever they want on any parcel of land anywhere around the State. In the briefing earlier in the week, the Government clearly said that is not their intention. "That's not how it works in Queensland. It's only been used a few times. Have a look there." But I must ask why, if it has not been used, it is necessary.

I will make a couple of points and will probably address them in a bit more detail at the Committee stage. The Government has tried to make quite a virtue on its action and plans on climate change, particularly through Minister Matt Kean, over the past few years. Certainly part of that is the Government's plans to reduce carbon emissions, but another part is its commitment to invest in climate adaption planning, for which I think about \$93 million has been put on the table. It is extraordinary that climate change is not mentioned anywhere in the bill. It is also extraordinary that no Government member has spoken about climate change in their contributions, because the ability to plan for a changing climate, and the extreme weather events that will come with that, is what we are talking about here. There is no indication at all in the bill that this plan, and the actions of the authority or the Minister, must be in alignment with the adaption plans that are being worked on by the Government that that \$93 million is being put towards.

I say to the Minister for Planning and the Minister with carriage of the bill in this House, the Hon. Bronnie Taylor, that we need to plan. I do not mind if an authority does that work in a coordinated way. If it is a good idea to develop a piece of public land at a moment's notice in preparedness for potential emergencies, why is the Government not already developing community resilience strategies and adaption plans and working with communities to go through the planning process to put in place those sorts of arrangements? Why does the Government need extraordinary overriding powers to prepare communities to adapt to, respond to and mitigate the impacts of climate change? That planning could be done now in the context of the current planning system in

consultation with communities without the emergency and reserve powers proposed in the bill. That is a very concerning aspect of the bill.

The issue of development approval powers in division 2 of the bill is one that I know well. The bill will give the Minister the ability to authorise the undertaking of any development, including a development that would be considered State-significant infrastructure, on any land that relates to a declared project, a reconstruction area or a disaster prevention area. Once that authorisation has been given, the fact that a disaster has passed does not necessarily turn off that authorisation. In fact, that is specified explicitly in the bill.

It is quite clear from my reading of the bill—and I am happy to be told otherwise—that the Minister for Planning could use those powers to approve the raising of the Warragamba Dam wall if it is determined that the dam is a disaster prevention area, and that authorisation would not be dependent on a disaster being forecast or underway at the time. Any area could be declared a disaster prevention area if it is thought that taking action would prevent a future disaster. The Minister could therefore authorise any project, overriding the planning system in New South Wales. Even if a disaster had passed, the authorisation could continue. That is an extraordinary power for a Minister to have. I ask the Minister in her response to outline how the bill would not authorise such an action.

After the fires, there were pushes from senior Ministers within the Coalition to undertake broadscale clearing along roadways and to implement broadscale firebreaks. The National Parks and Wildlife Service was attacked, despite the fact that it was one of the most active and effective agencies in ongoing hazard reduction and fire-risk planning on its land. It was used as a political opportunity to go after the agency and its staff. There were plans in place and orders written by Ministers to clear roadways without any scientific or human protection basis. After the fact, the Government used the fires to justify bringing in the boundary clearing rules, which has opened the door for all private and public landholders to clear massive amounts of land under the guise of fire protection.

The Government ignored the fact that the bushfire report that experts had worked on over a long time—they travelled around the State and engaged with the community—made it clear that in those catastrophic conditions that sort of clearing would make no difference at all to the spread of fire. Some of the analyses done by the best experts in forest management have indicated that one of the best ways to protect communities living in and around forests from fires is to allow our forests to regrow and age, and that older, mature forests with maintained canopies are wetter and more able to resist fire moving through the landscape.

Despite all this evidence, governments have tried to use crises to justify extraordinary impacts in environmental areas. The Government was trying to do that when it did not have the legislative power to just step in. Now it is trying to give itself that power. I think that is overreach in the extreme and it undermines the important point of this sort of legislation—to give communities the confidence that the Government has a mechanism in place to coordinate public resources, respond to extreme weather events and crises, and enable communities to get back on their feet. I think it is a bridge too far. It is not justified. People are legitimately concerned, in part because of the behaviour of the Government in responding to crises over the past four years. It is extraordinary that the bill is being rushed through in the dying days of this Government when crises have been happening over the past four years and we have had ample time to deal with them.

It is troubling that there is no mention of the work being done on the adaptation plan and how it will intersect with the powers that have been given to the authority and to the Minister. I struggle to support the bill at this stage, but I recognise that elements of it are important. I understand that we will not deal with the bill in Committee tonight but I hope we are given an opportunity to have a conversation about the appropriate level of powers to enable this body to do its work. What appropriate checks and balances can we put in place to assure the community? They are concerned that, in the heat of a crisis, some of the challenging political disagreements we are having about managing crises and infrastructure and our approaches to dealing with climate change will be played out by the stroke of a Minister's pen. I do not think that is good enough. I encourage the Minister to work collaboratively overnight and in the morning to find a way to balance that incredible need with the risks that are legitimate and understood.

The Hon. SHAYNE MALLARD (21:07): On behalf of the Hon. Bronnie Taylor: In reply: I thank Mr Justin Field and other honourable members for their contributions to debate on the NSW Reconstruction Authority Bill 2022. Members in this place and in the other place have referred to the fact that during the past few years communities across our State have faced disaster after disaster. I know that well from living in the Blue Mountains. I note the current flood crisis in central New South Wales. Members expressed sympathy and concern for communities in that area. I saw the news tonight and the floods are devastating.

More work needs to be done to help communities rebuild stronger, safer, more resilient and better than before and local solutions will be needed to get that right. Local government representation on the advisory board will be critical to ensure that local voices and solutions are woven into the authority's strategic vision and the

deliverables for New South Wales. Every disaster affects each community in its own unique way. If responses and mitigation measures are to be effective, they must be tailored to each location and community. Time is the most valuable resource during a disaster. The Government is foreshadowing that it will not support any additional amendments that take time away from protecting lives and property at this crucial moment. With those few words, I commend the bill to the House.

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

Motion agreed to.

The Hon. SHAYNE MALLARD: On behalf of the Hon. Bronnie Taylor: I move:

That consideration of the bill in Committee of the Whole stand as an order of the day for a later hour.

Motion agreed to.

PRIVACY AND PERSONAL INFORMATION PROTECTION AMENDMENT BILL 2022

Second Reading Speech

The Hon. SHAYNE MALLARD (21:10): On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Privacy and Personal Information Protection Amendment Bill 2022. The bill will amend the Privacy and Personal Information Protection Act 1998 and make consequential amendments to the Government Information (Public Access) Act 2009 and the Fines Act 1996 to establish the Mandatory Notification of Data Breach Scheme and related reforms. The bill establishes a scheme that will require New South Wales public sector agencies, in the event of a suspected data breach, to contain the breach and assess the likely severity of harm-impacted individuals; to notify the Privacy Commissioner as well as impacted individuals if the agency assesses that the breach is likely to result in serious harm to an individual; and to issue a public notification where impacted individuals cannot be identified or where it is not reasonably practicable to notify them. The scheme will be the first of its kind among State and Territory governments and is further evidence of the New South Wales Government leading the way in digital governance and data integrity.

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

Leave granted.

The New South Wales Government has already taken significant steps to protect citizens' data security and support those impacted by data theft.

For example, in 2020, the New South Wales Government allocated \$60 million to establishing and funding Cyber Security NSW across three years. Cyber Security NSW has grown rapidly to provide a range of support services and tools to enhance the New South Wales Government's holistic capability to better prevent, detect and respond to cyber security incidents aimed at government entities.

The Government has also established ID Support NSW to support people impacted by identity misuse.

The current privacy landscape

Agencies hold sensitive information about citizens, including personal, health and financial information. High-profile data breaches in recent times in the private sector have demonstrated the potential harm to individuals that can result from unauthorised access to, or unauthorised disclosure of, personal information.

Currently, the PPIP Act does not require agencies or NSW State Owned Corporations which are not regulated by the Commonwealth Privacy Act 1988 (Commonwealth Privacy Act) to notify the Privacy Commissioner or impacted individuals of a data breach that is likely to result in serious harm.

However, the Privacy Commissioner currently oversees a voluntary reporting scheme, which encourages agencies that have experienced a serious data breach to report the details of the breach to the Privacy Commissioner, so that the Privacy Commissioner can assess the breach, provide advice or investigate.

The rationale for introducing the MNDB Scheme

The New South Wales Government is committed to putting the people of New South Wales at the core of everything it does.

That is why the scheme will introduce a legal requirement for agencies to notify individuals when their personal information has been impacted by an eligible breach.

This will empower individuals who are likely to experience serious harm because of a data breach involving their personal or health information. Once notified, individuals will be able to take their own steps to mitigate the risk of harm that may arise from the breach.

Complementary work in data breach response

The MNDB Scheme will be complemented by the work of ID Support NSW, an Australian-first business unit providing a "no wrong doors" support service to anyone in New South Wales impacted by identity misuse.

ID Support NSW offers expert advice and assistance to protect and remediate identity credentials. This service will provide a remediation pathway for impacted individuals who are made aware that their information has been breached.

Taken together, these initiatives significantly improve the State's data breach response capability.

Consultation during development of the bill

The Government has undertaken extensive consultation during the development of the bill.

In July 2019 submissions were invited from the public in response to an issues paper that sought feedback on whether a mandatory scheme should be implemented in New South Wales, and if so, how it should operate.

The Department of Communities and Justice received 23 submissions from agencies, members of the public, local councils, universities and various advocacy and professional groups.

All submissions supported a mandatory notification of data breach scheme.

In May 2021, public submissions were invited on a draft exposure bill proposing a specific model for the MNDB Scheme.

The Department received 32 submissions in response, including from agencies, State Owned Corporations, interested private sector entities and interested members of the public.

Those submissions indicated overwhelming support for the scheme, and proposed a number of improvements to the bill.

As a result of this extensive consultation, the New South Wales Government is confident the bill strikes the right balance between the need to protect individuals who are impacted by data breaches, and what is appropriate and workable for agencies.

I am pleased to note the Privacy Commissioner also supports the important reforms contained in this bill.

The threshold "likely to result in serious harm"

The threshold "likely to result in serious harm" has received support during public consultation on the bill. It ensures that the resources of the Information and Privacy Commission and agencies are focused on responding to those data breaches that are likely to result in serious harm to impacted individuals.

"Serious harm" inherently requires an element of seriousness to invoke the duty on the agency to take the further step of notifying a data breach. In addition, a "reasonable person" and "likely result" test needs to be satisfied. As such, where an agency facing a data breach does not consider that a reasonable person would conclude that the breach would likely result in serious harm, a duty to notify would not arise. This is a significant threshold.

As indicated in the Explanatory Memorandum to the Privacy Amendment (Notifiable Data Breaches) Bill 2016 (Cth) in respect of the comparable threshold in the Commonwealth's Notifiable Data Breach Scheme (the Commonwealth NDB Scheme for short):

... though individuals may be distressed or otherwise upset at an unauthorised access to or unauthorised disclosure or loss of their personal information, this would not itself be sufficient to require notification unless a reasonable person in the entity's position would consider that the likely consequences for those individuals would constitute a form of serious harm. It is expected that a likely risk of serious financial, economic or physical harm would be the most common likely forms of serious harm that may give rise to notification.

Importantly, the bill does not define the threshold "likely to result in serious harm". However, the bill provides factors to consider when assessing whether the threshold is met. These factors include, for example, the sensitivity of the personal information and the nature of the harm that has occurred or may occur.

Given the diversity of information held by agencies, and the nature of data breaches that may affect them, a legislated definition may unintentionally limit the types of serious harm that could be considered when assessing a data breach.

A definition of serious harm would also be likely to introduce inconsistency with the Commonwealth NDB threshold. This will increase the administrative and regulatory burden for agencies that may be captured by both schemes in limited circumstances.

To support agencies assessing data breaches and determining whether serious harm is likely, the IPC has committed to preparing and publishing guidelines providing more information about agencies' obligations under the MNDB Scheme.

This will include guidance on how agencies should assess whether disclosure or loss that occurs as a result of a data breach would be likely to result in serious harm to an individual.

The IPC has also committed to develop an e-learning module and other resources for agencies for the purpose of promoting understanding of agency responsibilities under the MNDB Scheme.

Commonwealth Notifiable Data Breach

In 2017, the Commonwealth Privacy Act was amended to establish the Commonwealth NDB Scheme. Under the Commonwealth NDB Scheme, any organisation or agency regulated by the Commonwealth Privacy Act must notify the Australian Information Commissioner and impacted individuals when a data breach is likely to result in serious harm.

The MNDB Scheme has been designed to adopt, as far as possible, key features of the Commonwealth NDB Scheme. The schemes share the same breach notification threshold of serious harm and similar assessment and notification time frames and requirements.

This approach will ease the administrative burden for agencies that may be required to assess and notify of a data breach under both the Commonwealth NDB Scheme and the MNDB Scheme in some limited circumstances, such as where the breach involves Commonwealth information held by agencies, such as tax file numbers.

I now turn to the key features of the bill.

Regulating New South Wales public sector agencies, including NSW State Owned Corporations

The PPIP Act currently regulates how agencies manage personal information. The PPIP Act requires agencies to comply with a series of legal obligations when they collect, store, use or disclose personal information.

Items [2] to [4] to schedule 1 of the bill expand the definition of "public sector agency" to include NSW State Owned Corporations that are not already captured by the Commonwealth Privacy Act.

Extending the PPIP Act, including the MNDB Scheme, to capture NSW State Owned Corporations that are not already captured by the Commonwealth Privacy Act is an important move to improve privacy protections for New South Wales citizens.

The New South Wales Government owns a number of State Owned Corporations in energy, water, ports and forestry. The Government established these businesses on behalf of the people of New South Wales as they provide services that are critical to the economy and infrastructure to the State.

As NSW State Owned Corporations handle the personal and health information of New South Wales citizens, it is important they are subject to privacy regulation. Expanding the PPIP Act, including the MNDB Scheme, to capture these entities will resolve a significant gap in privacy regulation.

Key aspects of the MNDB Scheme

Item [11] to schedule 1 of the bill provides that the MNDB Scheme will require agencies to assess whether a data breach is an eligible data breach, and if so, to notify the Privacy Commissioner and impacted individuals.

An *eligible data breach* will occur where there is unauthorised access, unauthorised disclosure or loss of personal information that a reasonable person would conclude is likely to result in serious harm to an individual to whom the information relates.

Where an agency is aware that there are reasonable grounds to suspect there may have been an eligible data breach, the agency is required to take steps to contain the breach, assess the breach, and if the breach is assessed to be an eligible data breach, notify impacted individuals and the Privacy Commissioner. I turn to each of these key steps in more detail.

(1) *Containing the breach*

An officer or employee of an agency must, upon becoming aware that there are reasonable grounds to suspect there may have been an eligible data breach, report the data breach and the agency must immediately make all reasonable efforts to contain the breach.

(2) *Assessing the breach*

An assessment must be carried out of whether there are reasonable grounds to believe the data breach meets the threshold of an eligible data breach. This must occur within 30 days of the officer or employee becoming aware of the breach.

While the bill does not define the threshold "likely to result in serious harm", it provides factors that may be considered by the assessor.

This includes:

- The types of personal information involved in the breach

- The sensitivity of the personal information involved in the breach

- Whether the personal information is or was protected by security measures

- The persons to whom the unauthorised access to, or unauthorised disclosure of, the personal information involved in the breach was, or could be, made or given

- The likelihood those persons have or had the intention of causing harm, or could or did circumvent security measures protecting the information

- The nature of the harm that has occurred or may occur.

The IPC is also preparing statutory guidelines to assist agencies when assessing whether an eligible data breach has occurred. The assessor is required to have regard to these guidelines when conducting an assessment.

The bill also recognises that, in some circumstances, it may not be possible to assess a data breach within 30 days.

Accordingly, the bill provides that the agency may approve an extension of time if satisfied an assessment cannot reasonably be conducted within 30 days.

However, within the initial 30 -day period, the agency must:

- Start the assessment; and

- Give written notice to the Privacy Commissioner to advise that the assessment has started and an extension of time has been approved, and confirm the extension period.

If the assessment cannot reasonably be conducted within the extension period, the agency must give a further written notice to the Privacy Commissioner to advise that the assessment is ongoing and a new extension period has been approved, and confirm the new extension period.

Importantly, an extension can only be approved for the time reasonably required for the assessment to be conducted.

Requiring the agency to give written notice to the Privacy Commissioner ensures there is transparency and accountability regarding the use of extensions. It also ensures that agencies are only approving extensions of time where they are required to properly conduct an assessment.

(3) *Notifying the Privacy Commissioner and impacted individuals of an eligible data breach*

If, following the assessment, an agency determines that an eligible data breach has occurred, the entity must:

Immediately notify the Privacy Commissioner, and

As soon as practicable, notify impacted individuals.

If the agency is unable to, or it is not reasonably practicable to notify each individual, the agency must issue a public notification.

Where a public notification is made, the agency must take proactive steps to publicise the notice, to increase the likelihood that the eligible data breach will come to the attention of individuals at risk of serious harm.

As identified in currently available guidance prepared by the Office of the Australian Information Commissioner for the Commonwealth NDB Scheme, a reasonable step when publicising an online notice might include:

Ensuring the notice is prominently placed on a relevant webpage, which can be easily located by individuals and indexed by search engines;

Publishing an announcement on social media channels, or

Taking out a print or online advertisement in a publication, or on a website that is reasonably likely to reach impacted individuals.

The agency must also keep a register of all public notifications on its website. A notification must be published on the register for at least 12 months after the date the notification is published.

Additionally, the notification must, if reasonably practicable, contain certain information, including:

the date the breach occurred,

a description of the breach, and

the actions that have been taken or are planned to be taken to mitigate the harm done to the individual.

It is important to emphasise that the requirement for agencies to issue a "public notification" is not the default setting.

Public notifications will generally only be made as a secondary or fall-back option in respect of breaches that meet the serious harm threshold and where making direct contact with affected individuals is not possible or reasonably practicable.

There are some circumstances where an agency will not be required to notify impacted individuals, including where a notification could prejudice ongoing investigations and certain proceedings, or could create a serious risk of harm to an individual's health or safety.

Supporting the regulatory responsibilities of the Privacy Commissioner

To support the scheme, the bill will expand the regulatory responsibilities of the Privacy Commissioner.

This will enable the Privacy Commissioner to work with agencies to facilitate legal compliance and best privacy practice, as well as to investigate and enforce the MNDB Scheme in the case of agency noncompliance.

The bill will expand the existing powers of the Privacy Commissioner to specifically enable the Commissioner to investigate, monitor, audit and report on the functions of an agency under the MNDB Scheme. To facilitate this, the Privacy Commissioner will also have the power to access the premises of an agency to observe its systems policies and procedures.

The Privacy Commissioner will have reporting powers, which enable it to report on agency compliance with the MNDB Scheme, as it currently can do in the context of its existing regulatory functions with respect to privacy under the PPIP Act.

In certain circumstances, the Privacy Commissioner will be able to provide a report to the head of the relevant agency or the Minister, or alternatively publish the report. This function is intended to occur in relation to issues arising from a data breach that are of a systemic, policy or practical in nature.

These powers are necessary to ensure the Commissioner can work with agencies to facilitate agency compliance, investigate possible noncompliance, and enforce the MNDB Scheme.

Conclusion

In summary, this bill introduces a mandatory notification of data breaches scheme covering all New South Wales Government agencies. This scheme is the first of its kind for any State or Territory government in Australia.

I thank the Information and Privacy Commission and all of the stakeholders and community members who have engaged closely with these reforms and provided feedback during the development of the bill.

The extensive consultation informing this bill ensures that it strikes the right balance between improving privacy protections for New South Wales citizens in the event of a data breach, and ensuring that the scheme is practical and workable for agencies.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (21:12): On behalf of the Opposition, representing my colleague in the other place the shadow Attorney General, I contribute to debate on the Privacy and Personal Information Protection Amendment Bill 2022. Labor supports the bill because it has been asking for these changes for quite some time. The Opposition has been calling for legislation of this kind to be brought forward for years, though there have been long and inexplicable delays on the part of the Government. We are pleased that the Government has finally brought a proposal before the House to deal with this serious issue, and I indicate at the outset that we do not oppose the bill.

Recent news has indicated that data breaches are here, and millions of Australians are affected by them. The inadvertent release of your personal and private identity and financial information is a horrible and scary experience that has real ramifications for your work and family. There are also serious and substantial potential consequences for your finances, security and safety. Further, without knowing whether or not your financial or personal information has been breached, it is impossible to know whether to take further steps, like cancelling credit cards or otherwise securing your identity from being stolen.

New South Wales public sector agencies hold substantial sensitive information about the people of New South Wales, including personal, health and financial information. It is currently not mandatory for New South Wales public sector agencies to report data breaches of personal and health information under the Privacy and Personal Information Protection Act. I have to say, I am completely shocked by that. I was put on the privacy committee when I first came into Parliament many years ago, and the committee considered these issues at that time. Taking into consideration the digitisation of our information over the past decade, it is now a serious matter.

The bill will amend the Act to establish the mandatory notification of data breaches scheme. In the event of a suspected data breach, the scheme requires the relevant agency to take steps to contain the breach and assess the likely severity of the breach on impacted citizens. If the agency assesses that the breach is likely to result in serious harm to an individual, it must notify the Privacy Commissioner and impacted individuals. Where impacted individuals cannot be identified or it is not reasonably practicable to notify them, the agency must issue a public notification.

To support the functioning of the scheme, the bill expands the responsibilities of the Privacy Commissioner to include investigating and monitoring compliance by public sector agencies with the scheme; accessing agencies' premises for that purpose; and reporting on agencies' systems, policies and procedures. The bill extends the Privacy and Personal Information Protection Act 1998 to State-owned corporations that are currently excluded from the requirements of the Privacy Act 1988. As we know, some of those corporations hold a large amount of data about individuals.

I have been a ministerial staffer and have gone through an election campaign during which sensitive, private information of MPs was leaked by ministerial officers. I have never forgotten that—nor has the Opposition. It took a long time to get that breach acknowledged, let alone dealt with. It was disgraceful, should never have occurred and should never happen again. This bill is important. It is completely unacceptable that ministerial staffers, who have access to an extreme amount of sensitive information, would use it for political purposes. The fact that it was condoned by the Minister at the time is a disgrace.

Ms ABIGAIL BOYD (21:16): On behalf of The Greens, I speak in support of the Privacy and Personal Information Protection Amendment Bill 2022. This reform is long overdue. It is a small part of a much wider body of work that needs to be done regarding our digital rights and data sovereignty. Australia is lagging a long way behind other jurisdictions. We have weak data protection laws, meaning big corporations and organisations hoard our personal information in poorly protected, poorly encrypted servers and repositories—a honeypot for would-be bad actors. The bill does not do anything to keep our information safer from theft. It merely imposes a mandatory obligation on State-owned corporations and public sector agencies to disclose to people impacted by a breach of data held by that corporation or agency. Frankly, it is astonishing that the obligation does not already exist and that it requires legislating at all.

The people of this State entrust enormous amounts of their personal, health and financial information to public sector agencies. The Greens are realistic and recognise sophisticated bad actors exist in the cyberspace who may be successful in penetrating whatever security arrangements may be in place to protect our data and in making away with bundles of personal information. Ideally, we would have robust systems in place to encrypt or distribute that information in a way that would render the raw data unusable to anyone other than the intended user. But we are not yet at that stage. With that realism in mind, it is not too much to expect that people would be swiftly informed of any breach of personal information, potential or otherwise, so that they can take appropriate measures to safeguard their identity. It is inexcusable for a public sector agency to withhold that notification or deny the public the right to know what is happening with their personal details for fear of reputational damage or public outrage.

Maybe a little more public outrage at data protection failures would provide the impetus for the Government to pick up the pace and implement more robust safeguards to protect our information. A mandatory obligation to notify would also result in more active monitoring by agencies to determine whether a breach has in fact occurred. Recently we have seen just how dangerous data breaches can be. Breaches of data held by Optus and Medibank are two high-profile and recent examples. The communication of those breaches was inadequate and confusing, but at least there was an attempt.

It is scary to consider the breaches of personal information that may have occurred prior to the introduction of the bill and that have gone unreported and unaddressed. The introduction of a mandatory notification of data breach scheme was a recommendation in the report *Scan of the Artificial Intelligence Regulatory Landscape – Information Access & Privacy*, prepared by the Information and Privacy Commission. I hope that the bill is the first of many reforms to come out of the recommendations of that report. The report also raises strong concerns, which The Greens share and have been raising, around the increasing use of artificial intelligence and algorithmic decision-making.

The use of AI in high-risk areas, particularly when that includes the use of biometrics and facial recognition, has been called out by the Human Rights Commissioner and the Privacy Commissioner as a concern. The Privacy Commissioner's report makes some recommendations around this that I hope will be adopted and which I will be agitating for. The issue of digital rights and privacy and of regulation and responsible use of technology is only going to become more urgent. I look forward to working next year with whomever forms government to push this issue forward, to ensure our digital rights regulation and legislation keeps pace with evolving technology trends and to hopefully help shape some responsible and ethical norms in this space. This bill is a small but positive step in the right direction, and The Greens support it.

The Hon. SHAYNE MALLARD (21:20): On behalf of the Hon. Natalie Ward: In reply: I thank the Hon. Penny Sharpe and Ms Abigail Boyd for their contributions to debate on the Privacy and Personal Information Protection Amendment Bill 2022. The bill fulfills the New South Wales Government's commitment to strengthening privacy protections for the citizens of this State. It is important to note that New South Wales will be the first Australian State or Territory to introduce a scheme of mandatory notification of data breaches. In return, the Government recognises it has a responsibility to effectively and proactively protect and respect the personal information of our citizens. This bill makes that responsibility law. I commend the bill to the House.

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

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

DISTRICT COURT AMENDMENT BILL 2022

Second Reading Speech

The Hon. SHAYNE MALLARD (21:22): On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a second time.

The Government is pleased to introduce the District Court Amendment Bill 2022. The bill introduces amendments to the District Court Act 1973 to increase the general civil and equitable jurisdiction limits of the District Court. I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

Specifically, the bill amends the District Court Act 1973 to:

- increase the general jurisdictional limit in civil matters from \$750,000 to \$1,250,000;
- increase the jurisdictional limit in equity proceedings from \$20,000 to \$100,000; and
- increase the jurisdictional limit from \$20,000 to \$100,000 in proceedings relating to a temporary injunction for breach of a negative stipulation in contract.

These amendments will allow the District Court to hear and determine claims for monetary damages to the increased limits that are currently required to be filed in the Supreme Court.

The District Court's general civil jurisdictional limit has not increased for 25 years, and its equitable jurisdictional has not increased for 32 years.

Accordingly, the jurisdictional limits have not been adjusted for inflation, causing the real monetary value of the limits to substantially drop since they last increased.

Court fees are much lower in the District Court compared with the Supreme Court.

These amendments will therefore reduce court fees for litigants and increase access to justice in our State.

The proposed amendments will also amend the jurisdictional limits of the District Court to align more closely with those of comparable courts in other jurisdictions.

Consultation on these amendments occurred with the Chief Justice of the Supreme Court, the Chief Judge of the District Court and the Chief Magistrate of the Local Court.

External stakeholders were also consulted, including the Law Society of New South Wales and the New South Wales Bar Association.

Stakeholders were broadly supportive of the amendments.

Detail of Bill

I now turn to the detail of the bill.

Item [1] to schedule 1 amends the definition of 'jurisdictional limit' in section 4 (1) by omitting "1750,000" and instead inserting "11,250,000".

Item [2] to schedule 1 amends the jurisdiction in equity proceedings by omitting "120,000" wherever occurring from section 134 (1) (a), (b) (i) and (ii), (d), (e) and (f) and instead inserting 1100,000".

Item [3] to schedule 1 amends the jurisdiction in temporary injunctions by omitting "120,000" from section 140 (1) (b) and instead inserting "1100,000".

Item [4] inserts a new clause 15 in schedule 3 of the District Court Act 1973. Clause 15 provides that the amendments made to sections 4, 134 and 140 by the District Court Amendment Act 2022 apply only to proceedings commenced in the Court after the commencement of this Act.

Clause 15 ensures that Supreme Court matters with monetary damages to the amended increased jurisdictional limits will continue to be dealt with in the Supreme Court if filed prior to commencement.

This will ensure that there is not a transfer of large numbers of existing matters from the Supreme Court to the District Court and will assist the District Court in managing the additional workload associated with the amendments.

Absorption within existing Court resources

These amendments will result in an increase in matters being filed within the District Court's civil jurisdictions.

This workload will be absorbed by the court's civil jurisdictions and will optimise the use of judicial resources in the District Court.

This view was formed on the basis that:

first, the court's pending civil caseload has decreased significantly over the five years to October 2021—an average annual decrease of 4.4 per cent;

second, many civil and equitable matters settle prior to the first hearing date; and

third, there are judges who preside exclusively in the civil jurisdiction who have capacity to hear additional matters. Importantly, the amendments will not impact the court's workload within the criminal jurisdiction.

Conclusion

I am pleased to introduce this bill to amend the general civil and equitable jurisdictional limits of the District Court.

The amendments in this bill seek to increase access to justice for litigants; align the District Court's limits in New South Wales more closely with comparable jurisdictions; and adjust the jurisdictional limits for inflation such that the real monetary value of the limits are updated appropriately.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (21:22): On behalf of the Opposition, representing my colleague the shadow Attorney General, I make a brief contribution to debate on the District Court Amendment Bill 2022. At the outset, I state that the Opposition supports the bill. It is a small bill and is pretty easy to deal with. The bill aims to modernise and increase the jurisdictional limits on monetary damages for the District Court. Currently, a litigant is unable to access the District Court if seeking damages in general civil matters in excess of \$750,000. In equity matters the limit is \$20,000, and in proceedings relating to a temporary injunction for breach of a negative stipulation in contract the limit is \$20,000.

The general jurisdiction limit has not increased in 25 years and the equitable limit has not been increased for 32 years. The current system results in an injustice for litigants who are instead then forced to seek litigation in the Supreme Court, which is more expensive, is subject to further delays, limits their appeal pathways and is more difficult to access for people living in rural and regional areas. It is appropriate that after such a significant amount of time the jurisdictional limits on monetary damages are updated. The bill increases the general jurisdictional limit to \$1.25 million, the equity limit to \$100,000 and the temporary injunction limit to \$100,000. It is important to note that, once passed, these changes will apply only to proceedings commenced in the court after the bill's commencement. The Opposition also understands that the Chief Justice of New South Wales and the Chief Judge of the District Court are supportive of these amendments. We commend the bill to the House.

Ms ABIGAIL BOYD (21:24): On behalf of The Greens, I indicate that we also support the District Court Amendment Bill 2022. As the Hon. Penny Sharpe has laid it out, I will not repeat what the bill does and the reasons it is required. I will just comment that 25 years and 32 years in relation to one aspect of the limits that we are increasing seem like a very long time. I hope that we would monitor and manage these limits in a more timely manner in the future. We support the bill.

The Hon. SHAYNE MALLARD (21:25): On behalf of the Hon. Natalie Ward: In reply: I thank the Leader of the Opposition and Ms Abigail Boyd for their contributions. The District Court Amendment Bill 2022 seeks to increase access to justice for litigants and align the District Court's limits in New South Wales more closely with comparable jurisdictions. I commend the bill to the House.

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

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

CRIMES AMENDMENT (PROTECTION OF CRIMINAL DEFENCE LAWYERS) BILL 2022

Second Reading Speech

The Hon. SHAYNE MALLARD (21:26): On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Amendment (Protection of Criminal Defence Lawyers) Bill 2022. It will extend existing legislative protections for public justice officials against injury, detriments and threats to lawyers acting for a defendant in a criminal matter or acting in connection with criminal proceedings. It extends protections that exist for other judicial officers. The Attorney General made a comprehensive second reading speech in the Legislative Assembly. I seek leave to incorporate it into *Hansard*.

Leave granted.

The Government is pleased to introduce the Crimes Amendment (Protection of Criminal Defence Lawyers) Bill 2022. The bill will extend existing legislative protections for public justice officials against injury, detriment and threats, to lawyers acting for a defendant in a criminal matter, or acting in connection with criminal proceedings. Currently, sections 322 and 326 of the Crimes Act 1900 aim to maintain confidence in the justice system and its integrity by protecting key officers of the courts, including prosecutors, from threats, intimidation and reprisals. These sections create offences that carry a maximum penalty of 10 years' imprisonment.

However, these protections do not presently apply to defence lawyers. This is despite the fact that defence lawyers play a critical role in the operation of the criminal justice system by representing defendants in criminal trials. Criminal defence lawyers are officers of the court who support the justice system to make fair, just decisions in criminal matters. It is important that they are free from threats, intimidation and reprisals to uphold their duties to the court, the justice system and to their clients. The reforms proposed in the bill will address this gap.

Schedule 1 [4] to the bill will amend section 322 to make it an offence for a person who, without reasonable cause, threatens to do or cause, or does or causes, an injury or detriment to a person intending to influence a person in the person's conduct as an Australian legal practitioner acting for a defendant in a criminal matter or in connection with criminal proceedings. Schedule 1 [11] to the bill will introduce section 326 (1) (d) to make it an offence for a person who, without reasonable cause, threatens to do or cause, or does or causes, an injury or detriment to a person on account of anything lawful done by the person as an Australian legal practitioner acting for a defendant in a criminal matter or in connection with criminal proceedings.

Section 322 applies where the person is trying to influence the future actions of an officer or witness, while section 326 applies where the offending conduct is in response to actions the officer or witness has already taken. Schedules 1 [5] and 1 [12] to the bill will amend sections 322 and 326 to provide that the acts engaged in with a reasonable excuse will not be captured by the offence. Lawful conduct, such as making a complaint against a lawyer to a professional body, would not be captured by the offence. A non-exhaustive list of the definition of "reasonable excuse" is provided, which includes making or threatening to make, a complaint about a person to a person or body acting in an official capacity or ending, or threatening to end, a retainer.

These offences are not intended to punish or inadvertently criminalise people for making a complaint about a judge or lawyer to a professional body such as the Judicial Commission of NSW or the Legal Services Commissioner. It is important to ensure that the amendments do not inadvertently criminalise any complaint or other legitimate action that may be taken where a person is dissatisfied with a lawyer's conduct. The structure of those proposed offences and the maximum penalties are consistent with the existing offences for interference with judicial officers, witnesses, jurors, et cetera, under part 7 of the Crimes Act.

Schedule 2.1 will amend schedule 1 to the Criminal Procedure Act 1986 to replace section 322 with section 322 (1) as a Table 1 indictable offence triable summarily. This would ensure the offence contained in section 322 (1) can be dealt with summarily. Schedule 2.2 will amend section 129 (5) (a) (i) of the Evidence Act 1995 to include section 322 (1) as an offence that is excluded from the application of section 129—exclusion of evidence of reasons for judicial, et cetera, decisions.

I acknowledge and thank the many stakeholders consulted on the bill for their input, including: Law Society of New South Wales; New South Wales Bar Association; Public Defenders; Office of the Legal Services Commissioner; Legal Aid NSW; Defence Lawyers NSW; heads of jurisdiction; NSW Police Force; Aboriginal Legal Service (NSW/ACT); Office of the Director of Public Prosecutions; Law Enforcement Conduct Commission; Judicial Commission of New South Wales; and Office of the Sheriff of NSW. In conclusion, this legislation underscores the New South Wales Government's commitment to supporting frontline workers in all sectors, including our justice system and the legal profession.

Second Reading Debate

The Hon. PENNY SHARPE (21:27): On behalf of the Opposition, I make a contribution to debate on the Crimes Amendment (Protection of Criminal Defence Lawyers) Bill 2022. I indicate from the outset that Labor does not oppose the bill. It is a core principle of the Labor movement that everyone should be able to go to work and go home at the end of the day safe, healthy and well. No-one should fear being killed or injured at work and no-one should be subjected to threats that would make them fearful of carrying out their work. A number of jobs carry additional risks, and it is appropriate for the law to provide additional protections for those workers to ensure that they can be further protected from threats, injury or death. While these risks are often immediately associated with blue-collar workers or members of our police force, these risks also extend to other workers, including legal practitioners.

Sections 332 and 326 of the Crimes Act 1900 provide additional protections for public justice officials involved in the investigation, detection or prosecution of offenders, judicial officers, witnesses and jurors from attacks, threats, intimidation and reprisals with the intention of influencing their conduct in judicial proceedings. Currently these protections do not apply to defence lawyers. The bill seeks to change that. All judicial officers and other officers of the court conduct complex, difficult and very important work in the criminal justice system to ensure that our criminal laws can be applied and enforced consistently with the principles of fairness and natural justice. There will often be individuals who are not happy with their actions or decisions, and this can increase the risk of threats, reprisals and attacks, particularly where that conduct is intended to influence the decision-making and approach of the legal practitioner.

As officers of the court, all lawyers are subject to a paramount duty to the court. It is likely that in the time of a defence lawyer's career, their paramount duty to the court will come into conflict with their duty to their client. Lawyers have a legal obligation to prioritise their duty to the court in those circumstances. This and many other aspects of work within the criminal justice system may put a defence lawyer at a similar risk of injury or threats that are carried out with the intention of influencing their conduct as a legal practitioner. No officer of the court should be subjected to conduct that would make them fearful of carrying out their duty to the court or their client due to threats or injury.

It is appropriate then that the bill before the House aims to extend the additional protections received under the Crimes Act by judicial officers and other public justice officials to also include defence lawyers. Defence lawyers are fundamental to our justice system and to the fairness of the entire way in which we deal with justice and seek to manage it. They should be able to go to work free from threats and harassment. They must be able to do their job. They fulfill an important task that our society asks them to do. The Opposition supports the bill and the approach taken by the Government.

Ms ABIGAIL BOYD (21:30): On behalf of The Greens, I indicate that we also support the Crimes Amendment (Protection of Criminal Defence Lawyers) Bill 2022. I again wonder why this reform was not introduced earlier. The protections should obviously apply to defence lawyers for the great reasons outlined by my colleague the Hon. Penny Sharpe. We have listened carefully to the arguments made by the Shooters, Fishers and Farmers Party at different points, particularly in relation to the crossbench briefing with the Attorney General. We will not be supporting the foreshadowed amendments at this point.

The Hon. SHAYNE MALLARD (21:31): On behalf of the Hon. Natalie Ward: In reply: I acknowledge and thank the Leader of the Opposition and Ms Abigail Boyd from The Greens for their contributions to debate on the bill. I also thank the many stakeholders for their input into the bill. In conclusion, this legislation underscores the New South Wales Government's commitment to support frontline workers in all sectors, including in our justice system and legal profession. I commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Wes Fang): There being no objection, the Committee will deal with the bill as a whole. I have one sheet of amendments on c2022-200A from the Shooters, Fishers and Farmers Party.

The Hon. MARK BANASIAK (21:33): By leave: I move Shooters, Fishers and Farmers Party amendments Nos 1 to 3 on sheet c2022-200A in globo:

No. 1 Lawyers appearing before NCAT

Page 3, Schedule 1[3], proposed section 322(e)(ii), line 15. Omit "proceedings,". Insert instead—

proceedings, or

- (f) intending to influence a person in the person's conduct as an Australian legal practitioner acting in connection with proceedings before the Civil and Administrative Tribunal of New South Wales,

No. 2 Lawyers appearing before NCAT

Page 4, Schedule 1[9], proposed section 326(1)(d), line 6. Omit "proceedings,". Insert instead—

proceedings, or

- (e) as an Australian legal practitioner acting in connection with proceedings before the Civil and Administrative Tribunal of New South Wales,

No. 3 Legal professional privilege does to cover threat

Page 4, Schedule 1. Insert after line 16—

[10A] Section 326A

Insert after section 326—

326A Disclosure of threats or actions against legal practitioners

A person is taken to have waived legal professional privilege, or the benefit of any duty of confidentiality—

- (a) in relation to a threat made, or action taken, by the person against an Australian legal practitioner if the threat or action may constitute an offence against section 322 or 326, and
- (b) to enable the Australian legal practitioner to disclose to the appropriate authorities information necessary for investigating and dealing with the threat or action

I will be brief. The Shooters, Fishers and Farmers Party supports the bill as drafted but we see a deficiency of only looking at criminal defence lawyers. We know that proceedings that appear before the NSW Civil and Administrative Tribunal [NCAT] can be vexed and contentious. NCAT deals with guardianship and neighbour disputes. If members have ever watched Tracey Grimshaw on *A Current Affair* they will know how aggressive they can be. We hear from solicitors who represent people in NCAT that they have indeed had threats made to them. This is an area that needs to be reformed. I was not a maths teacher but I can still do the maths. I know I do not have the numbers in the House, but I would encourage whoever the Attorney General is next year to please consider that this area also needs to be looked into. It is not just criminal defence lawyers who come under attack and deal with contentious issues; it is solicitors at NCAT as well.

The third amendment clarifies legal professional privilege when a defence lawyer makes a disclosure that is not impacting on legal professional privilege. I have read the arguments from the Attorney General about concerns over confusion. I do not necessarily agree with them. Solicitors and lawyers are very clever people. They can grapple with legislation, clauses and changes to legislation quite easily but, once again, I know the maths. On that, I commend the amendments to the Committee.

The Hon. SHAYNE MALLARD (21:35): The Government does not support the three amendments moved by the Hon. Mark Banasiak as drafted. In regard to amendments Nos 1 and 2 relating to the NSW Civil and Administrative Tribunal, stalking or intimidation of a lawyer acting in any matter, whether criminal or civil and regardless of which court the proceedings are in, is very serious and not acceptable by any means. Where intimidation or stalking of lawyers acting in civil matters does occur, charges already can and should be brought under existing offences, such as the offence of intimidation or stalking under section 13 of the Crimes (Domestic and Personal Violence) Act 2007 or the offence of perverting the course of justice under section 319 of the Crimes Act 1900, which carries a maximum sentence of 14 years' imprisonment. The bill under consideration is aimed at addressing a very specific gap in a discrete area of the existing law as it relates to protections for lawyers in criminal law proceedings. In regard to amendment No. 3, the law as it relates to legal professional privilege and the circumstances in which it can be waived is well established, settled and uncontroversial. This amendment is not needed. The Government opposes the three amendments.

The Hon. PENNY SHARPE (21:36): I indicate that Labor is not supporting these amendments, but I am not unsympathetic to the issues that the Hon. Mark Banasiak raised. To go back to the principles of my contribution to the second reading debate, people should be able to go to work free from threats or harassment. I do know how tetchy NSW Civil and Administrative Tribunal proceedings can be, but perhaps the issues that

people have with the way the bill is drafted is a discussion for after the election. I am not unsympathetic, but it is a no tonight.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendments Nos 1 to 3 on sheet c2022-200A. The question is that the amendments be agreed to.

Amendments negatived.

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

Motion agreed to.

The Hon. SHAYNE MALLARD: I move:

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

Motion agreed to.

Adoption of Report

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

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

POINT TO POINT TRANSPORT (TAXIS AND HIRE VEHICLES) AMENDMENT BILL 2022

Second Reading Speech

The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (21:41): On behalf of the Hon. Natalie Ward: I move:

That this bill be now read a second time.

Before I seek leave to incorporate the second reading speech made in the other place by Mr David Elliott on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022, I note that I listened to debate on the bill and will address the key concern that was raised: the continued availability of services, particularly wheelchair-accessible services, in regional locations. As noted last night, the independent review of point to point transport recommended that to coincide with changes to taxi licence supply, further measures be introduced to ensure the ongoing provision and commercial viability of wheelchair-accessible services. The New South Wales Government is committed to ensuring that wheelchair-accessible services are available and affordable for customers who need them and will continue its engagement with the disability sector and the point to point transport industry to address access issues.

The bill does not solve every issue facing the taxi industry, nor will it address every single service gap that our regional communities are already experiencing. But the passage of the bill will mean there are fewer restrictions on taxi services, enabling more efficient operations and encouraging new and innovative services that are more adaptable and better equipped to meet the needs of our regional communities. Transport for NSW offers a range of subsidies and incentives to support the availability of wheelchair-accessible taxi services, including a 50 per cent trip subsidy for eligible customers, a driver incentive payment of \$15 for each trip undertaken in a wheelchair-accessible taxi [WAT] and an interest-free loan scheme to purchase and fit out wheelchair-accessible taxis. To further support the availability of wheelchair-accessible taxis, Transport for NSW will increase the subsidy paid to the driver for each journey. That will encourage the recruitment and retention of appropriately trained drivers and incentivise them to prioritise customers who rely on wheelchair-accessible taxi services.

Transport for NSW will also increase the interest-free funding that is available under the Wheelchair Accessible Taxi Loan Scheme to provide for an additional 50 loans, each with a maximum value of \$100,000. That loan scheme is designed to assist service providers in putting new wheelchair-accessible taxis on the road that comply with the Disability Standards for Accessible Public Transport. Those subsidies and incentives complement other New South Wales Government initiatives, such as the Community Transport Program and the Transport Access Regional Partnerships grants program, which have been set up to improve services for transport-disadvantaged groups in rural and regional communities.

Government members know there will be challenges while the industry adjusts, which is why there will be a strong focus on maintaining service provision for customers, especially those who rely on point to point transport to access essential services. We will work with key stakeholders to consider the individual needs of each community and to develop a local point to point transport plan. In cases where there is a service gap before a new operator starts, the Government will consider what support can be offered to that community to ensure continued service availability.

Finally, we will continue to engage with the Commonwealth Government to maximise the opportunities for taxis under the National Disability Insurance Scheme and the aged-care reforms announced as part of the October budget. We want to ensure that taxis continue to provide essential services for customers who do not have access to a car, especially those who rely on taxis to access essential services. We will continue to engage with industry and customers to deliver point to point transport services that benefit all members of our communities. I commend the bill to the House.

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

Leave granted.

I am pleased to introduce the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. The purpose of the bill is to take the next step towards the New South Wales Government's vision for a more responsive, innovative, resilient and dynamic point to point transport industry that provides a more tailored transport solution for the diverse customer base right across the State. We are laying the platform to allow industry to come back stronger than before after suffering through droughts, bushfires, floods and the COVID-19 pandemic. The bill is part of a package of reforms in response to the Point to Point Transport Independent Review 2020. It is the logical next step to the wideranging reforms that began in late 2015, deregulating booked services and introducing a new safety framework for the industry.

The changes proposed in the bill will deliver more choice for customers by freeing up the supply of taxi licences and supporting cheaper, more competitive taxi fares. They will help level the playing field for all parts of the point to point transport industry and also help deliver the New South Wales Government's Future Transport Strategy by enabling point to point transport services that are customer focused, safe and accessible. To help support taxi licence owners impacted by the reforms, the Government is making \$760 million in transitional industry assistance payments available. Those funds are in addition to the more than \$145 million already paid to industry and will support taxi licence owners impacted by the reforms in a fair and equitable way. That constitutes the most generous financial assistance package to support the transition of the taxi industry of any State in the country.

The New South Wales Government deeply values the contribution made by taxi owners, operators and drivers across our State over the past century or more and believes that is demonstrated through the generosity of this financial assistance package. Taxis are privately owned businesses that provide point to point transport services to fare-paying customers, including those who do not have access to a private vehicle or cannot access suitable public transport. Taxis and other private vehicle services have been regulated by government for many years for a variety of purposes, in particular to ensure the safety of drivers, customers and the general public, and to provide consumer protection. A distinguishing feature of taxis is their ability to offer anonymous rank and hail services. That presents a risk to both passenger and driver, particularly in urban environments and busy locations where neither passenger nor driver are likely to know one another. Booked services, by contrast, take records of the driver and passenger before the journey starts.

The key mechanism for regulating taxis is the requirement to hold a taxi licence, which responds to the problem of anonymity by ensuring that taxi service providers are known to the independent government regulator, the Point to Point Transport Commissioner. Each year, Transport for NSW determines the number of taxi licences to be released. That measure can be regarded as ensuring supply of services, but it can also shield industry incumbents from competition. Lacking competition, an industry can grow stale and fail to innovate and meet changing customer needs and expectations. That is what happened within the point to point industry prior to 2015, when would-be new entrants offering innovative and alternative services were discouraged from joining the market. Five years ago the Government responded by deregulating booked point to point transport services, resulting in improved customer satisfaction across all point to point transport, including taxis, rideshares and hire vehicles.

In the May 2022 customer survey conducted by Transport for NSW, satisfaction with taxis was 87 per cent compared with 82 per cent in 2013, before ridesharing appeared. Rideshare rated only a little higher, at 90 per cent. Additionally, the data demonstrates that the overall market for point to point transport has grown, notwithstanding the recent impact of the pandemic. That data demonstrates that the taxi industry has responded well to additional competition since the deregulation of booked services. However, the higher costs inherent in tradeable and leasable licences, coupled with the cap on supply, mean that taxis struggle to compete with a largely deregulated and uncapped booked sector. Releasing those cost and supply pressures by making licences available on application will enable taxi service providers to respond more nimbly to changes in demand, putting on new services when required and efficiently scaling down operations when demand drops.

It will allow the taxi industry to reinvest those savings into improving its service to customers. New entrants with new ideas on how to service customers will be able to join the rank and hail market, adding to the diversity of the service offerings in response to customer needs. In future, taxi licences will be available on application to the Point to Point Transport Commissioner for an administrative fee and will be renewable every 12 months. That will ensure that the commissioner—the independent regulator of the point to point transport sector—has up-to-date information about taxi licences and is able to monitor the safety of services. There will be no limit on the number of taxi licences able to be issued, there will be no more determinations or public auctions of licences, and licences will be able to be used anywhere across the State. A taxi licence will still be required for anyone wishing to offer a rank and hail service.

The regulation of the safety of the point to point transport industry is not changing. Every current taxi service provider that wants to continue to offer taxi services will be able to do so. There will be a transitional period during which the commissioner will issue new licences to those providers, matched to current taxi licences and numberplates. After the transition period, anyone wishing to start a taxi business or add taxi vehicles to an existing business will be able to apply to the commissioner for a new licence. As they do now,

taxis will be required to have all the necessary signage and identification markings, as well as the additional security measures that help to ensure that anonymous rank and hail services are safe for both passenger and driver.

As an inevitable consequence of making taxi licences available on application, there will no longer be any value in the buying, selling and leasing of taxi licences. As a result, there will no longer be any ordinary tradeable licences. The bill includes a provision to cancel those licences after a transitional period, during which current licence holders can move to the new system. The licences that are issued under the new system will not be able to be leased or traded. A taxi licence will simply authorise a particular person or entity to provide a taxi service. If a licence holder no longer wishes to offer a taxi service, they can hand their licence back. Whoever wishes to provide that taxi service can simply apply for their own taxi licence.

The New South Wales Government understands the impact that will have on current licence owners. Many have worked all their lives in the industry and invested heavily in their taxi licence. As we did when we introduced the last round of reforms to the industry, subject to support for the bill, the Government is offering financial assistance to taxi licence owners who are affected by this current round of reform. As part of the 2015 point to point transport reforms, the Government has paid out more than \$145 million to help taxi and hire car licence holders adjust to the reforms. A further financial assistance scheme totalling \$760 million will provide \$150,000 for each eligible Sydney metro taxi licence up to a maximum of six licences per licence owner. That amount is above the current market value for Sydney taxi licences of \$30,000. That is significantly more generous than financial assistance schemes for taxi licence owners in Western Australia or Victoria.

The total value of assistance provided by the New South Wales Government to the taxi industry since reform began in 2015 will be \$905 million. For our regions, the scheme will provide a range of payments between \$40,000 to \$195,000 for each taxi licence outside of Sydney, with no maximum number of licences per licence owner. The amount of the payment will depend on the operating areas of the licence. By structuring payments in that way, the scheme recognises the differences in the value of regional taxi licences, some of which have sold for higher prices than in Sydney, while others in small regional towns have traded for significantly less. Even where two licences are located nearby, the value of sales of the licences may differ significantly.

As I mentioned earlier, we have consulted with industry on the design of the scheme. We have heard the continued call for the value of the financial assistance to be based on the original licence price or its market value prior to 2015. We have heard industry's concerns about the complexity of previous assistance schemes. This is a carefully considered scheme that will help support those most impacted by the latest reforms and free the taxi industry to build on its vital role in providing point to point transport services across our great State. It will be a simple financial assistance scheme, providing flat payments that will minimise the risk of affecting anyone's social security payments or benefits.

The tax treatment of the payments will be of critical importance to taxi licence owners. That issue has been raised by members opposite and also by the NSW Taxi Council. While payments made to taxi licence owners under previous assistance schemes were treated as income for tax purposes, payments under this financial assistance scheme are more likely to be treated as a capital event. That is because it is proposed to make payments in connection with the cancellation of a tradeable licence. Ultimately, the tax treatment will be determined by the Australian Taxation Office [ATO] in consideration of the individual financial circumstances of each taxi licence owner. I am advised that Transport for NSW is already engaging with the ATO to get further clarity and guidance for licence owners on the tax impact of those payments. The scheme will be funded by the passenger service levy, which is already in place for the point to point transport industry.

The levy will increase from \$1 to \$1.20 per trip, or \$1.32 including GST if passed on to the passenger as part of the fare. The levy will change on 1 July 2023 and, as provided in the bill, will stay in place until December 2030—by which time it is expected that we will have raised the funds necessary to pay for the financial assistance scheme. The Minister will still be able to terminate the levy sooner if the full amount is raised before the end of 2030.

The bill before the House today also includes a provision to ensure that monies previously appropriated for earlier financial assistance schemes are available to fund the new financial assistance scheme. The New South Wales Government will in the future also provide additional flexibility to taxi service providers by allowing them to set their own fares for rank and hail journeys. Rank and hail taxi services present a consumer risk, with passengers getting into a cab on the street or at a rank potentially not knowing what they will be charged for the journey. Maximum taxi fares have been regulated for that reason. This contrasts with booked services, where fees are not regulated because the passenger can reject a booking if they are not happy with the quoted price. The risk of price gouging is greatest where competition is constrained. But if customers have more choice, service providers have less incentive to raise fares beyond what is economic.

The customer can choose to use a no-frills cheap brand or pay a premium for a quality service. The first lever to improve customer choice is to remove the restraint on competition by making taxi licences more available. After some time to bed that down, the Government will ask the Independent Pricing and Regulatory Tribunal [IPART] to assess the level of competition in the industry and to examine the impact of removing the cost associated with licences. IPART can provide guidance about the level of fares, which can be used as a benchmark for both the industry and customers to set and choose fares that best suit the service being offered. IPART's reviews always include extensive public consultation, so the industry and its customers will be able to have their views heard. The Government will only deregulate fares for rank and hail services after it has fully considered the results of that assessment of competition. The provisions of the bill reflect those changes.

The bill provides for a staged commencement process so that we can prioritise getting financial assistance payments to current owners of ordinary taxi licences. Transport for NSW and the Point to Point Transport Commissioner will put in place the administrative arrangements to support the payments scheme and also the new licence application process. Once those preparations are complete, a proclamation will be made to commence the substantive provisions of the bill. The financial assistance scheme and the transitional licensing period will both open on that day. The transitional licensing period will provide current taxi licence holders—that is, people who currently provide taxi services under an existing taxi licence—with the opportunity to obtain a new licence. After the transitional process is complete, the new licence system will open to new entrants. All existing licences will be cancelled, and all operating area restrictions will be removed.

The substantive provisions, which are set out in schedule 1 to the bill, are relatively straightforward. Item [16] amends the taxi licensing provisions to remove the requirement for annual determinations of the number of licences to be issued, thus removing any limit on the supply of licences. Items [6], [7], [8], [11], [19] and [21] delete the requirement to include a sealed tender with a licence application and make associated amendments to other sections. Item [10] makes taxi licences renewable annually, with no limit, for an administrative fee—currently \$200. The ability of the commissioner to impose restrictions on the operating area of taxis is repealed

by item [9], and item [14] is consequential to that. Item [12] repeals the provisions permitting dealings in taxi licences, including transfers and leases and other arrangements, and items [3] and [5] make consequential amendments.

Item [13] recognises that under the new system taxi licence holders will also be providers of taxi services, by adding the failure to be authorised as a taxi service provider or to be affiliated to an authorised service provider as grounds for the cancellation or suspension of a taxi licence. Item [15] ensures that the commissioner is able to take both kinds of actions against someone who breaks the rules—that is, cancel or suspend their licence, as well as take proceedings against them for failure to be authorised as a service provider or affiliated with an authorised service provider. The transition from the old system to the new is dealt with in items [23] and [24]. Item [23] provides for current taxi service providers—known as “licence holders”—to be able to obtain the new licence ahead of the commencement of the new system. The commissioner’s decision to issue a licence to a person will be final and not subject to review.

When a new licence is issued, the old licence will be cancelled and the current licence owner will be notified. However, any restrictions on the operating area of the old licence will continue to apply to the new licence until the day on which the new system commences, providing some continuity and breathing space to current service providers before the system is opened up to new entrants. Importantly, I note the cancellation of the licence during the transitional period will not affect the current licence owner’s eligibility for payment under the financial assistance scheme. Item [24] provides that on commencement of the new system, all existing taxi licences—both ordinary licences that are able to be bought and sold, and all licences issued by the Government—are cancelled. Most will have been cancelled during the process of issuing new licences to current service providers, but this ensures that any licences not dealt with during the transition are also cancelled. On the same day, all operating area restrictions will come to an end.

In the new system, taxi licences will be able to operate anywhere across the State. On that day, the new licence application process will also open to new entrants. That will occur on a day to be proclaimed or, in any case, no later than 12 months after the bill receives assent. This provides sufficient flexibility and opportunity for payments to be made under the financial assistance scheme and for holders of existing licences to transition to the new scheme, while also providing certainty that the new system will commence in full no later than 12 months after assent. Items [17] and [18] amend IPART’s power regarding fares so that it is not limited to recommending maximum fares. The power of Transport for NSW to set maximum fares by order is retained; it will be used to set maximum fares for journeys from international airports and terminals. It will also be available, if required, to set maximum fares for subsidised transport in point to point transport vehicles.

Item [2] enhances the toolkit of the Point to Point Transport Commissioner’s authorised officers to ensure compliance with regulatory requirements about service provision—for example, turning on a fare calculation device for a rank and hail job, or not demanding in excess of the quoted fare for a booked journey. Item [25] establishes the new financial assistance scheme. It empowers the making of regulations to establish the criteria for eligibility and other features to support the administration of the scheme by Transport for NSW, including the approval process. The regulations will set out the level of payment for each type of licence, as I described earlier. Item [25] also ensures that all the funds appropriated in 2016 for the previous rounds of assistance will not be spent through those processes because of a shortfall in eligible applicants, and they are available to be spent as part of the new financial assistance scheme. Item [26] increases the passenger service levy to \$1.20, with effect from 1 July 2023, and item [27] sets an end date so the levy will no longer apply from 1 January 2031 or an earlier date specified by the Minister. This will provide the further funds required for the financial assistance package.

Point to point transport services play a key role in connecting residents to regional centres for social activities, employment opportunities and essential services, while also providing transport around local towns for those who need it. Fewer restrictions on services, including putting an end to the operating area restrictions, will enable more efficient operations as well as encouraging new and innovative service models that are more adaptable and better equipped to meet the needs of our regional communities. We know there will be challenges while the industry adjusts, which is why there will be a strong focus on maintaining service provision for customers, especially those who rely on point to point transport to access essential services.

The bill is a crucial step in continuing with our plan to deliver meaningful change to the sector to improve customer outcomes, while continuing to support industry through a significant transition. We have been listening to customers and industry feedback every step of the way, including through the independent review and through further consultation conducted by Transport for NSW, which has assisted us in the drafting of the bill now before the Parliament and the design of the financial assistance scheme. The changes proposed in the bill will enable the industry assistance scheme to be established and for changes to be made to taxi licensing and maximum rank and hail fares. The changes will increase flexibility for existing taxi service providers but also make it cheaper and easier for new businesses to enter the industry. Customer choice will continue to expand.

I conclude by thanking members of the Government who worked with me to ensure that the bill was drafted in accordance with the wishes of the industry. I pay tribute to the Taxi Council, although it was obviously a very brutal debate that occurred over the course of the past couple of months. I pay particular tribute to the member for Rockdale, who, on behalf of the Opposition, also worked to ensure that there were high levels of communication and consultation throughout the industry. I commend the bill to the House.

Second Reading Debate

The Hon. JOHN GRAHAM (21:46): I lead for the Opposition in debate on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. It is good to finally see the bill here, after what can only be described as a seven-year debacle. The hardworking taxidrivers and taxi plate owners of this State have had their fates and their fortunes held to ransom over that time by a Government that at various times turned its back on them and ignored their pleas to have some attention paid to this issue. In the final days of this parliamentary term, I am glad that the bill is before us and there is finally something that the Opposition feels it can support.

The bill amends the Point to Point Transport (Taxis and Hire Vehicles) Act 2016 in order to complete the deregulation of the point to point industry and facilitate the final financial scheme for owners of taxi licences. The bill follows the recommendations of the independent review undertaken in 2020 by Sue Baker-Finch, which has been the subject of much scrutiny in the committees of this House. The compensation package that the Government has announced offers \$150,000 per plate for metro taxi plate owners, capped at six plates, and up to \$130,000 for regional taxi plate owners, divided into four regions. It is worth noting that there is no cap on the

number of plates that can be compensated in regional New South Wales, and that is a very welcome aspect of the bill.

The payments offered are a significant improvement on the paltry \$20,000 that was initially offered, but the Opposition has raised strong concerns about the tax treatment of those payments. Treating them as capital gains will require a ruling from the tax commissioner, and the Opposition welcomes the Government's key commitment to seek a ruling similar to that in the equivalent package in Victoria. If that ruling is successful, it will make a huge difference to those taxi plate owners.

The Opposition has also questioned how the Taxi Transport Subsidy Scheme will work in a deregulated market to continue to support accessible transport. Our concern is that there may not be the incentive to continue offering an accessible service under the new regime. As a result, Labor had indicated that it would move an amendment to conduct a statutory review after two years. The Minister has just addressed that point, and I will come back to the issue of accessible transport.

On behalf of the Opposition, and as the shadow Ministers in the other place have done, I pay great tribute to the many taxi operators across the State, who have operated in good faith for years and decades, investing their hard-earned savings in a taxi plate. They often work long hours, looking after people who could not make it home safely on their own and performing a public service for the State of New South Wales. We thank them for their service over those decades. When those operators purchased their taxi plates, they believed it was a rock-solid, government-backed investment.

That was always the case until this Government commenced the deregulation of the point to point sector by legalising rideshare and deregulating booked services. They feel regulation was increased for taxi operators at the same time, and they put that case strongly to the committees of this House. It is a familiar story: Taxi plates across New South Wales dramatically decreased in value, and those who had previously purchased or borrowed against what they thought were secure, government-backed investments then faced heavy financial losses. This has dragged on for seven years.

I thank the industry associations for their advocacy. I acknowledge members of the Opposition's transport team, who focused on this issue. I thank the shadow Minister for Transport, Jo Haylen, who is in the President's gallery. Shadow Minister for Small Business Steve Kamper represents an electorate that contains many of the people who have been affected, and he has been in constant contact with the industry. I acknowledge Jenny Aitchison. She was originally the shadow Minister for Small Business and is now part of the Opposition's transport team as the shadow Minister for Regional Transport and Roads, and she has worked particularly hard on the issue of regional inequalities in the bill.

I join other members of the Opposition in thanking Martin Rogers, CEO of the NSW Taxi Council, and his team, the chairman of the board and country director, and all of the board members. I thank them on behalf of the industry and of the regional communities that rely on taxis. I also join with my colleagues in thanking Craig Richards, vice-president of the Taxi Owners Small Business Association, who has been another strong advocate for the industry.

Members know the history, so I will not recap all of it, but the initial offer of \$20,000 one-off grants for up to two plates was always an insulting offer, given the way the matter had unfolded. The institution of the passenger service levy was backed by all sides of politics. That was an important way to break the deadlock, but plate owners were understandably disappointed by the Government's initial offer, particularly when it was then taxed by the Commonwealth. The work had not been done in that early offer. We saw the issues that arose with the data that the Government was using. A strong community campaign was initiated by the NSW Taxi Council and plate owners, and an initial offer of compensation was then rejected by the industry. The Opposition proudly fought alongside the industry and many parties to improve that first package. The offer has been improved and some of the impacts, specifically in country regions, have been changed, and it is now not a fair offer but a much fairer offer than it was at that time.

In the other place, the shadow Minister drew attention to a particular tactic we have seen in other areas of the State. The ultimatum issued to the industry earlier last week is no way to treat an industry. It is no way to deal with people representing fair interests and fair concerns. We object to the Government's "take it or leave it" approach in general, but we specifically object to it in this case. Imagine waiting seven years for an answer from this Government and then being told, "There's the deadline. Take it, or leave it. You might get nothing." I place on record the Opposition's deep concern about that issue.

The Opposition is specifically concerned about the many discrepancies in the bill in relation to regional areas. We have asked about that in this place for a range of reasons. To the Minister's credit, he has explained the rationale many times, and he stuck to the script. I congratulate him on that. But in no way have we had a real sense

of how that explains some of the discrepancies in regional areas. It just does not make sense. The Minister has explained the methodology but no-one has explained it to the Opposition and no-one has explained to the industry the commonsense explanation for how that could be the case or how, when we tip these numbers in, that could be the answer that comes out of the scheme. I thank the Minister for the manner in which he has dealt with the issue and for trying to place on record the approach the Government has taken, but it just does not pass the test.

One example the Opposition discussed in this place was Ballina taxi operators getting nearly, from my recollection, \$195,000 for their plates and taxi operators in the neighbouring area of Byron getting just \$40,000 for theirs. Underlying the concerns of the Opposition is what happened with the very first assistance payment scheme. To me, that was one of the greatest scandals because of the way it has unfolded over the seven years. When Portfolio Committee No. 6 undertook the inquiry—and I thank the Hon. Mark Banasiak his role in pushing for that inquiry and as deputy chair—the crucial finding on the hardship payment was that, out of \$142 million allocated, \$42 million had been spent. In other words, \$100 million was just trousered by the Government. Hardworking taxi plate operators were in deep hardship and crying out for help. But the bulk of the package—\$100 million—had disappeared. It was sitting somewhere in Treasury and that was not acknowledged. Only through the work of that upper House committee was that revealed.

It was not that people were not asking for the money; they were. There were 1,258 applications and 727 of the applicants got nothing. Some 727 people, in hardship and desperate for help, applied and were given zero. Meanwhile, the bulk of the funds were sitting in the bank in the Treasury. That is a scandal. It is one of the reasons the community and the operators are sceptical about the explanations the Minister has just placed on record about his hopes for what will unfold in the bush. That is the truth. I take the Minister's comments and assurances placed on record at face value. Those assurances are welcome, but I place on record the Opposition's view that we are sceptical. Like the community and the operators, the Opposition is sceptical when the Government says it is committed to regional wheelchair-accessible taxis and to local services continuing in those areas, because of the seven years this has taken, the \$100 million sitting in the bank, the last-minute deadline and what I can only describe as the debacle as this unfolded.

I thank all members of the other place for their contributions. Many members have worked with the industry on this issue because of it is an injustice that people have had to wait so long to have their claims dealt with. I welcome the assurances from the Government. I hope they come to pass. But, if they do not, that will be on this Government and on the National Party specifically in regional areas of New South Wales because it is responsible for what has happened to date. The Opposition will certainly hold them responsible for what happens from now.

The Hon. MARK BANASIAK (21:59): I contribute to the debate on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. In doing so, I acknowledge that in the gallery tonight are Ashley and Charla Clark-Smith, who have come all the way from Ballina. They run Casino Cabs and Lismore Taxis. First, I ask the Minister to address some industry concerns regarding payments. The Minister has addressed the concern around capital gains, and I thank him for that, but there are another couple of areas that the industry is concerned about. As people who are making decisions about taxpayer money, we need to be concerned about at least one of these.

The industry has called for the Government to assist with giving financial advice to those who are receiving payments. This is to make sure that they spend the money wisely, and also to ensure that we are dispensing the money wisely. I ask the Minister to comment on that. I have also heard a lot of concerns raised about the eligibility date that has been set down in September. Many owners sold their licence under duress before this date, and those who purchased them did so at a bargain basement price. The purchasers will profit from the scheme, but they have not been through seven years of hardship like the people who sold their licence at the last minute. They will actually make a profit.

If we use the Government phrase "transitional assistance", there is no justification for these people to receive that compensation. They are not transitioning from anything. They are not transitioning from seven years of hardship. They are going to profit. However, there is a way to solve this. The Government could provide the payment to the original owner based on the 2015 date and pro rata what they had received from the sale of their plate. That is a solution. There is a fairer way to make sure we do not leave wounded soldiers on the battlefield, as Craig Richards from the Taxi Owners Small Business Association quite often used to tell me on the phone.

I speak on the bill with mixed emotions. On one hand, it highlights how far we have come. Six years ago, when this issue was first raised with me, it seemed that no-one really gave a stuff about what the Government had done to the taxi industry—or very few gave a stuff—by allowing rideshare to operate illegally. Then, a few weeks ago, we had the Martin Place rally. So many of us went out and spoke in support of the industry. It seemed like it was not until the Shooters, Fishers and Farmers Party raised this matter during the 2019 campaign—and

I continued to raise the matter in this place, in budget estimates and through the point to point inquiry—that we started to see a shift and people started to care. I think at least they pretended to care.

On the other hand, in the view of the Shooters, Fishers and Farmers Party, the bill before the House issues substandard compensation. We are still going down the path of deregulation despite the warnings of the industry and the party about the risks and the danger to the customer. We know that it will cause a negative impact because it has done so in other jurisdictions. It is important to look at the history as we debate the bill. In the media, the Government has tried to claim itself to be a saviour. The Government is not a saviour. It is not a hero. The Government had to be dragged kicking and screaming to this point.

Once, Minister Constance arrogantly told me, "You've had your inquiry; go away." It took this being elevated to an election issue before we really started to see things move along. It should be known that even after the protest in Martin Place, the Premier of this State had to have it explained to him why he should help an industry that is on its knees. He had to be told that it was the decent and right thing to do. I grew up in a Catholic household. I went to church and I went to Catholic school. I do not profess to be as devout as others in this place or the other place, but I remember what the *Bible* says about looking after people less fortunate than you, and this bill does not do that.

The reality is that, under Mike Baird, this Government allowed rideshare to operate illegally. Baird stood on the steps outside Parliament with Minister Constance and told taxidriver, "Go back to work, you bums. We are not going to legalise Uber." Shortly after that, he declared rideshare legal, despite not having passed any legislation. In 2015, in response to criticism about Uber's activity, the Department of Transport put out a statement that read:

The law is clear and has not changed ... A person who carries on a public passenger service in breach of the Act may face prosecution and fines of up to \$110,000.

That is nice, but how many fines were actually issued to Uber during that period? None. There are only two explanations that I can see for that. It is incompetence or corruption—I will allow the Minister to choose which one it is. I presented clear evidence to the Point to Point Transport Commissioner of rideshare breaching rank and hail provisions, including photos of council signs creating rank and hail for rideshare, and shopping centres doing the same. The commission did nothing about it. Is that incompetence—or is it the other one?

During the 2019 budget estimates hearings I asked why taxis were subject to seven times more compliance than rideshare. The Point to Point Transport Commissioner answered by saying that rideshare companies are now held responsible and self-directed. "Self-directed" is a fancy way of saying that they cannot control rideshare, just like all the other overseas jurisdictions. The Government has said arrogantly that the overseas experience of Uber will not happen here, but we see it here. The Government has made New South Wales beholden to a global corporate entity and the real pain for consumers is yet to hit. The bill to deregulate brings consumers closer to that pain.

It should shock no-one to hear that, while the taxi industry was trying to negotiate compensation with the Government in good faith, Uber's executive officer was hovering around Sydney and in this place. Mind you, the executive officer made some enlightening public comments on how many trips have been made with rideshare. They indicate that either Uber has not been paying the passenger service levy [PSL] properly—another clear failing of the Point to Point Transport Commission—or the Treasurer has been fiddling the books, because the numbers provided by the Government when questioned on moneys collected by the PSL do not reconcile with the executive officer's figures.

The Government's proposed legislation to deregulate should be looked at for what it really is: an admission by the Government that the Point to Point Transport Commission has consistently failed to properly enforce an Act, and it has failed by allowing a global corporate entity that does not comply with our laws to conduct business in Australia. Because the Point to Point Transport Commission cannot be trusted to run compliance on a chook raffle, let alone the Act, the solution is to throw the rule book out the window. I say look at New Zealand and its moves to re-regulate because deregulation has caused, and continues to cause, chaos.

Let us talk about how this proposal was presented to the industry. After much pressure from the House through budget estimates hearings and the point to point committee, the then transport Minister commissioned the so-called independent report into the point to point industry. The reality was a stitch-up. Ms Sue Baker-Finch, the non-executive director of Peoplecare Health Limited, with no real knowledge of the industry, recommended the destruction of over 5,000 owners' life savings and future income for the rest of their lives by plagiarising the Sturgess and Parry review. It needs to be made abundantly clear to the House that when those reforms were presented to the industry 12 to 18 months ago as consultation, they were wholly rejected by the industry—and still are.

Some in the Government like to make the argument that consultation does not mean listening to and agreeing with everything stakeholders say—I believe it was the Deputy President in budget estimates hearings a few weeks ago. But I say that consultation is also not ramming it down the stakeholders' throats and speaking to them like it is a fait accompli. That is what happened 12 to 18 months ago. A government got caught up in its own self-importance and arrogance and did not realise it had a problem when the whole industry said it was a bad idea, not just for them but for the customers. It said that clearly. I know with great certainty that every member in this place and the other place who had a meeting with the Taxi Owners Small Business Association and the Taxi Council and signed that pledge knows it as well.

The transport Ministers who were part of the negotiations know it also. I know that during budget estimates hearings, Opposition members and I told the now Deputy Premier when he was regional transport Minister what the ramifications would be. Unfortunately, we now have Labor supporting a bill that does just that. I note the concerns raised in the media about the increase in price surging by rideshare and now taxis turning off their meters for rank and hail jobs. That is happening because the industry is pre-empting deregulation. When the bill is passed there will be chaos in the streets, and the Government and Labor Opposition will have themselves to blame. The industry and the Shooters, Fishers and Farmers Party have warned about this but they are too arrogant to listen. I ask the Minister how he will collect the PSL to 2030 when the meters are off.

Taxi owners, operators and drivers are already pledging to walk away and not be a part of this new world order. In Kiama seven cars have gone, including several wheelchair-accessible taxi licences. I note the Minister's comments about providing extra subsidies. If the vehicles and drivers have already gone, who will the subsidies be provided to? What will the Minister say to the people with a disability who will not be able to get to medical appointments or go to the shops in Kiama, Gerringong or Gerroa? I have also had this confirmed in Orange, Tamworth, Bathurst and the Blue Mountains. On one hand, Federal Labor is committing to improving the lives of people with disability but, on the other hand, State Labor is supporting a bill that will make their lives harder by destroying a service that they depend on for autonomy.

It seems that both sides think they are smart and have saved themselves \$700 million by short-changing the industry with the assistance package. What is it going to cost the next government to subsidise public transport in the regions when there are no taxi services or rideshare? Who will pick up that patient from hospital in the bush in the middle of the night and drive them home? Rideshare will not do it, but a taxi would have. I turn my attention to Minister Elliott's second reading speech. He said:

It is the logical next step to the wideranging reforms that began in late 2015, deregulating booked services and introducing a new safety framework for the industry.

What safety framework? There is no proper driver training, no onboard cameras and no onboard GPS tracking. There have been numerous recorded rapes by rideshare drivers, and female drivers are leaving Uber in droves because they are sick of being propositioned. Is that the safety framework? It will only get worse with deregulation. The Point to Point Transport Commissioner's argument against rideshare and taxis having equal safety requirements is that taxis do rank and hail and you do not know your driver, but that you know your driver with rideshare. I am sorry, but just because someone books on an app and sees a small profile picture with the driver's name does not mean they know them. They are not your friend. I draw the attention of members to the cases that occurred in Victoria—particularly one where a person impersonated their "mate", drove their Uber and raped multiple women. The Minister goes on to say:

The changes proposed in the bill will deliver more choice for customers by freeing up the supply of taxi licences and supporting cheaper, more competitive taxi fares.

More choice and freeing up supply—there are in excess of 1,000 plates on hold because no-one can make a decent living at the moment. Networks cannot get drivers for the same reason. There are currently more than 140,000 PT licences in New South Wales, and the list is growing. How many more are going to grab a \$4-per-week licence under this regime to lurk around Sydney and compete for the same business? With this bill, taxis can say goodbye to transit lanes. Rideshare will be allowed to use historic taxi ranks—there should be some good punch-ups there for a while. With no meters, no enforceable laws and no genuine safety devices, the "competition" will be who can charge the public the most and get away with it. Guess what? It has already started, and it will only get worse. The useless point to point commission will not be able to rein it in. The Minister goes on to say:

They will help level the playing field for all parts of the point to point transport industry and also help deliver the New South Wales Government's Future Transport Strategy by enabling point to point transport services that are customer focused, safe and accessible.

What level playing field? There isn't one. There has not been once since 2015, and there has never been any intention to do it. The lie about a level playing field has been going on for seven years, and this Government still repeats it. Calling this a level playing field implies that it is a game, but it is a person's working environment that is being altered. It is about diluting industry standards to the level of rideshare, but rideshare has got none. When speaking on the so-called assistance package, Minister Elliott stated:

That constitutes the most generous financial assistance package to support the transition of the taxi industry of any State in the country.

There are two profound lies in that single sentence. Well done, Minister. It is not generous, and it is deceptive of him to say "any State". The Northern Territory being a Territory, not a State, enables the Minister to claim that he is not lying, but members should note that the Northern Territory deregulated its industry taxi industry in 2019. The Supreme Court of the Northern Territory declared that taxis were property, in accordance with the High Court decision, and Darwin taxi owners were compensated in full.

The Minister will make a song and dance about how the NSW Taxi Council accepted the deal. The truth is that it had no choice. He gave the council an ultimatum through the media with 24 hours to respond. He threatened an independent assessment. The industry is not stupid. It has seen the Government's so-called independent assessments and reports before. They are not independent. The industry knew the Government would deliberately stitch up the terms of reference to deliver a negative result because it did that with the Sue Baker-Finch report. The Government put a gun to the industry's head, and then Labor put its hand on that same gun when Chris Minns uttered five words to the media before even having the decency to speak to the industry. Those words were "We're inclined to support it." Those five words betrayed an industry.

With those five words, Labor chose political expediency over people. I remind Labor members that they signed a pledge and were warned in Martin Place what would happen to anyone who went back on that pledge. The feelings of betrayal and disgust that have come through my office from the industry are now primarily levelled at Chris Minns and Labor. The Government has been screwing the taxi industry over for years; that is nothing new. But with those five words, Labor betrayed an industry made up of the common man—the men and women who came to this country and turned nothing into something. With 40 million taxi trips a year, I have no doubt that Labor members' ears are burning. The Minister attempted to blow smoke up the industry's backside in his speech by saying:

The New South Wales Government deeply values the contribution made by taxi owners, operators and drivers across our State over the past century or more and believes that is demonstrated through the generosity of this financial assistance package.

Let us look at that gratitude in detail. The Government has refused a fair wage increase for the past eight years. It has confiscated owners' businesses that took 20 years to pay off. It has denied owners an income for the rest of their lives after they lost upwards of \$140,000 in lease payments since legalising Uber. It has forced self-funded retirees onto the pension, leaving most without a saleable asset to finance their transition to aged care. The Government has made payments to a few, but not all. It has forced many of the elderly to an early grave through mental and physical distress. If that is how the Government treats people it values, heaven help those it does not value. Returning to the Minister's speech, he states:

A distinguishing feature of taxis is their ability to offer anonymous rank and hail services.

With car cameras and modern technology in all regulated taxis, there is no such thing as anonymous rank and hail services. There will be, though, when the Government legally hands that over to Uber. Uber has a hail service via its app and has been exploiting rank and hail since its inception, so I wonder where the Minister has been for the past five years. That is the problem. Not one of the 25 transport Ministers the Government has had over the past four years has bothered to understand what is going on in the industry. Is that laziness or is it by design?

I turn to Minister Farraway. Kay and Gavin from Kiama Cabs are still waiting for an answer from the Minister's office explaining how he decided to lump Kiama into region four when no taxi has been sold in the area since 1990. Do not bother fobbing the question off to the department because Kay and Gavin are sick of Transport for NSW and the Point to Point Transport Commission playing "go ask your father, go ask your mother". The answer is that the Minister cannot explain why he did that with any credibility because it is not credible. Minister Elliott stated:

The key mechanism for regulating taxis is the requirement to hold a taxi licence, which responds to the problem of anonymity by ensuring that taxi service providers are known to the independent government regulator.

So why the hell does the Government want to deregulate them? The whole charade is an enormous lie. The truth is that Uber wanted a deregulated, unmetered, booked service so it could charge whatever it wanted whenever it wanted and impose its iniquitous regime of surge pricing all the time, all without meters or in-car safety devices. Like Igor is the servant of Dr Frankenstein, the Government has become the servant of the rideshare giants, and this bill to deregulate is the Government saying, "Yes, Master." The Government fails to realise that it will be delivering chaos on the streets. Customers will be ripped off and left stranded. The Government will leave people with a disability locked in their homes because the wheelchair-accessible taxis are gone. Patient transport services in some rural areas are non-existent; the taxis fulfilled that function.

In closing, I flag that the Shooters, Fishers and Farmers Party will move amendments to the bill. Unlike the bill, our amendments are supported by the industry because the industry designed them. This House has a

decision to make: to support a Government-led reform that the industry has rejected or to support an industry-led reform. If these amendments are not passed, we will introduce a more substantial bill next year to fix the Government's mistakes. As the bill stands, I do not commend it to the House. I condemn it, and I condemn anyone who supports it.

The Hon. ROD ROBERTS (22:19): I intended not to speak in debate on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022 because, as members know, I was in the chair until just a couple of minutes ago, so I do not have any prepared notes and my contribution will not be as eloquent or as detailed as that of the Hon. Mark Banasiak. I acknowledge his hard work and contribution in this field. But I feel compelled to get up and say something about this for myself and on behalf of my colleague the Hon. Mark Latham. When I first entered this building, just after March 2018, the ink had not dried on my oath of allegiance before Martin Rogers was knocking on my door, seeking an audience. I think he was the first person I met in my role here. Being a newbie, I said, "Come on in. Sit down and tell me your story." When he told me the story, I could not believe it.

The story was this. A government had sold to somebody a contract, and the contract was that, in exchange for money that the Government gladly took from them, they had an opportunity to operate in a regulated industry. That was the contract that was entered into: money for an opportunity to operate in a regulated industry. Martin Rogers told me this and I said, "That's good. What happened then?" He said, "Hang on a second, Rod. They just tipped it all upside down and deregulated the industry." I said, "Mate, I'm a novice in this. I know nothing about the taxi industry except that I happen to use it." He said, "We paid our money in good faith. They gave us a licence to operate in what was a regulated industry. So we invested—and invested heavily. Our people are not big business. They are mum-and-dad operators. They have mortgaged their houses. They have gone into debt to borrow money to buy a business. Their business is not a shop. It's not an office space. It's not a factory. It's not bricks and mortar, but it is a business. It's a small business. It just happens to be on the road and has four wheels that attach to the asphalt. That is their business."

So they entered into this contract and then, the Taxi Council tells me, the Government turned it upside down. I said, "So they gave you your money back then?" He said, "No, they didn't give us our money back. They kept that and basically tore up our contract to operate in a regulated industry." I look around and ask how that is possibly fair. That cannot be fair. That is a breach of contract. In any other sort of industry, you would be wheeled off to the office of fair trading or some sort of tribunal and be sued for breach of contract. But that is not what has happened here. How can that possibly be right? I fail to understand how that is anywhere near right, how that is anywhere near just or how that is anywhere near Australian—if I can say that because we are known as the land of fairness and opportunity.

So we now have a deregulated industry and small business operators, mums and dads, who have been screwed over—I say again, screwed over—by this Government. Earlier tonight *A Current Affair* and Tracy Grimshaw were mentioned. If this were some other sort of business operation, she would be knocking on the door of the vendor of that product and saying, "You sold them this product. Yet, you've turned around and taken it back from them." We here tonight are the Tracy Grimshaw in this scenario, and we are alerting people to it. One Nation will not be supporting or opposing the bill because this is all these poor buggers are going to get. Do they deserve more? Yes. Do they deserve their full contract price back? Yes, they do. Is this Government giving it to them? No, it is not. Instead, it is offering them a compromised position. Did they have any choice but to accept it? No, they did not, because the Government has played out this issue in the media with a take-it-or-leave-it approach.

We are entering into a deregulated industry. In the past four years while I have been in this place, members have complained about the deregulation of the building industry. The Government chose to deregulate the building industry, which has got the State into heaps of trouble. Whether we like it or not, industries cannot be trusted to police and operate themselves. Following commissions of inquiry, parliamentary inquiries, new Acts and regulations, and different Ministers, finally a Building Commissioner is in place to control a deregulated industry that has turned into nothing but a cowboy industry that costs people money.

The point to point industry is another disaster in the making. Has the Government not learnt from its previous mistakes? I am not in Government but I apologise to small business owners in the taxi industry for how they have been treated. As a member of Parliament, I am embarrassed to have allowed this to happen to them. Unfortunately, as an industry they now have no choice but to accept what they are being offered. Is it right? No, it is not. This is a blight on this Government and should be remembered for a very long time.

Ms ABIGAIL BOYD (22:26): On behalf of The Greens, I support the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. However, like the Hon. Mark Banasiak, I do so reluctantly. The bill aims to deregulate the New South Wales point to point industry by ending the caps on taxi licences and maximum fares for rank and hail services while finally providing more fulsome compensation—or compensation of any real

value—to taxi plate holders. In 2015 the Government deregulated the point to point industry by legalising rideshare and deregulating booked services. That followed a significant period of time during which Uber was operating unlawfully.

As a result of the deregulation, the value of taxi plates, which had previously been purchased either directly from the Government or transferred from another plate owner at a price set on the understanding that there was a limit on the number of plates available, plummeted. Many taxidriviers found themselves with a plate worth much less than the value of the loan that they had used to originally buy the licence and without the asset that they thought they would sell to fund their retirements. Many lost tens of thousands, if not hundreds of thousands, of dollars.

As with any disrupted industry, there is a period of transition that can be challenging for stakeholders. It is fair to say that the Government did not manage that transition particularly well. The Point to Point Transport (Taxis and Hire Vehicles) Act 2016 provided some limited compensation for the taxi industry, and a scheme was set up to provide payments to those who had suffered financial hardship. Those payments were to be funded by the passenger service levy, the PSL, which is the amount that each passenger pays in a taxi or rideshare on top of the fare for each journey.

In 2020 the Government commissioned a review into the Act, headed by Sue Baker-Finch. Around the same time, Portfolio Committee No. 6, which I chair, established its own inquiry into the Operation of the Point to Point Transport (Taxis and Hire Vehicles) Act 2016. I put on the record my thanks to the Deputy Chair, the Hon. Mark Banasiak, Martin Roberts and Craig Richards for taking the time to explain the issues to me. Similarly to the Hon. Rod Roberts, as a fairly new MP at the time I had to quickly get up to speed with the issues. Like other speakers, I was horrified by the treatment that people in the taxi industry had received.

So we set up our own inquiry, at around the same time as the Baker-Finch inquiry. Needless to say, the reports from the two inquiries were very different. As alluded to by the Hon. John Graham, Portfolio Committee No. 6, or PC 6, found that while the \$250 million industry assistance package was a welcome announcement, it was insufficient and failed to alleviate the financial distress and consequent mental and emotional anguish experienced across the taxi industry. The Transitional Assistance Payment Scheme was significantly limited in scope, particularly in comparison to the Additional Assistance Hire Vehicles Payment Scheme, which essentially provided a buyback scheme for hire car licences. I think this was one of the most noxious parts of the scheme; I am yet to hear any compelling reason why there was a buyback scheme for hire care licences while taxi licence holders were left out in the cold.

Notably, during the PC 6 inquiry it was revealed that much of the Passenger Service Levy [PSL] money had not been spent due to the hardship application criteria being too strict or being out of reach for those without significant knowhow, resources and all the rest of it. Around half of the \$250 million promised to the taxi industry and funded by passengers had not been passed on to drivers. As the Hon. John Graham said, it was extraordinary to see that happen. Of particular concern to the committee was the Additional Assistance Payment Scheme. Representing \$142 million of the overarching \$250 million industry assistance package, this scheme was devised to provide assistance to industry participants facing hardship following the reforms. However, only \$42 million, one-third of that hardship fund, was disbursed, suggesting—as we went into in great detail in the inquiry—that the criteria for hardship was simply far too strict.

Additionally, evidence to the inquiry highlighted that the application process was too difficult for many that could have applied, with some being overwhelmed by the amount of paperwork necessary to demonstrate their dire financial situation. I have said it before, and I have said it in the context of the report, but I will say it again: We are very grateful to the people who gave evidence about that in the PC 6 point to point inquiry. It gave the committee insight into the very real damage that the Government's mismanagement of this transition caused to drivers and their families across the State.

During budget estimates, I followed up—first with Andrew Constance when he was the transport Minister, and then with the dizzying array of successive transport Ministers—as to whether or not that hardship scheme would be reopened with less severe criteria. I also quizzed them as to what the Government was doing with all of that unspent money that had been collected from passengers through the PSL and not delivered to the taxidriviers that it was intended for. I was told in budget estimates that, as at October 2022, there was \$130 million sitting in unspent PSL, while hundreds of taxidriviers suffering hardship in anyone's books but the Government's are left suffering. Yet, despite the questioning and the clear recommendation from the PC 6 inquiry, the Government never reopened and adjusted the eligibility criteria for the hardship fund. This was despite the Government knowing how limiting it was and despite having heard the evidence of the real hardship that was going unaddressed in the industry.

I recognise the emotion with which some speakers have spoken about this issue. I do not think it would be possible to have had conversations with impacted taxidrivers, and to have heard from the industry as a whole and seen how hard they have fought over the past six or seven years, without feeling emotional. In this place we can distance ourselves from the real-world effects of legislation. But speaking with people who have been impacted by things which have been done badly is emotional. Again, I acknowledge the fight of the taxi industry, the drivers and those across the political spectrum—including some of the Government's own members—who have joined forces to try to correct this cruel mismanagement of the transition.

In recognition of the significant drop in taxi plate values and the hardship subsequently experienced by licence owners, the committee recommended that the Government develop and implement a full buyback scheme of ordinary taxi licences. A buyback scheme would allow those licence owners who wish to retire to do so, while also, as the inquiry found, helping the viability of the industry and releasing capital that can be used to innovate and effectively compete against rideshare in the point to point transport industry. The current bill is the culmination of over six years of lobbying to try to get fairer compensation from the Government.

In an ideal world, The Greens would be pushing for a range of additional amendments to the point to point Act. We would be pushing for much more fulsome compensation and to fully reflect the recommendations in the excellent Portfolio Committee No. 6 report to ensure that every community across our State has access to a taxi service, no matter how remote. I share other members' concerns about the impact of complete deregulation on regional areas, particularly when the removal of a cap on maximum fares is coupled with the loss of incentive to run a taxi in the regions. It will make life even harder for those people living in parts of regional New South Wales with limited public transport options, particularly older people and people with disability. The past four years of being in this place have shown me that it is older people and people with disability who are always at the bottom of the Government's priority list.

We must keep an eye on this situation and watch very carefully to ensure that those communities who have taxidrivers currently servicing them, not just during surge times but also during the quieter and less profitable times, continue to have those services provided to them. I would welcome seeing further amendments in the next term of Parliament—whether they are moved by the Shooters, Fishers and Farmers Party or by whichever party happens to form government—to correct the awful mismanagement of this industry transition and provide a fairer and compassionate package for taxidrivers who have been serving the people of New South Wales for so many decades.

The Hon. ROBERT BORSACK (22:37): I contribute to debate on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. Before I begin, I acknowledge in the gallery Martin Rogers from the Taxi Council and two key individuals from the Taxi Owners Small Business Association [TOSBA] who have been involved in this campaign from the start—Vic Hazir, who was in my office this morning, and vice-president Craig Richards. Those three gentlemen have logistically, consistently and sometimes desperately worked to try to get a fair result for the industry. They got that to a degree, but the bill is still not fair.

I acknowledge the contribution of Ms Abigail Boyd. If the Shooters, Fishers and Farmers Party are back in this place after the next election, we will be moving amendments to the bill or introducing another bill to fix the equity and re-regulate the industry in a proper way so that there is a true level playing field, not a deregulated rabble that allows anybody to do anything. Members must ask themselves why there is a highly regulated and controlled taxi industry in this State. Taxis go right back to the hansom cab times and before. The regulations that were developed for the taxi industry were based on two things: public safety and the Government's need to make money. Once it realised that it had created a market for taxi licences, it could sell them.

My honourable partner in crime Mark Banasiak alluded to there being someone in the Government making a backhander out of this, and I subscribe to that. What would possess anybody to throw away over 100 years of logical regulation? Yes, people have had problems with taxidrivers. I have had them too. I have had taxis not turn up et cetera. But when I got into a taxi and the driver turned on the meter, I knew what I would be paying. I knew that the driver would operate safely and was regulated and controlled. I knew where I was going. Hopefully, if the traffic was fine, I would get there on time.

As a matter of principle, I have never used rideshare and never will because it is important to me, as a member of Parliament who advocates for TOSBA, the Taxi Council and all the small business people who have invested their life savings, borrowing literally millions of dollars in some cases—one taxi owner from the mid-North Coast spent \$450,000 on a 50-year licence and got 10 years out of it. Today the Government is going to tell them, "That's probably worth 40 grand. Go away." How much of that debt is he still carrying?

The Hon. Rod Roberts: Shame!

The Hon. ROBERT BORSAK: Yes, I agree. Shame! It is just not good enough in any way, shape or form. I tell the Government, or whoever is going to be the next government, that sweeping this issue under the carpet to get it out of the road ahead of the election is not good enough because it will come back again and again until there is some equity and fairness for the people in the taxi industry. They are taking what they are getting now because they have had a gun held to their head by two hands: one Labor, one Government. That is just not right. If there were not an election coming up, Labor would take a different view.

The Shooters, Fishers and Farmers Party does not support the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. We choose not to support the Liberal-Nationals Government, NSW Labor or American enterprises. Instead, we choose to support the 5,000 New South Wales families who are decent, ordinary working people who, in many cases, are using their superannuation money to buy themselves a future and security, not to be sold out. Those families have been thrown against the wall by this unjustifiable, biased deregulation.

While assessing the merits of the bill, we found it hard to understand whether the Government has been stupid, incompetent or arrogant in its handling of the process. Surely someone in government would have done some basic research and analysis to avoid the mistakes encountered in deregulation in other Australian jurisdictions. We should not use those other jurisdictions as examples—"Why should we pay you so much money when that mob over there in that State got away with it for much less?" Honestly, it is a bloody disgrace. My colleague mentioned the deregulation of the industry in the Northern Territory. The 2003 report *The Impact of deregulation on the Northern Territory Commercial Passenger Vehicle Industry* at page 18 states:

Following deregulation the industry has gone through turmoil with all stakeholders in the industry, including the general public, being affected to some degree.

The report lists some of the major concerns, all of which should sound familiar, even to the Government and the Labor Party members who support the bill. The report continues:

Major concerns have related to:

- the quality of the service provided—

that is already happening in New South Wales even before the bill has gone through—

- the reduction of income suffered by many in the industry, especially drivers—

A sudden influx of free licences is basically going to make it a free-for-all. No-one will get a decent level of service and income. It will be a fiasco. How will anyone in the industry earn a living wage? The report goes on:

and

- ongoing disputes between sectors of the industry.

That is what happens when we throw out 100-plus years of normal, decent regulation. We are witnessing another classic collision of economic theory and empirical reality. Unfortunately, the families who are reliant on the taxi industry have to bear the brunt of the impact because this Government is proving time and again that it is simply not in touch with reality.

It also shows, of course, that the Government plain does not care. It does not care unless you are a property developer or one of its big-end-of-town business mates. It does not care unless you are a guy who gets a job in London or, God forbid, an ex-pollie who gets a job in New York. He ran away from that pretty quickly when it was dug up. The Shooters, Fishers and Farmers Party does care. It supports the valid concerns raised by taxi owners, the Small Business Association of Australia and the NSW Taxi Council, including compensation being gauged against licence values as of 1 July 2015 and not on current market values, which have been devastated by the introduction of ridesharing and the development of this flawed bill.

In the bill's second reading speech of 9 November, the Minister himself admitted that taxis have already been struggling to compete with a largely deregulated sector, which is in fact a largely unregulated and uncapped booked sector. What was his answer? Did the Government decide to assist the regulated taxi industry, and the 5,000 families reliant on it, and help them with adjustment? No. It chose to hand the industry over for free to anyone with a car, including dodgy, tax-evading American enterprises. "Bugger the Australian family"—that is what they say. The Minister and his bill provided nothing but ongoing uncertainty. He has stated that sometime after restraints are removed, the Government will ask the Independent Pricing and Regulatory Tribunal [IPART] to assess the level of competition in the industry and examine the impact of removing costs associated with licences. This will be far too late, if it ever actually happens, for thousands of people and their families who have been impacted by these brutal, unthinking and uncaring changes.

The Minister has stated that IPART's reviews always include extensive public consultation. I have been involved in a few extensive public consultations; I will not bear to waste the time of members by giving them the results of those. True consultation is where both parties freely enter into dialogue and are prepared to be open and

be influenced by the other party—and guess what? The Government actually gets to take on the points of view of the people it is so-called "consulting with". Isn't that weird? The Government has demonstrated that its understanding of consultation is simply a direction to do as you are told, and I know a couple have been told that in the last couple of days. Recently we have heard of taxis seeking to negotiate and refuse fares. Of course, this is not acceptable at all, but it is a direct result of what the industry is currently going through. It is the last resort of those people who own taxis and are drowning.

The Government will be relying on IPART. The simple truth is that IPART has done nothing related to this issue since 2014. Its advice will do nothing in the long run to control surge pricing in the industry when it becomes rampant because of these forced reforms, a lack of competition and, even more importantly, a lack of reasonable controls. The so-called independent review noted that in smaller towns, point to point transport may provide the only means of access to essential services within town or to nearby larger centres. For those who do not drive, taxis play a vital transport function in small regional towns across New South Wales. Taxi services are particularly valuable to those less mobile groups in the community, such as elderly and disabled people. The Government is again illustrating that it does not care about the welfare of this sector of our community. What's more, it probably thinks they do not actually understand it.

We should not and cannot let these important services be left to app-based providers that cannot guarantee the level of service required by the aged and infirm. Which Uber-based driver is going to buy a taxi that will allow wheelchair access? Who is going to invest in that sort of accessible type of taxi or point to point vehicle? I venture to say that nobody will, especially in a rural or regional area or town. And do not tell me, "Don't worry, we will fix it with a government subsidy." We all know that government subsidies are not the answer because they do not last. It is a way of easing the pain in the short term: Get it in place, everybody hopefully forgets it and let the rest go to hell. That is not the way to be doing it, and it is not the way we are going to see it done. We should not and cannot let these important services be left to app-based providers that cannot guarantee the level of service required for the aged and infirm.

If the Government, as it has stated, understands the impact that these reforms will have on current licence owners who have worked all of their lives in the industry and heavily invested in their licences, then why is the Government not providing reasonable compensation at market value for all licences, based on the 2015 market value and indexed to at least 2022? The Government should also introduce a differentiated levy, where the ridesharing sector pays a higher levy to compensate for basically getting their licences for free. I heard my friend the Hon. Mark Banasiak ask how the hell we are going to control or even collect the levy—the extra 30c for another three years—when there will be no accountability for it, when people do not turn the meters on and when rideshare drivers decide that they will not do it but just do cash deals. That will be a real problem. Will that passenger service levy grow as fast as expected based on the Treasury modelling? I seriously doubt it.

The Minister has stated that the commissioner—the independent regulator of the point to point transport sector—has the up-to-date information about taxi licences and is able to monitor the safety of services, and that the regulation of the safety of the point to point transport industry is not changing. That is the biggest load of BS I think I have ever heard. There is just no way they can control, regulate or manage the unregulated. So one minute you are talking about deregulation, and the next minute you are talking about having a commission that is going to regulate, without the checks and balances and without the controls. In the meantime, you are going to throw 100 years or more worth of regulation out the door and say, "Guess what? We're going to copy what we did in the building industry. We are going to create a cowboy industry. Let's go again. We have a new Building Commissioner; now we will have a point to point commissioner. But guess what? He won't know what's going on."

The Minister has stated that taxis will be required to have all the necessary signage and identification markings, as well as additional safety measures so that anonymous rank and hail services are safe for both passenger and driver. Is that going to apply to Uber and the rest? I seriously doubt it. What about the oversight of safety? We know from experience so far that the commissioner has little to no real oversight of the current ridesharing sector. The risk profile of the sector will increase with the continued unfettered expansion of an unmanaged industry. With no proper driver training, no onboard cameras and no GPS tracking, the risk to female drivers and passengers will increase and will only get worse with deregulation. Again, we can learn from what has happened in the Northern Territory. We see from the report I quoted earlier, which said, "It was well-documented in a significant number of news articles in the Northern Territory relating to the poor quality of taxi services at the time that inexperienced and untrained drivers were placing other motorists at risk."

Currently, New South Wales bus lanes are for buses but can also be used by taxis, but not rideshare vehicles. Under the new provisions, anyone can simply apply for their own taxi licence. There are no provisions for a genuine reason to hold a taxi licence. So anyone wanting to live in the fast lane can get a taxi licence so they can make use of bus lanes to get to work or deliver their consignment of illegal drugs quicker. They will just take

the bus lane. That will be really good. This bill, brought on by the Government, has already caused divorces, suicides, loss of homes and much worse. My colleague and I have taken many phone calls from taxidriviers, desperate and at the point of suicide. This Government should be supporting small businesses. Instead it has been intent on wiping out an entire industry and devastating lives and communities.

It is clear that the Liberal-Nationals Government has no respect for the taxi industry, its participants, small business owners, their families or rural and regional communities. The so-called assistance package is inadequate and will not reach those who need it. It is already too late for many in the industry who have suffered financial and emotional wreckage for years. Taxidriviers and owners have been watching with interest how the 17 members of the New South Wales Parliament who spoke at the rally on 20 October will vote in this and the other place. The Shooters, Fishers and Farmers Party will, of course, continue to support the New South Wales taxi industry, the Taxi Owners Small Business Association, the NSW Taxi Council and taxidriviers and owners, who have been betrayed by the Government. We do not support this Government's disdain for their important industry, and we will not be supporting the bill.

The Hon. MARK BUTTIGIEG (22:53): I contribute to debate on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022. By way of connection with some of the earlier speakers in this debate, I tie in this Government's philosophy of how it runs government and its attitude to government. The attitude is that government does not have a role to play in the economy—that is, as long as it holds the ring and the legal framework exists it will deregulate everything and leave everything to the market. The malaise in the taxi industry and in debate on the bill is just another manifestation of that philosophy. My colleague the Hon. Robert Borsak said he thinks that the Government just does not care. I think it is worse than that. The conscious decision to deregulate the industry was borne out of a "let the market rip" philosophy—and bad luck for those plate owners and the taxi industry.

The Government thinks that the market should undercut everyone until it gets the lowest common denominator outcome—to hell with those people who paid a premium for what was, in effect, a monopoly slice that they could utilise into the future. It was a guaranteed income stream based on the Government saying "We want you to satisfy criteria X, Y and Z and provide a service to the public under these conditions. You will pay for that, but you will be guaranteed an income." That is a fair deal. People went into the industry expecting that to be their economic future. They had a time line, a budget and the up-front investment of buying the plates. Then because of a technological innovation, a foreign national was able to come in and take advantage of that technology, which basically allows anyone to ferry people around through an electronic platform. The Government basically said, "Great. This is another version of our free market in full operation. Customers will get cheaper fares."

To be honest, it took almost a decade to drag the Government kicking and screaming to the table just for a paltry compensation package, as my colleague the Hon. Mark Banasiak pointed out. We are now at the point where Labor is supporting the bill because it thinks it is better to take some sort of win than give taxidriviers nothing at all. We note the stakeholders are basically on board because the Government said it will pull the bill if they do not support it. Those people have suffered long and hard enough and they should get compensation. The statutory review we will implement when the amendments are moved will put some safety platform under review to see how that is operating next year in a deregulated market.

The fundamental point I make is that it is borne out of a philosophy that has been manifest across industries, not just with taxis. What did the Government do with electricity? It sold off monopoly assets that provided cheap, reliable electricity to the public, to private market operators, who then pushed up the price. The Government had to buy back power stations at premium prices that they had sold for nothing. My colleague the Hon. John Graham has been campaigning about toll roads for years. The Government sold off monopoly toll roads to the private sector. Earlier today the Minister for Metropolitan Roads boasted about the Government paying millions and millions of dollars to taxpayers in compensation. It is taxpayers paying themselves back for a shonky decision the Government made about outsourcing to the private sector what should be government services. It does not work.

The Government offshored manufacturing because the sticker price for trains made in South Korea was the lowest common denominator. It let the market determine, resulting in trains that did not fit the tracks and did not fit tunnels. The poor old taxpayers are again picking up the bill of billions of dollars in cost blowouts. And now the same thing is happening with taxis. Seven or eight years later the Government has finally realised it has to pay a billion dollars in compensation to poor old taxidriviers who have suffered because of a "let it rip" ideology that lets the market determine. The people of New South Wales have suffered once again. It is better to take some sort of a win so at least those taxidriviers can have some sort of certainty in the future and then have a statutory review.

But members should understand that, at its base, this is about a fundamentally different approach to the way we operate government. Deregulating everything and letting the market look after everything does not work

in every situation. It works sometimes, but in certain situations it does not work. This is a classic example of the Government being blindly wedded to its ideology of a market—in this case a market in ridesharing, which has let those taxidrivens down. We support the bill with a degree of reluctance, but I wanted to point out what underlies all this.

The Hon. DANIEL MOOKHEY (22:59): The very first thing I did when I joined the labour movement in 2001 as an 18-year-old doing union summer with the Transport Workers' Union—alongside Prue Car, who is now the Deputy Leader of the Opposition—was spend quite a few days at Sydney airport talking to taxidrivens and taxi plate owners. In fact, I must have easily spent three days talking to them about the issues that they were confronting regardless of where in the taxi industry they worked. For the drivens, of course, the issues were around bailment and what their take-home pay was. For licence owners, the issues were around access to pricing power, as well as volume in the market. It always turns on the number of cabs.

It is fair to say that since that point in time I have developed and kept a very long interest in the point industry, as we now call it, and the taxi industry over the course of 20 years, as various different economic models have applied to various different industries at various different levels. What they have always had in common is previous parliaments making the mistake of telling people that a taxi licence was a store of value. Lots of people, in good faith and for very good reasons, invested in the industry. Members should not forget or ignore the fact that this was a deliberate policy by governments of both political persuasions for a long time. Equally, members should not forget the fact that this was an opportunity to give returning soldiers after the Second World War a livelihood and was endorsed by the Parliament at the time. I understand that Reverend the Hon. Fred Nile's father, for example, was one of the returning soldiers who got access to those licences. I recall that story being told when the House last debated giving appropriate assistance.

Prior to Uber's legalisation in 2015, which I will get to, those licences had a collective value of billions of dollars. There were 5,000-plus licences in New South Wales with a combined market value of about—I am sure the Taxi Council will correct me if I am wrong—\$3 billion or \$4 billion to \$5 billion easily, or somewhere in that range. I recall vividly at the time we were contemplating legalising Uber that a taxi licence was trading at roughly a median of \$390,000 in 2013 if someone happened to buy one in Sydney. But I am alive to the fact that a lot of the people whom I talked to at that airport 20 years ago told me stories about how they had mortgaged their houses, tied in their other businesses and put a lot of other equipment on the line in order to secure the debt needed to buy their licences on the assumption that the values would appreciate because the market would be stable. It was a predictable form of income. That is a common story amongst many migrant communities as well.

I also recall those asset owners telling me at the time that it was their superannuation. If someone happens to be an owner-driver in the transport industry, they do not have the standard arrangements of an employee, so they invest a lot of their livelihood and future plans in these forms of investments. They cash out by trading it. That does not just happen in the taxi industry; it happens in lots of areas in the transport industry as well. All of this means that, when governments trifle with regulation, they have to be mindful of the fact that they can destroy economic value and destroy many small businesses along the way. I recall making all these points in 2015 or 2016. Back then the Labor Party made very lonely points about the flaws in that assistance package as we established what was meant to be a transitional arrangement. I recall joining with the Shooters, Fishers and Farmers Party at the time.

The Hon. Mark Banasiak: I didn't know you were a member.

The Hon. DANIEL MOOKHEY: I did not join the Shooters; I joined with the Shooters. I have standards. In the hierarchy of parties that I would join, it would never be the National Party.

The Hon. Sam Faraway: We would not have you either.

The Hon. DANIEL MOOKHEY: You would not want me anyway. I would never be a member of that club, especially if you would have me.

The Hon. Scott Farlow: Buy him an Akubra.

The Hon. DANIEL MOOKHEY: And don't get me started on the Liberals. At the time, Labor pointed out that the legislation, which was rushed and lacked certainty about future market design—let alone certainty around how to appropriately support those whose wealth was destroyed—would haunt the Parliament and we would have to come back and deal with it later. So here we are again, effectively undoing some of the damage that was done back then. I respect the member for Summer Hill, the member for Maitland and the member for Rockdale, who have led Labor's response on that very complicated issue. They have done a terrific job. But we cannot repeat the same error, only to return in another seven years. We should set up a structure so that fair compensation is given to those who relied on a promise made by governments of both political persuasions that was not kept, and we must do that with a sufficient level of care.

I also place on record my appreciation for the Taxi Council's advocacy. It is fair to say that the Taxi Council and I have a long history. We go back a long time. Under its current leadership, the Taxi Council came to us a few years ago with a plan to redesign the industry. I respect that. I appreciate the good dialogue we have had with it over many years. I place on record my appreciation for the advocacy of the Transport Workers' Union, which has repeatedly made the point that the taxi industry is not just taxi licence owners. Point to point and rideshare is not just made up of Uber and taxis; it is also made up of people who work behind the wheel. We have an obligation to them as well. As other Labor members have said, we will certainly not make the perfect the enemy of the good. The bill should be supported for the second time. I look forward to seeing the outcome of the legislation after amendments to the bill have been considered.

Ms ABIGAIL BOYD (23:06): By leave: I add to my previous contribution to debate on the Point to Point Transport (Taxis and Hire Vehicles) Amendment Bill 2022 on the basis that I will not move the amendments in Committee of the Whole, and I will give some explanation for that. I thank the Opposition, the Minister and his staff for the late-night conversation about tax law on the fly. The Greens amendments sought to more accurately reflect the Victorian legislation to make it very clear that the assistance payment to be provided to each driver is connected to the cancellation of the taxi licence, so the payment can be treated as capital by taxidriver and not income.

Obviously tax is an incredibly complex area and it is governed primarily by Federal law. But we must do all we can to ensure that when the money goes into the hands of taxidriver, they do not find themselves obliged to give 40 per cent to the Federal Government. The Greens amendments sought to prevent that. However, at this late stage we are prepared to withdraw the amendments on the basis that the Minister provides us with an assurance that he will do everything possible to ensure that it is treated as capital and not income, and that the intention is made very clear in the legislation.

The Hon. SAM FARRAWAY (Minister for Regional Transport and Roads) (23:09): On behalf of the Hon. Natalie Ward: In reply: I acknowledge all the members who have contributed to the second reading debate tonight. Firstly, as I did in my second reading speech, I acknowledge the concern that has been raised with me by taxi operators, by the NSW Taxi Council, and by Opposition and crossbench members. I sat in the gallery in the other place last night and it was raised there, which is why I said in my speech tonight that the Government acknowledges the need to do more around wheelchair-accessible taxis. That is why my second reading speech confirmed that Transport for NSW will offer 50 additional loans for the onboarding of new wheelchair-accessible taxis and new entrants into the market post-deregulation, as well as the addition to the subsidy.

One speaker did not think that that was a great idea, but the subsidy is important because that is exactly what I have heard in feedback. A suite of work needs to be done in New South Wales and with the Commonwealth around the NDIS, to make sure into the future that taxis become a preferred supplier and form part of point to point transport services for those who need them, particularly in regional areas. I am from the bush and I use taxis, so I understand the role they play. I felt there was no better way to express that than by confirming in my speech tonight exactly what the Government is prepared to do following that feedback and the commitments that were given.

I touch on the fact that this is the most generous package in the country, although some may not agree with that. The feedback that the transport Ministers have taken in creating the new package was that the first package needed to be fairer and did not hit the mark. That is why we have had a second go at it, and we have found far more balance with the fairer package that the House will be voting on tonight. The other transport Ministers and I, as the regional transport Minister for the past 10-odd months, have been very determined to end the period of limbo for taxi operators in this State. I will not dwell on the seven years before my time in this House as an MP or Minister, but after 10 months we have a package. Let us remove this issue and give some more certainty to the industry. I hope the bill has support across the Chamber tonight.

I acknowledge Martin Rogers, Geoff Ferris and the board of the NSW Taxi Council, who have always been by the phone for plenty of meetings, feedback and dialogue. I have met Ash from the Northern Rivers a few times as well. I acknowledge Joost de Kock, Ed Debenham, Jess Linsell and the team from Transport for NSW. They have been working on the bill for some time, and I acknowledge the work that they have done. For Nat Openshaw and the team in my office, it has been quite a body of work to get to this point here today. Some amendments are obviously coming up, and we will work through those.

I acknowledge Opposition members, in particular Stephen Kamper, the shadow small business Minister. I acknowledge shadow transport Ministers Jo Haylen and Jenny Aitchison and shadow roads Minister the Hon. John Graham. Opposition members have been good to deal with. I have been very up-front with Opposition members, and they have provided their thoughts and their feedback throughout the process—as have the crossbench members in general. We have had briefings and listened to what Opposition and crossbench MPs have

had to say. We have made sure that the information is available and that my office is available, and I acknowledge that we can only get to this point if we work together across the Chamber. Hopefully my office has done that.

I acknowledge Ms Abigail Boyd's contribution. Firstly, I confirm that as soon as Cabinet announced the first package, Transport for NSW was in a position to talk to the Australian Tax Office [ATO] and to start that dialogue. A transitional payment is a one-off payment. Through Transport for NSW in dialogue with the ATO, the Government intends that the transitional payment be deemed as either a capital loss or gain for those taxi operators, as per the tax Act. It must be said that the final determination is set by the Australian Tax Office, but there is precedent in Victoria that, if a transitional payment is distributed in one go across all plates, the ATO's initial advice is that it can be treated that way. So it is important to note that the ATO is the final determinant as to whether that happens, noting the precedent set with the Victorian package.

There is also precedent set in one of the former payments made to the industry. Acknowledging social security and possible benefits for pensioners and others, it is obviously important that the ATO review of how that income is deemed does not impact those benefits. It is the intention of the New South Wales Government and Transport for NSW that it be deemed that way, but those conversations continue with the ATO, and we are confident that the ATO will look at it in that light. With that, I thank members for their contributions to the debate in this place. I commend the bill to the House.

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

The House divided.

Ayes33
Noes4
Majority.....29

AYES

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

NOES

Banasiak (teller)	Latham	Roberts
Borsak (teller)		

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 one set of amendments, being from the Shooters, Fishers and Farmers Party on sheet c2022-215B.

The Hon. MARK BANASIAK (23:26): By leave: I move Shooters, Fishers and Farmers Party amendments Nos 1 to 8 on sheet c2022-215B in globo:

No. 1 Authorisations

Page 3, Schedule 1. Insert after line 12—

[3A] Section 27 Provider of taxi service or booking service must be authorised

Omit section 27(2).

No. 2 Authorisations

Page 3, Schedule 1. Insert after line 14—

[4A] Part 3, Division 3A

Insert after Division 3—

Division 3A Authorisation fees

44A Authorisation fees

- (1) In addition to an application fee, an authorisation fee is payable to the Commissioner when an authorisation is first issued or each time it is renewed.
- (2) The authorisation fee is payable by the person to whom the authorisation is issued in the way determined by the Commissioner.
- (3) The authorisation fee is—
 - (a) \$500, or
 - (b) another amount prescribed by the regulations.

No. 3 Area of operations

Page 3, Schedule 1[9], lines 23 and 24. Omit all words on the lines.

No. 4 Area of operations

Page 4, Schedule 1[14], lines 7 and 8. Omit all words on the lines.

No. 5 Release of taxi licences

Page 4, Schedule 1[16], lines 14 and 15. Omit all words on the lines.

No. 6 IPART

Page 4, Schedule 1. Insert after line 17—

[17A] Section 74 Referrals to IPART

Insert after section 74(1)—

- (1A) The Minister must, at least once every 2 years, refer passenger services generally to IPART for a recommendation about appropriate fares for the services.

No. 7 Levy

Page 8, Schedule 1[27], lines 35–41. Omit all words on the lines. Insert instead—

[27] Schedule 4 Passenger service levy

Omit clause 4(1). Insert instead—

- (1) The amount of the levy, for each passenger service transaction by the provider of a passenger service or booking service that occurred in the assessment period for which the levy is payable, is—
 - (a) \$1, or
 - (b) another amount prescribed by the regulations.

[27A] Schedule 4, clause 13A

Insert after clause 13—

13A Annual review of levy

The Minister must, at least once a year, review the amount of the levy determined by clause 4(1) to determine whether the amount is still appropriate.

No. 8 Passenger services and Point to Point Industry Board

Page 9, Schedule 1. Insert after line 3—

[29] Schedules 5 and 6

Insert after Schedule 4—

Schedule 5 Further provisions in relation to providing passenger services

1 Schedule prevails

This Schedule has effect despite the other provisions of—

- (a) this Act, or
- (b) the regulations.

2 Hire vehicles to be identified as hire vehicles

A provider of a passenger service by a hire vehicle must ensure the vehicle is permanently fitted with signage identifying the vehicle as a hire vehicle.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a body corporate—250 penalty units.

3 English language requirements

- (1) A person must not drive a taxi or hire vehicle on a road or road related area unless the person has sufficient competence in the English language to communicate with passengers about—

- (a) a hiring of the taxi or hire vehicle, and
- (b) matters related to the hiring.

Maximum penalty—

- (a) for an individual—50 penalty units, or
 - (b) for a body corporate—250 penalty units.
- (2) Without limiting subclause (1), a driver is assumed to comply with the subclause if the driver can demonstrate a level of competence equivalent to, or has passed an examination or assessment and achieved results equivalent to, the following levels—
- (a) for the International English Language Testing System—an overall band score of at least 5.5, with marks of at least 5.5 for speaking and listening,
 - (b) for the International Second Language Proficiency Ratings—at least level 2 for reading and writing and at least level 3 for speaking and listening,
 - (c) for the course English as a Second Language offered by the NSW Education Standards Authority as a Higher School Certificate course—band 3.

4 Identification numbers for providers of passenger services

A person must not provide a passenger service unless the Commissioner has assigned the person a unique identification number.

Maximum penalty—50 penalty units.

5 Approved training

- (1) The Commissioner may approve courses of training that must be completed by a person before—

- (a) an application by the person for, or for the renewal of, an authorisation or a taxi licence is granted, or
- (b) the person provides a passenger service.

- (2) Without limiting subclause (1), the Commissioner may approve a course of training that must be completed by—

- (a) all persons, or
- (b) persons of a particular class.

- (3) The Commissioner must not grant a person, or grant a person the renewal of, an authorisation or taxi licence unless the person has completed an approved course of training that must be completed by the person under this clause.

- (4) A person must not provide a passenger service unless the person has completed an approved course of training that must be completed by the person under this clause.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a body corporate—250 penalty units.

6 Point to Point Industry Board and controlled functions

- (1) There is constituted by this Act a Point to Point Industry Board (the **Board**).

- (2) The Board consists of the following members appointed by the Minister—

- (a) a chairperson,
- (b) a person to represent the Commissioner,
- (c) a person to represent the interests of passengers,
- (d) a person to represent the interests of drivers of vehicles used to provide passenger services,
- (e) a person to represent the interests of providers of taxi services,
- (f) a person to represent the interests of affiliated providers,

- (g) a person to represent the interests of providers of booking services.
- (3) The Board has the following functions—
 - (a) to advise the Commissioner, TfNSW and the Minister on the future direction and operational efficiency of the point to point transport sector,
 - (b) to establish criteria for the exercise of the following functions under this Act (each a **controlled function**)—
 - (i) the amendment of a licence, or a class of licences, by the Commissioner under section 56(6) or (7),
 - (ii) the determination by TfNSW, under section 71, of the number of taxi licences to be issued during a year if the number is a number other than 0,
 - (iii) the approval of a course of training under this Schedule, clause 5 for a person or class of persons.
- (4) A controlled function may not be exercised other than in accordance with the criteria for its exercise established by the Board.

7 **Disability Transport Competency Plan**

- (1) The Commissioner must make a plan that establishes minimum standards for the provision of passenger services to persons with disability (a **Disability Transport Competency Plan**).
- (2) Subsidies or payments under the Taxi Transport Subsidy Scheme must not be made in relation to the provision of a passenger service unless the passenger service meets the minimum standards established by the Disability Transport Competency Plan.
- (3) In this clause—
Taxi Transport Subsidy Scheme means the scheme of that name administered by TfNSW under the *Transport Administration Act 1988*, Schedule 1, clause 8.

Schedule 6 **Constitution and procedure of Point to Point Industry Board**

Part 1 **General**

1 **Definitions**

In this Schedule—

appointed member means a person appointed by the Minister as a member of the Board.

Board means the Point to Point Industry Board established under Schedule 5.

Chairperson means the Chairperson of the Board.

member means a member of the Board.

Part 2 **Constitution**

2 **Terms of office of members**

Subject to this Schedule and the regulations, an appointed member holds office for the period, not exceeding 2 years, specified in the member's instrument of appointment, but is eligible, if otherwise qualified, for re-appointment.

3 **Part-time appointments**

Appointed members hold office as part-time members.

4 **Remuneration**

An appointed member is entitled to be paid the remuneration, including travelling and subsistence allowances, the Minister may from time to time determine for the member.

5 **Deputies**

- (1) A member may, from time to time, appoint a person to be the deputy of the member and may revoke the appointment.
- (2) In the absence of a member, the member's deputy may, if available, act in the place of the member.
- (3) When acting in the place of a member, a person has all the functions of the member and is taken to be a member.
- (4) For the purposes of this clause, a vacancy in the office of a member is taken to be an absence of the member.
- (5) This clause does not operate to confer on the deputy of a member who is the Chairperson the member's functions as Chairperson.

6 Vacancy in office of member

- (1) The office of an appointed member becomes vacant if the member—
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by written instrument addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause, or
 - (e) is absent from 3 consecutive meetings of the Board of which reasonable notice has been given to the member personally or by post, unless—
 - (i) the member is on leave granted by the Minister, or
 - (ii) the member is excused by the Minister for having been absent from those meetings, or
 - (f) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with the member's creditors or makes an assignment of the member's remuneration for the benefit of the member's creditors, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted outside New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may remove an appointed member from office at any time.

7 Filling of vacancy in office of appointed member

If the office of an appointed member becomes vacant, a person is, subject to this Act and the regulations, to be appointed to fill the vacancy.

8 Chairperson

- (1) The Chairperson vacates office as Chairperson if the Chairperson—
- (a) is removed from the office by the Minister under this clause, or
 - (b) resigns the office by written instrument addressed to the Minister, or
 - (c) ceases to be a member of the Board.
- (2) The Minister may at any time remove the Chairperson from office as Chairperson.

9 Disclosure of pecuniary interests

- (1) If—
- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.
- (2) A disclosure by a member at a meeting of the Board that the member—
- (a) is a member of, or employed by, a specified company or other body, or
 - (b) is a partner of, or employed by, a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in a matter relating to the company or other body or to the person that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).
- (3) Particulars of a disclosure made under this clause must be recorded by the Board in a book kept for the purpose and the book must be open at all reasonable hours to inspection by a person on payment of the fee determined by the Board.
- (4) After a member has disclosed the nature of an interest in a matter, the member must not, unless the Minister or Board otherwise determines—
- (a) be present during a deliberation of the Board about the matter, or

- (b) take part in a decision of the Board about the matter.
- (5) For the purposes of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not—
 - (a) be present during a deliberation of the Board for the purpose of making the determination, or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate a decision of the Board.
- (7) This clause applies to a member of a committee of the Board and the committee in the same way it applies to a member of the Board and the Board.

10 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.
- (2) If, by or under an Act, provision is made—
 - (a) requiring a person who is the holder of a specified office to devote the whole of the person's time to the duties of the office, or
 - (b) prohibiting the person from engaging in employment outside the duties of the office,

the provision does not operate to disqualify the person from holding the office and also the office of an appointed member or from accepting and retaining remuneration payable to the person under this Act as a member.

11 Personal liability

A matter or thing done or omitted to be done by the Board, a member of the Board or a person acting under the direction of the Board does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this or another Act, subject a member or a person so acting personally to an action, liability, claim or demand.

Part 3 Procedure

12 General procedure

The procedure for calling meetings of the Board and for conducting business at meetings is, subject to this Act and the regulations, to be as determined by the Board.

13 Quorum

The quorum for a meeting of the Board is a majority of members for the time being.

14 Presiding member

- (1) The Chairperson or, in the absence of the Chairperson, a person elected by the members of the Board present at a meeting of the Board, is to preside at a meeting of the Board.
- (2) The presiding member has a deliberative vote and, in the event of an equality of votes, a second or casting vote.

15 Voting

A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

16 Transaction of business outside meetings or by telephone etc

- (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board made at a meeting of the Board.
- (2) The Board may, if it thinks fit, transact any of its business at a meeting at which members, or some members, participate by telephone or other electronic means, but only if a member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of—
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),

the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Board.
- (4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic means.

17 First meeting

The Minister—

- (a) may call the first meeting of the Board in the way as the Minister thinks fit, but
- (b) must call the first meeting of the Board as soon as reasonably practicable, and no later than 3 months, after the commencement of this clause.

I have moved the amendments in globo, but I request that they be voted on seriatim. Amendments Nos 1 and 2 are really about establishing value in the industry. What the Government is proposing will devalue the industry and devalue the profession by issuing cheap licences. During COVID we saw a preview of what will happen under this deregulation. People who did not place value in the industry, who were there just to get a bit of extra beer money, cut and ran when COVID happened.

Due to Universal Service Obligation, when COVID happened, taxidriviers had to be on the road. They were essentially pouring petrol down the drain. They were not getting fares. The only fares they were picking up were sick people from the airport. We know that many taxidriviers caught COVID and some of them tragically passed away because of it. Where was rideshare? It was cowering under the doona. Rideshare had run away because there was no value.

The Government is proposing to essentially devalue the industry by issuing cheap licences. The Shooters, Fishers and Farmers Party amendments say that if you want to participate in the industry—if you want to be serious about providing a public transport, because we are talking about a public service—you should have some skin in the game. We have set the "skin in the game" at \$500, but we have also provided the opportunity for another amount to be prescribed by regulation. We give the government of the day the flexibility.

The first two amendments are about this Government, or any government, saying that it values the public service being delivered by our taxidriviers or our point to point licensees. Without that, we will have any old person in a beat-up old heap of junk running around picking up people with no care for what they are doing. If a circumstance like COVID happens again, they will just cut and run. If you have skin in the game, you do not cut and run. Amendments Nos 3, 4 and 5 can be described as us saving the Government from itself—from its own stupid mistakes. Amendment No. 3 deals with the Government's proposal to remove the limits of provision of taxi services to specified areas of operation.

The industry has told the Government quite clearly what will happen. If the limits on the areas of operation are removed, when big events occur in the regions—such as the Bathurst 1000 or the Tamworth Country Music Festival—there will be an influx of blow-ins taking the cream off the top. The people who run point to point services in the area will not get the influx of profit that would have kept them or tied them over the lean periods during the rest of the year. There will be a greater decrease in services in the future because the local operator will have a diminished turnover. The Government has been told that loudly and clearly, and it has happened in other jurisdictions that have gone down that route.

Amendment No. 4 deals with the Government's choice to try to remove caps and the numbers of taxi licences. Once again, as the Hon. Mark Buttigieg said, this is a laissez-faire, "let the market decide" approach. We say, "No, talk to the industry, come up with a formative approach about demand and supply so everyone gets a fair clip." This influx of licences everywhere will flood the market, no-one will be able to get a fair clip and standards will drop. There will be a race to the bottom because people will be desperate to earn an income. We can see what is happening at the moment. You come out of Sydney's Allianz Stadium at the end of the game, try to get a taxi home and metres are off—"That fare is too short. I'm not taking you." It is happening now, pre-empting what the Government plans to do to the industry. We are trying to save the Government from its own stupid mistakes.

Amendment No. 5 is about uncapped rank and hail fares. Once again, we are trying to save the Government from its own silly mistakes. Amendment No. 6 deals with the Independent Pricing and Regulatory Tribunal [IPART]. We believe if we go down this ridiculous route of deregulating fares then there should be a regular review of what that is doing to the industry, the prices and how much the customer is paying. The last IPART review of the industry was in 2014. A document of 60 pages to 70 pages mentioned surge pricing once. We know surge pricing is rampant. We now see what some taxidriviers are doing in response to this proposed deregulation. It is irresponsible that there is no regular review about what this is doing to prices.

Amendment No. 7 deals with the levy. We asked originally, as did the industry, why put a cut-off on the levy? Grandfather it. It does not need to be raised; just grandfather the levy. After the taxis have been paid out, it

is free to be used for whatever the Government wants. I thought a shrewd Treasurer like Matt Kean would see the benefit of that.

The Hon. Robert Borsak: Shrewd or rude?

The Hon. MARK BANASIAK: Crude, rude. There are not many times a Treasurer comes across another income source for government. Here is one. He could have used it to green the fleet. The industry does not care. The amendment keeps the levy at \$1.10. The customers are happy to pay that. Alternatively, by regulation, it can be moved up and down. At the moment the Government has set it at \$1.20, with no option to move it up or down. We are saying, "Give yourself some flexibility because it may be collected early, it may not." I doubt it will be collected early because the metres will be off. We also believe there should be an annual review of the levy. Let us see what is happening. During the point to point inquiry, we could not get a straight answer about how much money was collected by the levy. It was like pulling teeth.

Amendment No. 8 is about moving forward. The Minister has talked to me about a greater body of work that needs to be done in the taxi and point to point space. We should do it with the industry and set up this industry advisory board. Amendment No. 8 details all of the components of the board. Some of it is pretty standard. If we are to go through this change, even though I do not agree with it, it should be done with the industry. It should not be handled like it was 12 to 18 months ago when people were told, "We are taking your licence, and you may get \$20,000." That is how it was reported from the industry back to me. If we are going to do this, it should be done right. It should be done with the industry via the industry advisory board. With those comments, I commend the amendments to the Committee.

The Hon. SAM FARAWAY (Minister for Regional Transport and Roads) (23:34): The Government opposes all the Shooters, Fishers and Farmers Party amendments. Amendment No. 1 would require each taxi service provider to become authorised in its own right. That is a significant change to the structure of the taxi industry and would put an end to mum-and-dad operators who currently choose to affiliate with authorised taxi service providers. It would mean significant changes to the structure and business model for large service providers such as 13cabs, Premier Cabs and GM Cabs. The Government opposes amendment No. 2 on the basis that it has no effect. The amount of authorisation fees that are payable by service providers is already established in the Point to Point Transport (Taxis and Hire Vehicles) Regulation 2017.

The Government opposes amendments Nos 3 and 4 because, together, they have the effect of retaining operating areas of rank and hail journeys undertaken in a taxi. Keeping operating area restrictions for rank and hail services will not guarantee that taxi services continue to be provided in those areas. A taxi licence is not a service guarantee. It is up to the taxi service provider to design and deliver its service in response to customer demand. Taxi service providers need the flexibility to meet customer demand, wherever that may be. The Government opposes amendment No. 5 because it would have the effect of retaining the current restrictions on the supply of taxi licences. The point of the bill is to deregulate the supply of taxi licences to give the taxi industry the same flexibility that other sectors of the market have enjoyed for some time.

The New South Wales Government wants to enable taxi service providers that are embracing the opportunity to innovate and better respond to the transport needs of their local communities, particularly in the regions. The Government opposes amendment No. 6 because it would require the Minister to refer taxi fares, as well as fares for hire vehicles and rideshare, to the Independent Pricing and Regulatory Tribunal [IPART] for review and recommendation at least once every two years. While the Government does not support the amendment, it acknowledges that there is some concern about the deregulation of fares for rank and hail trips. There are, and will continue to be, protections for vulnerable customers who use point to point transport services.

Before any future deregulation of rank and hail fares, IPART will be asked to assess the market and the effect of deregulation of taxi licence supply. The Government will ask IPART to recommend an indicative fare schedule to guide taxi service providers when setting their fare schedules and to enable customers to compare fares. Even after fare deregulation, Transport for NSW will continue to regulate maximum rank and hail fares to protect customers with a disability who are eligible for the Taxi Transport Subsidy Scheme and passengers travelling through Sydney international airports. The Government opposes amendment No. 7 because it would allow the Minister to set the amount of the levy by regulation and would require the Minister to review the amount each year. That would introduce a level of uncertainty for both customers and service providers, and it would likely introduce a source of conflict between passengers and drivers.

A levy that could change each year would be an administrative burden for drivers and service providers alike. The Government bill, as it stands, provides clarity and certainty to industry and to customers. The levy will remain in place until 31 December 2030, unless it is repealed earlier because the full amount of financial assistance has already been collected. The Government opposes amendment No. 8 because it would establish a point to point

industry board that would be able to limit the independent safety regulator, being the Point to Point Transport Commissioner, in the exercise of his functions.

The Hon. JOHN GRAHAM (23:39): I will explain the general approach the Opposition will take to the amendments. The Opposition does not support the amendments. We understand where the Hon. Mark Banasiak is coming from because of the issue about jeopardising the passage of the bill, particularly after what I refer to as a seven-year debacle. There is no other way to describe the issue. The bill is not perfect. It does not deliver everything the industry has asked for, but after all that time it finally provides a level of compensation the industry can live with. The Government put in place a last-minute deadline and suggested that the bill might be withdrawn or that the level of compensation payable to plate owners might be smaller if the industry did not agree to the bill. In discussions with the Opposition, the NSW Taxi Council has given its support to the passage of the bill, and that has been very influential on the Opposition's position.

I briefly refer to two of the amendments. The Hon. Mark Banasiak has put the case well for the Independent Pricing and Regulatory Tribunal amendment. It has some attractive qualities. One of the reasons Labor is comfortable not supporting it is because of the Opposition amendment passed by the Legislative Assembly, which will require a statutory review in May 2025. I was alarmed by the honourable member's comments about Treasurer Kean. While I see the attraction with revenue, the Opposition is quite cautious about cost-of-living issues at the moment. We are up-front. The Government cannot control everything about the cost of living at the moment, but we should try not to make things worse. That is why we are taking a cautious approach to the issue of the cost of living.

The debate has ranged widely on some of the issues that have affected the Opposition's attitude to the amendments. Firstly, we agree with some of the concerns about deregulation. They were well canvassed in the Legislative Assembly and have been discussed in this debate. The Opposition is concerned about where deregulation will take us. We are concerned about wheelchair access and regional access. We are alarmed by the very thin assurances the Government has provided in the debate on the bill. I thank the Minister for going further than his colleagues in the lower House, but the Opposition has real concerns.

I genuinely thank the Hon. Mark Banasiak for the time he has put into the issue and the role he has played. Members have to make choices about the issues they pursue in the Parliament. So many issues come through this Chamber. Where one allocates one's time is a real choice. The Hon. Mark Banasiak has allocated a lot of his time to this issue. On behalf of the Opposition, I thank him for that. I feel strongly about this issue. We are all dealing with a lot, but he has put some weight behind the issue, which has helped the Chamber apply some weight behind the issue too. I thank him for the role he has played.

The Government has suggested that the bill will not proceed if it is not broadly agreed to. I think that approach is wrong, but I disagree with the Shooters, Fishers and Farmers Party's position on this occasion. I think they have made the wrong decision. I understand why they have put the case. On this occasion, good people disagree. It would be wrong to not support compensation after a long delay, as not supporting it would delay it further. The seven years is weighing heavily, and should weigh heavily, on us all.

The Hon. Robert Borsak is right to talk about the issues around divorce and suicide, and that is weighing heavily on us as we agree to pass the bill. I know the industry has mixed views on the issue, but after being advised by the industry that the bill is the way we should proceed, I feel it would be irresponsible not to take that approach as an opposition and as the alternative Government in New South Wales. That is why the Opposition's position on the bill is what it is. But, in the end, this is a Government failure seven years in the making, with Ministers openly at war on talkback radio in the morning, openly disagreeing about who is responsible—

The CHAIR (The Hon. Wes Fang): I ask the Deputy Leader of the Opposition to address the amendments.

The Hon. JOHN GRAHAM: That is why we will oppose these amendments. That debacle cannot be allowed to go on. I acknowledge that these are tough issues but feel that this Government has made it worse. I accept that there may be a need for a fresh look at these issues, perhaps a fresh set of eyes over this altogether, and the work of this Chamber on these issues will have to go on. That too is important to place on the record. I thank the members who have dedicated their time to these issues, but I indicate that the Opposition cannot support these amendments.

Ms ABIGAIL BOYD (23:45): The Greens support amendments Nos 1 to 7, which I will talk through first. But we do not support No. 8. As we have seen time after time with this Government, we get this legislation that has some good with some bad, and you are effectively held to ransom. If you want, as we do, the compensation package part of this bill before us—to enable that relief to go to the people who have been calling out for it for so long—then you must accept the other part of this. It is unfortunate that we must do that. The Greens are not in

favour of the deregulation components, and amendments Nos 1 to 7 try to remove the worst of the bad parts of this bill. As I said in my contribution to the second reading debate, we have concerns about how this will play out when it comes to the regions. The truth is that the market cannot be trusted to provide essential public services. When it comes to transport in regional areas, it is a particular concern. So we thank again the Hon. Mark Banasiak for trying to get a better situation out of this bill. For those reasons, we do support amendments Nos 1 to 7.

In relation to No. 8, we support what the member is trying to do here. As we keep seeing with these Government bills, there has been insufficient consultation with those whom it most impacts. To the extent that this amendment is trying to build in the ability for the industry as a whole to have more direct input into the matters that concern it, we certainly support the amendment. There are elements of this that we find problematic at this time, though, and, because it has all been put as one amendment, it is difficult for us to support amendment No. 8. But we look forward to next year, when we will hope to see an amendment bill for this. Perhaps we can address those issues then.

The Hon. ROD ROBERTS (23:48): On behalf of One Nation, I say that we want to be associated with the amendments. I note the time and do not want to take up much more time of honourable members. Our position has been well articulated by the Hon. Mark Banasiak.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers amendments Nos 1 to 8 on sheet c2022 215B. The question is that amendments Nos 1 and 2 be agreed to.

The Committee divided.

Ayes8
Noes27
Majority.....19

AYES

Banasiak (teller)
Borsak
Boyd

Faehrmann
Higginson
Hurst

Latham
Roberts (teller)

NOES

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

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

Moriarty
Moselmane
Poulos
Primrose
Rath
Sharpe
Tudehope
Veitch
Ward

Amendments negatived.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendments Nos 3 to 5 on sheet c2022-215B. The question is that the amendments be agreed to.

The Committee divided.

Ayes8
Noes27
Majority.....19

AYES

Banasiak (teller)
Borsak
Boyd

Faehrmann
Higginson
Hurst

Latham
Roberts (teller)

NOES

Amato
Barrett

Houssos
Jackson

Moriarty
Moselmane

NOES

Buttigieg (teller)	MacDonald	Poulos
D'Adam (teller)	Maclaren-Jones	Primrose
Donnelly	Mallard	Rath
Farlow	Martin	Sharpe
Farraway	Mason-Cox	Tudehope
Franklin	Mitchell	Veitch
Graham	Mookhey	Ward

Amendments negatived.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendment No. 6 on sheet c2022-215B. The question is that the amendment be agreed to. Is leave is granted to ring the bell for one minute?

Leave granted.**The Committee divided.**

Ayes8
 Noes27
 Majority.....19

AYES

Banasiak	Fachrmann	Latham (teller)
Borsak (teller)	Higginson	Roberts
Boyd	Hurst	

NOES

Amato	Houssos	Moriarty
Barrett (teller)	Jackson	Moselmane
Buttigieg	MacDonald	Poulos
D'Adam	Maclaren-Jones	Primrose
Donnelly	Mallard	Rath
Farlow (teller)	Martin	Sharpe
Farraway	Mason-Cox	Tudehope
Franklin	Mitchell	Veitch
Graham	Mookhey	Ward

Amendment negatived.

The CHAIR (The Hon. Wes Fang): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendment No. 7 on sheet c2022-215B. The question is that the amendment be agreed to. Is leave is granted to ring the bell for one minute?

Leave granted.**The Committee divided.**

Ayes8
 Noes27
 Majority.....19

AYES

Banasiak (teller)	Fachrmann	Latham
Borsak	Higginson	Roberts (teller)
Boyd	Hurst	

NOES

Amato	Houssos	Moriarty
Barrett (teller)	Jackson	Moselmane

NOES

Buttigieg	MacDonald	Poulos
D'Adam	Maclaren-Jones	Primrose
Donnelly	Mallard	Rath
Farlow (teller)	Martin	Sharpe
Farraway	Mason-Cox	Tudehope
Franklin	Mitchell	Veitch
Graham	Mookhey	Ward

The CHAIR (The Hon. Wes Fang): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendment No. 8 on sheet c2022-215B. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes4
Noes31
Majority.....27

AYES

Banasiak (teller)	Latham	Roberts (teller)
Borsak		

NOES

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

Amendment negatived.

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

Motion agreed to.

The Hon. SAM FARRAWAY: I move:

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

Motion agreed to.

Adoption of Report

The Hon. SAM FARRAWAY: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SAM FARRAWAY: I move:

That this bill be now read a third time.

Motion agreed to.

*Documents***NSW AGENT GENERAL TO THE UNITED KINGDOM****Further Return to Order**

The CLERK: According to the resolution of the House of 9 November 2022, I table documents relating to a further order for papers regarding the Agent General in the United Kingdom, received this day from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

Claim of Privilege

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

*Bills***FISHERIES MANAGEMENT AMENDMENT (ENFORCEMENT POWERS) BILL 2022****Second Reading Speech**

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (00:21): On behalf of the Hon. Sam Farraway: I move:

That this bill be now read a second time.

I make a couple of comments about the Fisheries Management Amendment (Enforcement of Powers) Bill 2022 at the beginning of my contribution. There has been some suggestion that the Government will move some amendments to the bill. I assure the House that the Government will not do that because we want to build a brighter future for the fishers of this State.

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

Leave granted.

The Fisheries Management Amendment (Enforcement Powers) Bill 2022 makes critical and urgent changes that are necessary to enable the continued sustainable management of New South Wales fisheries resources and the ecosystems they depend on. The bill addresses issues raised in a recent District Court judgement that resulted in changes to the way in which certain search powers under the Fisheries Management Act 1994 are interpreted and, therefore, exercised by Fisheries officers. That also affects available powers under the Marine Estate Management Act 2014, as authorised officers under that Act derive their powers from the Fisheries Management Act. They are both critical pieces of legislation, and it is important that the powers available to Fisheries officers under those Acts are fit for purpose and enable the effective monitoring and regulation of access to shared fisheries resources, and the ecosystems they depend on.

Our fisheries resources, and the ecosystems that rely on them, are community-owned resources that are managed by the New South Wales Government on behalf of the entire New South Wales community. Our resources are constantly changing, influenced by variations in environmental conditions, climate change, our extractions through fishing and other developmental activity that impacts on the productivity of fisheries. Management of our precious fisheries resources needs to be responsive to all of those influences to ensure long-term sustainability of these resources and the communities that rely so heavily upon them for their livelihoods, recreation, tourism and for practising culture.

The Fisheries Management Act 1994 is the primary piece of legislation for sustainably managing the fisheries resources across New South Wales for the benefit of current and future generations, including conserving fish stocks and habitats, and conserving threatened species. The Marine Estate Management Act 2014 provides for the management of the entire marine estate in a way that promotes biological diversity and ecosystem health, and facilitates the sustainable use of the marine estate for economic, cultural, social, scientific and recreational purposes. They are fundamental natural resource management objectives and require appropriate and effective compliance, monitoring and enforcement powers to ensure they are delivered.

The New South Wales Government has a variety of management arrangements in place to achieve those objectives and to manage our precious fisheries resources. For example, size limits and seasonal area closures are designed to allow fish to spawn and reproduce to replenish stocks. Similarly, catch quotas and take and possession limits are designed to control the harvest to protect stocks from being overfished and to share them equitably between and within each of the fishing sectors. Without effective compliance, monitoring and enforcement powers, these critically important management arrangements mean nothing and are merely words on paper.

The bill seeks to ensure that there is no ambiguity regarding the powers that can be exercised by Fisheries officers. The Government is taking this decision because within the past 20 years, two separate courts have provided two different interpretations of the available powers. Our intent is to provide absolute clarity in legislation to remove uncertainty for all stakeholders involved in our fisheries about how Fisheries enforcement powers operate. The bill ensures that both our fisheries resources and our marine parks can be effectively protected by officers exercising proportionate, appropriate and fit-for-purpose enforcement powers.

The bill is about addressing critical and urgent issues that have arisen from the recent interpretation of those longstanding enforcement powers. The intent is to update the Fisheries Management Act to reflect the longstanding powers that were operating prior to the recent judgement that highlighted concerns with the current construction. These Fisheries officer powers are not new. They have always had the power to search. They have always had the power to protect our fisheries resources. The bill simply seeks to clarify these powers in light of the issues raised in the recent judgement. It does not affect or otherwise change how Fisheries officers

undertake compliance. The existing risk-based approach to the enforcement of the Fisheries Management Act and Marine Estate Management Act is not changing as a result of this bill. Without the amendments proposed by the bill, the ability of Fisheries officers to effectively undertake their fundamental and critically important duties to protect our fish stocks will be severely compromised.

Before I turn to the detail of the bill, I will provide some context around why the bill is necessary, the reason why it has come about and the impacts if the issue is not resolved. The District Court's judgement related to what is meant by the Fisheries Management Act when it talks about premises. Under previous interpretations, which were informed by a historical Supreme Court judgement, the term "premises" was interpreted as being used to mean any place. Prior to the recent judgement, Fisheries officers lawfully conducted compliance activities wherever it was relevant to do so, as their exercise of search powers were not contingent upon using their powers of entry to enter a space with distinguishable boundaries. However, the District Court's recent reading of the term "premises" is narrower, indicating that in the context of the Fisheries Management Act it should be interpreted as referring to some form of structure, which could be either natural or man-made. As a result of that interpretation, powers available under section 250 of the Fisheries Management Act, which provides Fisheries officers with the power to enter and search premises if they believe there is something connected with a fisheries offence there, could not be exercised in some places.

With two courts having arrived at two different readings of the current laws, the Government is of the view that it is necessary to make targeted changes to provide absolute clarity on the intent of these powers. The risks posed to our fisheries resources if the issues raised by the District Court are left unaddressed are obvious. So much of the fishing in New South Wales occurs in public places where entry to a place is not controlled or the boundaries of the space are not clearly delineated. Some of the places where fisheries offences can occur, like beaches, headlands, rivers, creeks, lakes, estuaries and rock shelves to name a few, would not fall under the interpretation of the term "premises". Following the District Court's judgement, there is now ambiguity as to whether these powers can be exercised in a range of those and other places. Clearly, this will constrain the fundamental work activities of our Fisheries officers. Over the coming busy summer, this will risk significant adverse impacts for our fisheries resources, the marine estate, our freshwater systems and all of the communities and their economies that depend on these resources if the issue is not rectified.

The District Court judgement also had implications for section 255 of the Fisheries Management Act, which provides Fisheries officers with the power to examine fishing gear or other equipment that the officer finds anywhere and has reason to believe is being, has been, or will be, used for fishing in waters to which the Act applies. In short, the District Court judgement found that if a person was in possession of this fishing gear or other equipment, the power could not be used as the equipment was not found by a Fisheries officer. For example, that would mean that if a Fisheries officer walked up to a person holding a trap full of fish which they had reason to believe contained more than the allowable possession limit for that species, the officer would be unable to search that trap. This would also have implications in the case of people knowingly doing the wrong thing and doing so at a very large scale.

There have been examples where Fisheries officers have received complaints from members of the public and members of this House about rock shelves being stripped bare of shellfish and other marine species. When Fisheries officers have gone to investigate, they have found individuals with bags filled with thousands of individual shellfish, including cockles in one of those. In one instance, one person alone had nearly 1,500 shellfish in their possession, and the possession limit is 20. Taking 70 times the allowable limit is not a case of a mistaken fisher accidentally breaching the possession limit. It is a serious offence and that type of activity places serious pressure on our precious fisheries resources. Without the clarifications provided by this bill, Fisheries officers may be unable to take action in these most egregious cases, let alone the regular checks that officers need to carry out. Undoubtedly, the members of the public who are providing reports will have expectations that officers can respond to their complaints effectively.

The issues highlighted in the District Court's judgement regarding the available powers mean that a large volume of fishing activity would no longer be subject to appropriate and proportionate compliance activity and enforcement. Following the District Court judgement being handed down, officers were issued with new work instructions to ensure they exercise their powers in accordance with that new interpretation set out in that judgement. However, unless this issue is resolved through this clarification to the legislation, Fisheries officers will continue to be severely compromised in their ability to undertake effective monitoring and compliance activity to protect our fish stocks. That poses significant risks to the sustainable management of our fisheries resources, both for current generations and for the future.

All types of fishing predominantly occurs in places that may not meet the interpretation of "premises" set out in the recent judgement. Places like beaches, estuaries, rivers and rock shelves would not be included. That means that Fisheries officers could not do their jobs in a whole range of situations and locations. It is simply unacceptable to have a situation where our officers cannot perform basic and fundamental searches of catch and fishing gear, which are carried out all over Australia by officers in all other jurisdictions. With the way the powers are now interpreted, officers would not be able to go down to a beach and inspect catches to ensure they comply with the bag and size limits, as under the new judgement that would not constitute a premises.

Alternatively, if officers were conducting a long and complex enforcement operation into systemic, organised illegal fishing activity and saw the persons of interest fishing with illegal equipment, they may not be able to inspect that equipment. In the case of fishing for whiting on the beach, or in the case of fishers collecting shellfish on a rock shelf over the Easter long weekend, or in the case of fishers setting and using illegal traps along an inland river, Fisheries officers would not be able to undertake a search in relation to a person who may be committing an offence even if they can clearly see that an offence is likely being, or has been, committed as those places would not constitute premises. In the case of a serious organised fishing offence, the officers might have done months of hard work to uncover significant illegal activity only for those search powers to let them down at the last moment.

Many fishers cross the border from interstate to fish in our waters. The issues raised in the District Court's judgement regarding the interpretation of premises and search powers means that our fisheries officers will not be able to check the catch of visitors from across our southern border who might be fishing for golden perch or Murray cod in our rivers, or those who have crossed our northern border to fish for snapper. It is clear to all that the intended model of fisheries compliance does not involve Fisheries officers being unable to act in response to illegal fishing in these kinds of situations. This also has implications for the management of our marine estate more broadly.

Under section 67 of the Marine Estate Management Act 2014, the enforcement powers that can be exercised by authorised officers under that Act are derived from the Fisheries Management Act. This means that the revised interpretation of powers under the Fisheries Management Act will also affect the Marine Estate Management Act, raising similar issues to those I have just discussed in the context of fisheries compliance. Without redress, this leaves our marine estate and fisheries resources dangerously unprotected. That is in nobody's best interests. The fact that two different courts have made two different interpretations over the years says that the most responsible course of action is to do exactly what we are seeking to do here tonight: to clarify in law how and where we

intend powers to be used. These amendments will ensure that these investigative powers are unambiguous going forward and ensure the effective protection of fisheries resources of New South Wales, providing certainty for Fisheries officers and the community alike. I re-emphasise that this bill is simply seeking to reflect the intended model of Fisheries compliance as it has been long understood. There are no other changes. It applies to all forms of fishing across New South Wales.

I will now turn to the detail of the bill. Schedule 1 [1] to the bill amends the existing definition of "premises" to provide greater clarity around the intended meaning of the term. "Premises" is defined to include land or a place, and examples are given to provide certainty that the provision intends to include beaches, trails, tracks, wharves, jetties, rock platforms, riverbanks and other similar locations. It is also defined as including a structure or building. This is in no way intended to be an exclusive list. It simply provides examples for absolute clarity to both the public and the courts. I make it clear this definition is intended to give Fisheries officers the powers they need to do their jobs in all locations that Fisheries offences are found to occur. This approach to defining premises is also consistent with other pieces of modern legislation such as the Biosecurity Act 2015.

Schedule 1 [2] to the bill makes clear that Fisheries officers have the power to search for or examine things in certain circumstances, and to direct a person to hand over a thing for examination. I will provide an overview of this section's intent and the safeguards applied to it shortly. While this is drafted as a new section, it is not a new power. This new section codifies the search powers as they were understood prior to the recent judgement, unambiguously stating in law the intended meaning of the powers that have always been available to Fisheries officers. This mitigates the issues raised in the judgement and provides clarity to the community and to Fisheries officers. These powers allow Fisheries officers to search for or examine things in two situations. Firstly, proposed new section 255A (1) (a) states:

- (1) A fisheries officer may search for or examine a thing if the fisheries officer—
 - (a) has reason to believe the thing is connected with a fisheries offence ...

For example, if a Fisheries officer sees a person depositing a number of fish in excess of a possession limit into an esky, they can search for the esky and search the esky. Secondly, proposed new section 255A (1) (b) states Fisheries officers may search for or examine a thing if they consider it necessary for the purpose of investigating, monitoring or enforcing compliance with the Act. For example, this power allows Fisheries officers to look at and measure a fish to ensure it meets size limits. Where they have reason to believe that a thing is connected with a Fisheries offence, the Fisheries officer can also require the person to provide that thing to the Fisheries officer to be searched as per section 255A (2) of the bill.

In the esky example I have outlined, this means that the Fisheries officer could require the person to hand over that esky so they can search it. The provision at subsection (3) means the person must hand over the esky immediately unless the Fisheries officer determines another period is acceptable because of the circumstances. Under new subsection (5) it would be an offence to fail to comply with such a request, with a maximum penalty of 50 penalty units. This is aligned to other similar offences in the Act currently, such as failing to comply with a requirement to provide information under section 258 of the Act.

To be clear, the power to search things does not allow Fisheries officers to search people. This is made clear in new subsection (6). The bill uses the term "thing" because a wide range of different things could be linked to a Fisheries offence. This could include the obvious types of things, such as fishing gear like rods or spear guns; other equipment like eskies, bags, backpacks or buckets; and the fish themselves. While subsection (6) lists some examples, it is clearly not intended to be an exhaustive list of things. If Fisheries officers have reason to believe something is connected with a Fisheries offence or consider it necessary for the purpose of investigating, monitoring or enforcing compliance with the law, it is our intent to enable that thing to be searched.

These powers are graduated, proportionate and appropriate. The intent of the powers is that officers can undertake normal compliance activities wherever it is necessary to do so, like checking the size of a fish when conducting a beach patrol or examining illegal fish traps that have been set in a river. If the officer wants to require a person to hand over something to be searched, they must have reason to believe that the thing is connected with a Fisheries offence. If there is no reason to believe that the thing is connected with an offence, the Fisheries officer cannot require it to be handed over. These provisions are in line with those available in other jurisdictions—as they always have been. These are comparable to the powers available to Fisheries officers across all other Australian jurisdictions. We do not want to see a situation where people cross the border to unsustainably exploit our New South Wales fisheries resources while our hardworking Fisheries officers are forced to stand idly by because their powers are not fit for purpose. It risks making New South Wales a prime target for serious and sophisticated forms of illegal fishing, and that is not a risk the Government is willing to take.

These powers are absolutely critical to protecting the fisheries resources of New South Wales for the people of this State. This is a narrow bill targeted at resolving a specific issue that has significant consequences for fisheries management in New South Wales. It does not change how fisheries compliance is undertaken. This bill is about clearing up issues in the compliance powers as they currently stand, in recognition of the District Court's interpretation, to ensure that the powers function as they had for many, many years. The bill makes sensible, proportionate and targeted amendments to ensure there is no ambiguity about the available powers. As with all matters of sustainable natural resource management, there will no doubt be conversations long into the future about how those resources should be managed. We can all agree that the ability to ensure that the management rules are complied with is fundamental to the sustainable management of any resource. Those rules need to be underpinned by proportionate, appropriate and practical powers that enable Fisheries officers to effectively undertake compliance and enforcement activity. It is for those reasons that I commend the bill to the House.

Second Reading Debate

The Hon. MICK VEITCH (00:22): I lead for the Opposition in debate on the Fisheries Management Amendment (Enforcement of Powers) Bill 2022. I draw the attention of the House to the statement of public interest regarding this legislation. Members will see why that initiative is valuable to everyone interested in legislation introduced in this Chamber. The bill amends the definition of "premises" to make it clear that premises include the following:

- (a) land or a place, whether built on or not

Example—Land or a place could include a beach, trail, track, wharf, jetty, rock platform, riverbank and a similar location.

- (b) a structure or building.

The bill inserts new section 255A, which states:

- (1) A fisheries officer may search for or examine a thing if the fisheries officer—
- (a) has reason to believe the thing is connected with a fisheries offence, or
- (b) considers it necessary for the purpose of investigating, monitoring or enforcing compliance with the Act.

I draw honourable members' attention to the debate on this bill in the other place, particularly the contribution of the shadow Minister for Aboriginal Affairs, the member for Wyong, Mr David Harris, who made a number of comments based on the Portfolio Committee No. 4 report on the commencement of the Fisheries Management Act 2009, which is colloquially referred to as 21AA. Section 21AA is clearly of substantial interest to the House. We had an inquiry.

As I understand it from the Government, the bill is essential as it puts back in place something that has changed because of an interpretation made by a District Court judge. Essentially it restores powers that have been removed or adjusted because of that interpretation. What does that mean? If the bill does not pass, as I understand it, this summer people could come up to my place in Tumut and take the Murray cray out of the waters with no need for compliance. They could head down to the Hon. Mark Banasiak's place and pillage Lake Illawarra for cockles. They could head up to my mate the member for Wyong's place along the beach without any need for compliance around what they are doing.

The Hon. Mark Latham: Parramatta creek at my place.

The Hon. MICK VEITCH: Yes, Parramatta creek. We just cannot allow people to do that at all. The Opposition will support the bill before the House. I believe The Greens may move some amendments, which we will consider. I will address those in the Committee stage, but at this early hour I suggest to the House that we will be supporting the bill.

The Hon. MARK BANASIAK (00:25): I briefly indicate that the Shooters, Fishers and Farmers Party supports the Fisheries Management Amendment (Enforcement Powers) Bill 2022. The bill is essentially a clarification based on a ruling that happened in the District Court. As the Hon. Mick Veitch said, we need to get this sorted. Otherwise, enforcement will not be able to be undertaken. During the summer months everyone loves to go out and have a fish with their family. We want to make sure that that is done in a sustainable way, so we support the bill. I put on record my thanks to the Minister's office for trying to land on and negotiate on something around section 21AA. Unfortunately, we could not get there, but I am happy to continue that discussion after the bill passes. I think it is important.

I indicate, from seeing The Greens' amendments, that we cannot support a couple of them because they suggest that we commence section 21AA essentially without any regulations. That is quite irresponsible because the department is moving towards looking at a fishery as a whole and in a sustainable way. It will not just look at it as an individual silo and say, "Here's a silo over here", and have no regulation. The amendments sort of go against the principle that we are moving towards. For that reason, we cannot support a couple of the amendments. I believe there might be some broader support for one of the amendments, but we will see where that one lands. I will leave it on that note.

Ms SUE HIGGINSON (00:27): The Greens cannot support the Fisheries Management Amendment (Enforcement Powers) Bill 2022 as it is. I indicate that we will move amendments in the Committee of the Whole. I have worked with the Government and the Opposition and many other people on these amendments. I am really grateful for all of the good-faith discussions that have been happening. I also thank the Aboriginal Fishing Advisory Council, the New South Wales Aboriginal Land Council, NTS Corp, and the many individuals, legal experts and Aboriginal people who have contacted my office over the past week to share their stories, experiences and knowledge.

As the name of the bill reflects and as other honourable members have noted, we are in the Chamber to fix up a slightly broken part of the regulatory and enforcement powers under the Fisheries Management Act. It became clear in a defended prosecution that the search powers that the enforcement officers have been relying on to fine, charge and prosecute people for alleged fisheries offences are, in fact, not fit for purpose and that searches have not been conducted lawfully. So it is important that we fix this. That is recognised. Enforcement powers for Fisheries officers are important for regulating and policing all sorts of cowboy operators who are unlawfully harvesting commercial quantities of species like abalone, which are being sold for personal profit and are not in pursuance of any cultural or native title fishing rights. But those enforcement powers will significantly, unfairly and negatively impact Aboriginal people who are exercising their cultural fishing rights and/or native title rights and interests.

The Minister introduced the bill a day after the tabling of the committee report entitled *Commencement of the Fisheries Management Amendment Act 2009*. Debate on the bill has taken a longer form because it does more than simply suggest that we are tightening a regulatory dysfunction in the law as it stands. The report found that the Government's 13-year stall on introducing section 21AA, which the Hon. Mick Veitch referred to—that is, the provision about protecting Aboriginal cultural fishing rights—has had harmful and, at times, catastrophic impacts on First Nations people. The report states:

During this inquiry the committee was extremely concerned to hear of the level of damage inflicted by compliance actions on Aboriginal people whose lives and culture are expressed and defined by their cultural fishing practices.

The Hon. Mark Latham: Wrap it up.

Ms SUE HIGGINSON: It goes on:

We repeatedly heard stories of Aboriginal people being harassed, prosecuted, and fined for practising cultural fishing. Some Aboriginal fishers have been subject to terrible consequences, including jail terms and fines in the thousands of dollars. Additionally, a number have reported reduced mental health and wellbeing due to being prevented from practising their culture. This was particularly apparent in evidence provided by fishers on the South Coast of NSW.

The Hon. Mark Latham: Wrap it up.

Mr Justin Field: Point of order: Ms Sue Higginson has the right to be heard in silence. It is not appropriate for the Hon. Mark Latham to call on her to wrap up her contribution to this important debate. I ask that he be called to order.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): I did not hear that because I was distracted, but every member is entitled to be heard in silence. I warn all members—

The Hon. Mark Latham: To the point of order: The relatively new member is reading out a prepared text that someone else has written. Ms Sue Higginson can incorporate the balance of her turgid speech into *Hansard* so the House can move on with its business.

The ASSISTANT PRESIDENT (The Hon. Rod Roberts): The Hon. Mark Latham will resume his seat. Ms Sue Higginson is entitled to make her contribution in any way she sees fit.

Ms SUE HIGGINSON: Because of that 13-year failure, Aboriginal people have not been able to exercise cultural fishing safely. When they have, they have been subjected to unfair and inappropriate arbitrary standards unless they have applied for a section 37 permit. The Greens cannot support the bill in its current form because we are debating the very enforcement powers that have caused that harm. The appropriate process for obtaining a permit under section 37 is arduous and has strict rules. Aboriginal people made clear to the inquiry in no uncertain terms that they are unfairly and prejudicially targeted for fishery offences. The department's own data makes clear that:

38 of 65 people given a jail sentence or suspended sentence were Aboriginal people (34 of which were Aboriginal people from the South Coast)—

that is 58 per cent—

6 of the 12 people given intensive corrections orders were Aboriginal people (all 6 Aboriginal people being from the South Coast)

176 of the 1020 non-custodial sentences given were Aboriginal people (113 of which were Aboriginal people from the South Coast) According to the inquiry report, for all cases before the courts relating to fisheries offences between 1996 and 2020, some 31 per cent involved prosecutions of Aboriginal fishers—and remember, we are debating a bill on enforcement powers. I was fairly flabbergasted when the Minister briefed us about the bill and said it has nothing to do with cultural fishing. The Minister said in the other place that only 1.5 per cent of penalty notices under the 2009 Act were issued to Aboriginal people, but in the same breath he clarified that 80 per cent of South Coast jail sentences that occurred as a result of fisheries offences involved Aboriginal people.

Let that sink in: Eighty per cent of jail sentences on the South Coast went to First Nations people who were just exercising their cultural fishing rights. What has happened over the past 13 years is an unfair, harmful and racist mess. The current law is criminalising First Nations people for living their culture and feeding themselves and their families. The Government bill in its current form will make that worse by giving enforcement officers broad search and investigation powers if they so much as form a belief that they want to search a thing in connection with a fisheries offence.

Without some protection against the curtailing of cultural fishing rights—which ideally would have been the inclusion of section 21AA—and without enough time to undertake a proper process, the bill as currently drafted would still potentially see Kevin Mason, the man with 26 abalone, tackled on the seashore. He would still be dragged through the courts by Fisheries NSW. Three cases against him have been commenced and withdrawn over the past six years, while he looks after the Mystery Bay camp. We need to be really cognisant of what we are doing when we introduce and expand enforcement powers in the policing of fishing. It is really relevant to cultural rights. The Greens cannot support the bill as it is because it will result in more unfair policing, prosecution

and criminalisation of Aboriginal people simply living their cultural rights. I will move amendments in the Committee of the Whole.

Mr JUSTIN FIELD (00:37): I recognise the time, but I associate myself with the very well articulated contribution from Ms Sue Higginson. I have been aware of this issue since the moment I started in this place, and I remember numerous debates on it. I engaged with it to some degree because I know how much it impacts on Aboriginal people on the South Coast in particular. The figures outlined by Ms Sue Higginson should really concern all of us, and if we can address the injustice of how fisheries regulation in this State is impacting on Aboriginal people then we should do so.

I understand there have been good-faith negotiations over the course of this week, and there seems to be some agreement on where the bill will land in terms of amendments. I thank all those who have engaged with that discussion over the week, and I hope this ultimately will have a better outcome than it otherwise would have. However, I recognise that it is important that Fisheries NSW officers can exercise their judgement and work with both Aboriginal communities and others around the State to ensure they understand the importance of protecting that resource. I hope the bill with amendments will strike that balance, and I commend it to the House.

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (00:38): On behalf of the Hon. Sam Faraway: In reply: I acknowledge the presence in the President's gallery of the Minister, Dugald Saunders, and acknowledge the genuine commitment and real leadership that he has brought to trying to land this issue in a place that is acceptable to everyone in this Chamber. I acknowledge that and thank him for his leadership. I thank all members who have spoken in debate on the bill: the Hon. Mick Veitch, the Hon. Mark Banasiak, Ms Sue Higginson and Mr Justin Field.

In her contribution, Ms Sue Higginson referred to the Minister's comment that the bill has nothing to do with cultural fishing. That is the point. The intent of the bill is not about cultural fishing; the intent of the bill is to deal with the specific issue of the management of fisheries and the different enforcement powers. The Government is happy to support—as is the Opposition, I believe, without verballing those opposite—the member's foreshadowed amendment clarifying that Aboriginal cultural fishing is excluded from the bill to make it clear that what the Minister said is quite correct. This critical bill focused on ensuring that Fisheries officers have the compliance powers that they need to do their jobs and protect the fisheries resources of New South Wales.

The bill clarifies the powers available to Fisheries officers and is targeted to respond to the issues that have arisen out of a recent District Court judgement that had implications for the powers available to Fisheries officers. The powers of New South Wales Fisheries officers, which are being clarified by the bill, are no different to the powers that Fisheries officers in other jurisdictions have to monitor and protect fisheries resources across Australia. Without action, New South Wales' fisheries resources would be left dangerously unprotected. This bill is necessary. It is critical that we act now to build a brighter future for fisheries management in this State. I commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Wes Fang): There being no objection, the Committee will deal with the bill as a whole. I have three sets of amendments for the Committee's consideration: Government amendment on sheet c2022-216A, The Greens amendments on sheet c2022-189G and the Independent amendment on sheet c2022-192A.

Ms SUE HIGGINSON (00:43): By leave: I move The Greens amendments Nos 1 to 3 on sheet c2022-189G in globo:

No. 1 Aboriginal cultural fishing—commencement

Page 2, clause 2, line 5. Omit "the date of assent to this Act". Insert instead "the date of commencement of *Fisheries Management Amendment Act 2009*, Schedule 1[27]".

No. 2 Search powers for suspected fisheries offences only

Page 3, Schedule 1[2], proposed section 255A(1), lines 13–20. Omit all words on the lines. Insert instead—

- (1) A fisheries officer may search for or examine a thing if the fisheries officer suspects on reasonable grounds the thing is connected with a fisheries offence.

- (2) A fisheries officer may require a person to give a thing in the possession of or under the control of the person to the fisheries officer for examination, if the fisheries officer suspects on reasonable grounds a thing in the person's possession or under the person's control is connected with a fisheries offence.

No. 3 Search powers—Aboriginal cultural fishing excluded

Page 3, Schedule 1[2], proposed section 255A. Insert after line 37—

- (7) A fisheries officer must not exercise a function under this section in relation to a suspected fisheries offence committed by an Aboriginal person unless the fisheries officer has taken reasonable steps to determine—
- (a) whether the fishing concerned was the carrying out of Aboriginal cultural fishing, and
- Note—** *Aboriginal cultural fishing* is defined in section 4(1).
- (b) whether the fishing concerned was the exercise of native title rights and interests within the meaning of the *Native Title Act 1993* of the Commonwealth.

I request that the amendments be voted on seriatim. Amendment No. 1 essentially goes to what we should be doing, which is now introducing clause 21AA. That is the work that the Government has not done for the past 13 years—that is, introducing legislation that provides for cultural fishing rights. The Greens amendment No. 2 seeks to put sensible and reasonable words in a regulatory and enforcement powers provision. The amendment states the grounds for searches by enforcement officers, rather than just having a belief about something they see. It is about providing the proper operation of regulatory powers, such as forming a suspicion on reasonable grounds. These are the types of provisions that we see in police powers and in other laws that provide powers for enforcement and regulation. This amendment provides that an officer have reasonable grounds for doing something, rather than simply considering it necessary, which is an overreach. Without this amendment, the power goes too far and does not have in place the appropriate control when we are talking about any form of regulation, whether it is in relation to Aboriginal people or anyone else for that matter.

A I understand it, amendment No. 3 has support. The Minister referred to my comment on what the Minister in the other place had said. Precisely what the point goes to is that this is inextricably linked to cultural fishing rights and inextricably related to how the new enforcement powers in this bill will unfairly and prejudicially impact on Aboriginal fishers who are exercising their cultural rights. This amendment seeks to carve out and provide an onus on enforcement officers to take reasonable steps to determine and ensure whether the person has been or is exercising and carrying out their Aboriginal cultural fishing rights. It is a sensible amendment. We have had discussions in good faith. We accept that there may be some new requirements about how this provision is used and enforced. All things said and done, given that this will have impacts, we believe this is the most sensible way forward to provide some protection for those exercising their cultural fishing rights.

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, Minister for Regional Youth, and Minister for Tourism) (00:48): I will go through the amendments one by one. The Government opposes The Greens amendment No. 1, which links the commencement of this critical enforcement powers bill to the commencement of section 21AA without the supporting regulation. Throughout the debate in this place and in the other place, the bill, which is about making critical amendments to ensure that Fisheries officers can do their jobs and protect our fishery resources, has been conflated with the recent inquiry into the commencement of the Fisheries Management Act 2009. This amendment does the same by seeking to push forward the commencement of section 21AA without a supporting regulation.

However, the commencement of section 21AA without a supporting regulation could be inconsistent with the outcomes of the recent parliamentary inquiry and would put the sustainability of fish stocks at substantial risk—something I thought would be of importance to the honourable member. Therefore, the Government opposes the amendment. The Government also opposes amendment No. 2. The amendment would remove the proposed section 255A (1) (b) from the bill. The section is a critical inclusion that clarifies the powers available to Fisheries officers. It allows a Fisheries officer to search or examine a thing for the purpose of investigating, monitoring or enforcing compliance with the Act. The power ensures that Fisheries officers can protect the shared fishery resources of New South Wales. Officers can check to see if bag limits or size limits have been complied with. It means that Fisheries officers can check that the fishing gear being used is legal. Notably, this monitoring compliance power does not extend to requiring a person to hand over anything, nor does it permit a person to be searched.

These are fundamental powers of Fisheries officers, with functional equivalence in other jurisdictions across the country and across other regulatory regimes in New South Wales. They are proportionate and appropriate powers. Without these powers, our Fisheries officers could search an item only if they have reason to believe it is linked to a Fisheries offence. This would significantly reduce their ability to carry out their role, and would leave our fishery resources dangerously unprotected. For that reason, the Government does not support the amendment. The Government does not oppose amendment No. 3. Fisheries officers already operate under work instructions and compliance policies to support the identification of cultural fishing or fishing subject to native

title rights in the field. I made very clear in my second reading speech that this is not about targeting or ensuring that Aboriginal cultural fishing rights are taken away. The Government understands and respects the importance of Aboriginal cultural fishing rights, and is therefore happy to support the amendment.

The Hon. MICK VEITCH (00:51): I am watching the clock and I will be very brief. In my second reading debate contribution, I failed to acknowledge the dialogue with the Minister's office. It is important to acknowledge the work that the Minister's office has undertaken, not just with me, but also clearly with everyone else involved in the discussion in the Chamber. I also acknowledge the staff of Ms Sue Higginson, who have spent a lot of time talking through their amendments with the Opposition. That is important. There has been a lot of discussion about these amendments through the past week—probably a lot more than people appreciate and understand. I think everyone should be aware of that. The Opposition does not support amendments Nos 1 and 2, for many of the reasons put forward by the Minister. The Opposition does support The Greens amendment No. 3.

The Hon. MARK BANASIAK (00:52): The Shooters, Fishers and Farmers Party does not support amendment No. 1. I did not think that I would ever come here and talk to The Greens about being environmentally responsible. For the reasons listed by the Hon. Ben Franklin, we do not support amendment No. 2. After discussing amendment No. 3 with the department and the Minister's office and clarifying how they can make it work, we do not oppose it. Let's get on with it.

Mr JUSTIN FIELD (00:53): I thank Ms Sue Higginson for bringing these amendments. There is an assumption underpinning the Government's opposition to The Greens amendment No. 1 that if we commence section 21AA without regulation, it would lead to an enormous increase in take at an unsustainable rate. It is important to understand the size of the population and the capacity of Aboriginal people to disrupt a fish stock. I think there is broad acknowledgement amongst all the players in the discussion here, and all of those actively involved in the public debate and the community debate about Aboriginal cultural fishing rights, that underpinning their desire to have those rights respected in law is a respect for the resource.

It is highly unlikely that, given carte blanche by the commencement of section 21AA without regulations, all of a sudden there would be a willingness to go out there and destroy the very resource that those communities are fighting to access and utilise for cultural and community purpose. I would be okay with the idea that we put that trust in Aboriginal communities to manage that resource in their interest and in the interest of the public. I understand that is where Ms Sue Higginson is coming from, along with many of those engaged in this public debate. If we had more bravery around this it would motivate governments to work more collaboratively with Aboriginal communities as well. I recognise that is not where we are tonight.

Regarding the second amendment, I understand how challenging it must sometimes be for Fisheries officers to engage in the enforcement responsibility and also the important educational role that they play in the community. Aboriginal people engaging in cultural fishing, if we want to describe it that way, are far more actively targeted at times by Fisheries officers. In all the time that I have fished in New South Wales, I think I had an interaction with a Fisheries officer once. That is not the experience of many Aboriginal people engaging in the collection of food for their family day to day. I imagine that their experience with Fisheries officers is coloured very much by what they see as a sense of being targeted just for engaging in the natural world to feed their family.

We are probably all coming at this with very different perspectives of what it is to be a Fisheries officer—someone who is trying to feed their family and someone who is interested in protecting the resource. Hopefully this discussion has helped to facilitate a better long-term outcome on how the regulations ultimately, or the management plans at a local level, will be developed. On the third amendment, it is fantastic that there has been a coming together on that. This will improve the bill overall.

The CHAIR (The Hon. Wes Fang): Ms Sue Higginson has moved The Greens amendment No. 1 on sheet c2022-189G. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Wes Fang): Ms Sue Higginson has moved The Greens amendment No. 2 on sheet c2022-189G. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Wes Fang): Ms Sue Higginson has moved The Greens amendment No. 3 on sheet c2022-189G. 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. BEN FRANKLIN: 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. BEN FRANKLIN: On behalf of the Hon Sam Faraway: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. BEN FRANKLIN: On behalf of the Hon Sam Faraway: I move:

That this bill be now read a third time.

Motion agreed to.

GOVERNMENT SECTOR AUDIT AND OTHER LEGISLATION AMENDMENT BILL 2022

Second Reading Speech

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations)
(01:00): I move:

That this bill be now read a second time.

The Government is pleased to introduce the Government Sector Audit and Other Legislation Amendment Bill 2022. I note at the outset that the bill was amended in the other place. Before I seek leave to incorporate the remainder of my speech, I briefly address the bill as agreed to by the other place. The most significant amendments were those that omitted the provisions of the bill regarding the Auditor-General's capacity to publish or disclose Cabinet information and material that is subject to legal professional privilege. The amendments insert new provisions that establish a different model regarding the Auditor-General's capacity to disclose and publish confidential information.

The bill as amended now makes use of a public interest test. The Auditor-General does not currently have a right, under the Government Sector Audit Act 1983, to Cabinet information or material that is subject to legal professional privilege. Both the bill as introduced and the bill as agreed to would remove those provisions from the Act. The bill as amended would permit the Auditor-General to publish or disclose Cabinet information or information subject to legal professional privilege in three different circumstances. A certificate issued by the Premier that the disclosure of publication of information is not in the public interest will be conclusive and determinative of that question. The use of public interest criteria in the bill is consistent with similar provisions found in other jurisdictions.

The issuing of a certificate will also operate similarly to how the functions of the Commonwealth Auditor-General currently work in this regard. However, the proposed provisions in the bill are limited only to confidential information, not all information, meaning that the New South Wales provisions are meaningfully narrower. The amendments also removed the proposed provision regarding the reviewer providing an opportunity for auditable entities to make submissions about the auditing practices and standards of the Auditor-General as part of future quadrennial reviews conducted under section 48A of the audit Act. This has been removed in light of concerns about the effect of the provision being raised with the Government. I echo the remarks of the Parliamentary Secretary in the other place that the Government thanks the Auditor-General and the staff of the Audit Office for their engagement with the provisions of the bill to ensure that it will work as intended.

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

Leave granted.

This bill will make amendments to the Government Sector Audit Act 1983 and the Local Government Act 1993 to implement what are commonly known as 'Follow the Dollar' powers for the New South Wales Auditor-General. I will refer to these pieces of legislation as the audit Act and the Local Government Act, respectively.

The bill will also amend both of those Acts to implement the Government's response to the recent report of the Public Accounts Committee Report 10/57 from September this year titled *Quadrennial Review of the Audit Office of New South Wales 2022*. I will refer to the Committee as the PAC and the report as the PAC report.

I will speak first about the 'Follow the Dollar' reforms before turning to the PAC report and the measures in the bill to address the important work of that Committee.

All members will know that the Auditor-General plays a crucial role assisting this Parliament holding both State and local governments to account for their use of public resources.

A key part of that role is undertaking performance audits. These are designed to assess whether particular activities of State agencies and, since 2016, local governments are being carried out effectively, economically, efficiently and in compliance with relevant laws.

In this way, performance audits differ from the much more common and imposing financial audits that the Auditor-General undertakes of the financial accounts of State Government agencies and local councils.

The Auditor-General undertakes around 20 performance audits annually, covering a range of important public administration topics.

This year alone, the Auditor-General has published performance audit reports on matters as diverse as the effectiveness of the biodiversity offsets scheme; police responses to domestic and family violence; building regulation and combustible external cladding; local government business and service continuity arrangements for natural disasters; and the integrity of grant program administration.

When carrying out performance audits, the Auditor-General is currently unable to directly examine the use of public resources by non-public sector entities that are engaged by Government agencies or local councils to exercise functions or provide other public services on their behalf, such as charities and not-for-profit organisations.

In effect, the Auditor-General's, and this Parliament's, scrutiny is restricted simply by the way in which agencies or councils deliver those services.

This bill will expand the Auditor-General's mandate by providing the power to conduct performance audits of any matter where public resources are used to deliver services to the community.

In this way, the Auditor-General will be able to 'Follow the Dollar'.

It means the Auditor-General will now be able to report to the Parliament about whether total public resources allocated to a particular program have been managed and applied effectively, economically and efficiently and in compliance with all relevant laws. And it will not matter whether the body delivering those services is a Government or a non-government entity.

'Follow the Dollar' powers are currently available to Auditors-General in every other Australian jurisdiction. This bill will confer 'Follow the Dollar' powers on the Auditor-General of this State.

Broadening the Auditor-General's mandate in this way will deliver more robust accountability and transparency over the use of public resources. The reform will address gaps in external accountability arrangements that may have arisen from a shift that has occurred over time from direct service delivery by State and local governments, to a significant level of service delivery by non-public sector entities on behalf of New South Wales Government agencies through modes including outsourcing, partnerships, grants and contractual arrangements.

The introduction of 'Follow the Dollar' powers for the Auditor-General has been recommended in reports made by NSW Parliamentary committees and other oversight bodies and in June 2022, the Government advised in principle support to a recommendation from the Public Accountability Committee.

At the same time, the Government undertook to consult with stakeholders who might be affected by the proposed reforms.

The Government acknowledges all those who responded to the consultation paper issued by NSW Treasury for this purpose in August 2022.

Key features of the 'Follow the Dollar' model align with those in other Australian jurisdictions. They include the following:

- the Auditor-General retains their broad autonomy to select subject matter for performance auditing;
- as with conventional public sector performance audits, performance audits using "follow the dollar" powers will assess whether a non-public sector entity has applied public resources effectively, efficiently, economically and in compliance with all relevant laws;
- the arrangements which could be subject to "follow the dollar" performance audit powers are broad, and include outsourcing, Public Private Partnerships, grants, subsidy/entitlement funding models, and lease arrangements where the lessee has obligations related to the maintenance or safe operation of public assets;
- the Auditor-General will formally engage with the applicable contracting agency and relevant non-public sector entity on the scope and focus of a "follow the dollar" performance audit, and on the content of their draft report;
- the Auditor-General will have power to inspect the records of, and to interview staff of, non-public sector entities;
- the existing secrecy controls applicable to information held by the Auditor-General will be extended to protect information that the Auditor-General obtains as part of a "follow the dollar" audit; and
- performance audits undertaken using "follow the dollar" powers will be tabled in Parliament, as all performance audit reports are.

I now turn to the detail of the bill.

There are four substantive schedules to this bill. Schedules 1 and 2 deal broadly with the amendments related to the "follow the dollar" reforms contained in the bill. Schedules 3 and 4—which I will address later in this speech—go to the Government's implementation of recommendations made in the Public Accounts Committee [PAC] report. I will deal first with the "follow the dollar" reforms.

The Auditor-General's capacity to conduct performance audits in relation to New South Wales Government agencies is contained in the Audit Act, and, for local councils, in the Local Government Act. This bill will amend both Acts in similar ways.

Schedule 1 to the bill contains amendments to the Audit Act to insert a replacement Division 2A into the Act that will provide for performance audits of activities.

Sections 38A, 38B, 380, 38D and 38E of the replacement Division 2A will define key terms used in the replacement Division and provide for other interpretation matters.

Section 38EA reproduces the existing power of the Auditor-General to conduct a performance audit of an auditable entity to determine whether that entity is carrying out its activities effectively, economically, efficiently and in compliance with all relevant laws. It will now also provide for the Auditor-General to include an audit of the relevant activities of a relevant entity for the auditable entity, if the Auditor-General considers it appropriate to do so.

Section 38EA confirms that a performance audit using "follow the dollar" powers may be conducted only to the extent that it assesses the operations of the relevant entity in relation to achieving the State purpose.

"Relevant entity" is defined broadly in section 38C to be any entity that receives money or other resources, either directly or indirectly, from or on behalf of an auditable entity for a particular purpose—which is referred to as a "State purpose" (for example, a not-for-profit organisation on behalf of a New South Wales Government agency).

In addition, to be a "relevant entity" an entity must also have received that funding or other resources because they agree to use it in achieving the State purpose or have entered into a contract that relates to the State purpose.

The "relevant entity" term has been carefully drafted to ensure that the "follow the dollar" powers focus on non-public sector entities that use public resources to provide goods or services to the public.

The focus of a "follow the dollar" audit is on the particular activities of those entities. It is not an audit of the entire entity.

This is made clear in the definition of "relevant activities" in section 38A. It provides that those activities are the activities of the relevant entity that relate to achieving the State purpose, with two exceptions. These relate to the purchase of goods and services for the direct and exclusive use or benefit of a New South Wales Government agency, or an arrangement of a class that might be prescribed by the regulations. There is no present intention to prescribe any relevant matters.

Where a performance audit includes a "follow the dollar" audit, section 38EB requires the Auditor-General to report the results of the performance audit to the governing body of the relevant entity, the accountable authority for the relevant entity's auditable entity—most usually, the agency that engaged the relevant entity—and the Treasurer and the responsible Minister for that agency.

First, the Auditor-General must provide those bodies and the Treasurer and Minister with a summary of any findings and proposed recommendations in relation to the performance audit. The Auditor-General is to include in the report any submissions or comments made by the relevant entity or the agency that engaged the relevant entity, or a summary of those in an agreed form.

Section 38EB also provides that the report of the Auditor-General may include whatever other information the Auditor-General thinks desirable in relation to the activities that are the subject of the audit, as well as setting out the reasons for opinions expressed in the report and any recommendations the Auditor-General thinks fit to make.

Section 38E0 requires the Auditor-General to present the report of a performance audit made under section 38EB to each House of the Parliament, or if the House is not sitting, to present it to the Clerk of the House concerned. These reporting and tabling provisions reflect the existing reporting and tabling arrangements for conventional performance audits with appropriate modifications to recognise the involvement now of non-public sector entities.

The bill also amends schedule 4 to the Audit Act to insert new part 10, clause 28, to empower the Auditor-General to conduct a performance audit in relation to activities of a relevant entity that are carried out before the commencement of these amendments.

These amendments will ensure that the Auditor-General is not artificially restricted to examining public expenditure that takes place, or contractual arrangements that are entered into, after the enactment of these amendments. If there is ineffectiveness or inefficiency occurring in particular programs now, regardless of who has been involved in delivering them, the Auditor-General should have the power to call it out.

Schedule 2 to the bill also amends the Local Government Act with respect to the "follow the dollar" reforms.

The Auditor-General was given the power to undertake performance audits of local councils in 2016 through amendments to the Local Government Act. As with New South Wales Government agencies, a significant amount of the service delivery work of local councils is performed by non-public sector entities.

It is therefore appropriate that the amendments proposed to the Local Government Act by this bill substantially mirror the amendments that will be made to the Audit Act.

This includes the power to inspect the records of relevant non-public sector entities and interview staff, as well as the requirement for the Auditor-General to ensure consultation with affected parties on their draft findings and to include comments in the final report of the performance audit. The report of the performance audit will then be tabled in the Parliament.

And similar to the amendment to the Audit Act, this bill also amends schedule 8 to the Local Government Act 1993 to insert new part 43, clause 136, to empower the Auditor-General to conduct a performance audit in relation to activities of a relevant entity that are carried out before the commencement of these amendments.

I will soon describe in detail the provisions to be included to respond to the issues raised in the PAC report. However, before I do so, I will first outline the background and context to the PAC report.

As members would be aware, the Public Accounts Committee is a statutory committee of the other place constituted under the Audit Act.

The PAC is required to cause a review of the Audit Office to be undertaken at least every four years under section 48A of the Audit Act. The review is conducted by a reviewer that is appointed by the PAC, with the most recent review—known as a "quadrennial review"—undertaken by the accounting firm O'Connor Marsden and completed in the second half of this year.

The PAC report encloses the report of the quadrennial review conducted by O'Connor Marsden as an appendix. Both the quadrennial review, and the PAC report, contain recommendations for reform in a number of areas.

The PAC made two recommendations directed to the Government. The first is that the Government implement recommendations one and five of the report on the quadrennial review. The first of these recommendations made in the quadrennial review contains six separate bullet points, each of which are themselves substantive reform matters.

The second recommendation from the PAC is to amend the legislation regarding the conduct of future quadrennial reviews.

For the benefit of members, when talking through the provisions of the bill, I will deal with them thematically rather than sequentially.

Schedule 3 items [1] and [2] will provide that the Auditor-General is an independent officer of Parliament. The bill will also clarify that there are no implied rights, obligations or immunities that arise from the designation of the Auditor-General as such an officer.

There is currently only one officer of Parliament in NSW, which is the Parliamentary Budget Officer. This new provision for the Auditor-General is consistent with the provisions found in the Parliamentary Budget Officers Act 2010.

In other relevant jurisdictions, "officers of Parliament" typically:

- are established by an Act that expressly provides for their independence;
- lead integrity agencies and exercise compulsory powers to keep the executive Government under scrutiny;
- are appointed and dismissed by Parliament, or alternatively Parliament is involved in these processes;
- report to a parliamentary committee, which considers and advises on the funding needs of the agency established to support the officer; and
- perform employer functions in respect of staff employed to assist them in the performance of their statutory duties.

The New South Wales Auditor-General has many of these characteristics, including that the Auditor-General:

- is an independent statutory appointee who may only be removed from office upon the address of both Houses of the Legislature;
- exercises compulsory powers to scrutinise the activities of the Executive Government;
- reports to the PAC, which also has a right of veto on the proposed appointee; and
- employs the staff of the Audit Office.

Schedule 3 items [4], [5], [6] and [6A] as well as schedule 4 items [4], [5], [6] and [6A] will remove the current provisions that mean that the Auditor-General is not entitled to access information that is Cabinet information or subject to legal professional privilege.

The provisions will allow the Auditor-General to access this confidential information but will prohibit the publication or disclosure of this confidential information in certain circumstances. The legislation will also allow the executive Government to continue to claim legal professional privilege and public interest immunity in relation to information, notwithstanding that it has been accessed by the Auditor-General.

This statutory framework is both appropriate and important because the recognition of the Auditor-General as an independent officer of Parliament is inconsistent with that officer having an unconstrained right to access and disclose material over which the State holds privilege. The approach taken allows the Auditor-General broad powers of access to ensure the highest levels of scrutiny and oversight, but balances that right of access against the legitimate public interest in the State being able to maintain and assert privilege in other forums, such as in litigation before a court.

The bill as amended would permit the Auditor-General to publish or disclose Cabinet information or information subject to legal professional privilege where:

- the publication or disclosure of the information is, in the opinion of the Auditor-General, in the public interest;
- the Auditor-General has notified the Premier 28 days before the disclosure or publication of the proposed disclosure or publication of the information; and
- the Premier has not issued a certificate that, in the Premier's opinion, the disclosure of the relevant information is not in the public interest.

In recognition of the role of the Auditor-General as an officer of Parliament, this bill will increase the oversight of the Audit Office that is exercised by the PAC. Schedule 3 item [11] will amend the functions of the PAC at section 57 of the Audit Act to require the PAC to both examine—and importantly to report to the Legislative Assembly on—the annual and other reports of the Auditor-General. This provision will bring the functions of the PAC into alignment with other parliamentary oversight committees, such as the Committee on the Independent Commission Against Corruption, and the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission.

The bill will also amend the way in which future quadrennial reviews are conducted. Consistent with the recommendations of the PAC, a final report will be required to be provided directly to the PAC and not to the Auditor-General. This is a sensible recommendation and welcomed by the Government. It was an odd circumstance to have the PAC—which oversees the Auditor-General—be responsible for conducting a review but then have the report on that review provided to the entity that is under review. It makes more sense that the final report be provided to the PAC.

It is important to acknowledge that this change will not exclude the Auditor-General from the quadrennial review process. The Auditor-General will still be required to be provided with a draft of the report and afforded an opportunity to make submissions on it prior to it being finalised. The provisions found at schedule 3 item [9] to the bill will fix this anomaly.

And in concluding my description of the provision of the bill, it would be remiss of me to not acknowledge, for completeness, the amendments at schedule 4 items [1] to [3]. Those amendments are minor housekeeping amendments to modernise the drafting of section 423 of the Local Government Act by introducing a defined term.

Conclusion:

The Government has not implemented all of the recommendations that were made during the quadrennial review process. The Government has already made significant reforms to the funding model for integrity agencies for the New South Wales Budget 2022-2023 and into the future.

The Government has made clear that it does not consider it appropriate to provide the Parliament, or any parliamentary committee—including the PAC—with a role in considering or advising on the funding proposed to be allocated to the Audit Office prior to a decision being made by the executive Government of the day. This is to preserve the fundamental principles of Cabinet confidentiality and responsible Government.

Similarly, the Government does not accept that the mere existence of what are referred to as "request audits"—being audits conducted at the request of the Parliament or a Minister—inherently compromises the independence of the Audit Office. The capacity to request or refer matters is a standard feature of the jurisdiction of integrity agencies in New South Wales. While the Government has not accepted removing request audits, it has, however, proposed in this bill a requirement that they be subject to a consultation obligation before being initiated. This illustrates the balanced and good-faith approach that the Government has adopted in dealing with the entirety of the PAC report and the report of the quadrennial review.

I would encourage members to consider the legislative proposals as a whole and the balance that they strike between the acknowledged and critical independence of the Auditor-General, and the conventions and legitimate practical issues faced by the executive Government in managing the State's finances.

Mr President, I turn now to offer some concluding remarks on the "follow the dollar" reforms contained in this bill. They are another important step in enhancing the accountability and transparency of both State and local Government operations in New South Wales in the general public interest.

I acknowledge the efforts of the Auditor-General and her officers in assisting with the development of this legislation and I look forward to them continuing their very significant work on behalf of the people of this State.

I also acknowledge, again, the work of Mr Greg Piper, the member for Lake Macquarie and the leadership that he has provided as the chairperson of the PAC.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (01:02): On behalf of the Hon. Daniel Mookhey, who is on his way, I make a few comments on the Government Sector Audit and Other Legislation Amendment Bill 2022. The bill amends the Government Sector Audit Act 1983 and the Local Government Act 1993 to enable the Auditor-General to conduct—

The Hon. Daniel Mookhey: I thought I was doing really good.

The Hon. Damien Tudehope: You've got one job, mate. You've got one job.

The Hon. PENNY SHARPE: We swapped the order. Be kind. I will hand over to my colleague, who is far more capable on these matters.

The Hon. DANIEL MOOKHEY (01:03): I have the honour of leading for the Opposition on the Government Sector Audit and Other Legislation Amendment Bill 2022. The bill lifts from many a committee report the recommendation of establishing "follow the dollar" provisions for the Auditor-General and writes it into statute, which is most welcome. The member for Macquarie Fields has set out in the other place the substance of the Opposition's position on the bill, but there are a few things I will say in addition to his remarks.

The first is to remind the House that we are at the last date to provide the Auditor-General with "follow the dollar" provisions. Secondly, this bill comes despite the State handing great swathes of public money over to many organisations for the purposes of fulfilling public functions. While it is accurate that the Auditor-General has audit powers as they apply to government agencies, the nature of modern government is such that, in order to properly determine the effectiveness of our interventions, it is necessary for the Auditor-General to have the ability to go beyond pure public sector entities and also probe those who are in receipt of public money for the fulfillment of a public purpose to see how well they handle public money too, especially if we can shed light on how well government agencies are performing.

Finally, the Labor Party has been fighting for this form of integrity measure for a very long time. It would be remiss of me not to pay tribute to the Hon. John Graham, shadow Special Minister of State, who has introduced bills to establish "follow the dollar" provisions and powers that have not been picked up by other bills. Nevertheless, the legislative alchemy is such that, as a result of agitation, we now have this bill. Opposition members appreciate the efforts of crossbench members in this place and in the Legislative Assembly who have joined us in our struggle to establish these provisions. Equally, we have appreciated our dialogue with the member for Lake Macquarie over the past few days.

Opposition members also appreciate the contact we have had with respective representatives from the Treasurer's office and the Premier's office who have engaged with us. Dare I say, it is fitting that the bill has been

introduced by Minister Tudehope, because we all know which Tudehope is the real architect of it. I pay tribute to the respectful dialogue that I understand we have had with all members of the Government in achieving this bill. It could be better. It could have adopted other provisions that would align it further with Federal law when it comes to the ability, for example, of the Auditor-General to access Cabinet information.

In conclusion, we appreciated our dialogue with the Auditor-General and her office as we went about establishing a system that everyone could live with. This time last year we found out how important the Auditor-General was. We have always had respect for all Auditors-General, but the current Auditor-General has especially had to discharge some very difficult duties under some very difficult circumstances. The right to access Cabinet information has proved to be crucial, not in the abstract but in the actual as well. It is right that we formalise that in this bill too. With that, I again refer colleagues to the remarks of the member for Macquarie Fields during the second reading debate in the Legislative Assembly, which sets out the bulk of the Opposition's thinking on the bill.

Ms ABIGAIL BOYD (01:08): Given the time, I contribute briefly to the debate on the Government Sector Audit and Other Legislation Amendment Bill 2022 and indicate that The Greens support the bill. As I have said on pretty much every other bill debated tonight, I do not understand why this bill was not introduced earlier, but it is fantastic that it has been. I ask the Minister, again given the time, if we could keep the debate short, to explain what the exclusion in the definition of "relevant activities" is directed at and why it is there. That is the definition in new section 38A, which states that the definition of "relevant activities" does not include:

... the provision of goods and services by the relevant entity to an auditable entity for the direct and exclusive use, or direct and exclusive benefit, of the auditable entity ...

In contrast to other jurisdictions, I understand that the impact of this exception is to exclude those goods and services that are provided to the government agency exclusively for its use, as opposed to the use of the public or the public service. I would benefit from understanding why that exception was made. Other than that, we are happy to support the bill.

The Hon. DAMIEN TUDEHOPE (Minister for Finance, and Minister for Employee Relations) (01:09): In reply: It would be handy to be given some forewarning if the member—

Ms Abigail Boyd: You wrote the bill.

The Hon. DAMIEN TUDEHOPE: You have the query.

Ms Abigail Boyd: You wrote the bill.

The Hon. DAMIEN TUDEHOPE: You have the query. If Ms Abigail Boyd wants an explanation, we have very capable people sitting over there who can give an explanation of all those things she wants to know. The observations made by the Hon. Daniel Mookhey about the true architect of the bill, who is sitting here in the Chamber, are true. She would have been able to give Ms Abigail Boyd a detailed explanation of all those things. I pay tribute to the mother of the architect of the bill because she inherited all her ability from her mother. Mr President wants me to be directly relevant. I will endeavour to provide to the member a full explanation of the issues that she has raised. However, given the time I will do that outside of this place. I recommend the bill to the House.

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

Motion agreed to.

Third Reading

The Hon. DAMIEN TUDEHOPE: I move:

That this bill be now read a third time.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DAMIEN TUDEHOPE: I move:

That this House do now adjourn.

IDENTITY POLITICS**NIGEL FARAGE SPEAKING EVENT**

The Hon. MARK LATHAM (01:12): Is there anything more pathetic for an elected representative of the people than hiding behind identity politics as a shield for their own incompetence? Yet that is a growing trend in this Parliament. Apparently legitimately criticising a female MP makes you sexist—someone so anti-female that they say you have no female friends. For those who know me and other men, it is laughable. As the great Miranda Devine has pointed out, I am an equal opportunity bagger. I criticise everyone equally, whether male or female, black or white, straight or gay. If you put up a dumb argument, devoid of research and evidence, I pride myself on pulling it apart, no matter who you are. My critiques are the epitome of equality and inclusion: No dummy ever feels left out.

Playing the gender card is a massive insult to the vast majority of women, who are capable and purposeful. Whenever I tell my daughter about gender quotas and affirmative action policy, she says, "That's ridiculous, Dad. Everyone knows we're better than the boys." Last night in response to Ms Abigail Boyd's explanation of a personal experience with coercive control, another alpha female sent me the following message, "No-one cares about your trauma. Deal with it. Don't project your mental instability onto others, let alone the rest of the country. Society has become extremely narcissistic. People that have some of the power use it entirely for their own agenda, and that's not just in politics." That is very true. Among the left, the push for more female MPs has not been about the best interests and best representation of all women in New South Wales; it is about the personal agenda of a certain kind of woman.

We have all heard the speeches. Ms Abigail Boyd has only two speech types: the giggling one and the crying one. In the latter, she uses the common refrain of unnamed bad men driving her into Parliament and then pursues revenge with a whole series of bills and reports—from Broderick to coercive control and positive consent. That is not what democracy is supposed to be. It is an embittered plaything of individuals, driven solely by their own mishaps and misjudgements, projecting new laws onto the people of the State, with the evidence base and public interest relegated to afterthoughts.

Unfortunately, too many Ministers play along with this game. They are afraid to confront the narrative, too seduced and deluded into thinking that somehow this is valid feminism. Others whisper discontent behind their hands about things like the Broderick agenda but are too weak and scared to act openly. The real losers are the strong and capable women in this place who take a stand against the running of this protection racket for the incompetent. Despite all the rhetoric and promises to the contrary, the gene pool for women coming into Parliament has narrowed down to the damsels in distress, those so feeble and incompetent that they scream "sexism"—

Ms Abigail Boyd: Those strong victim-survivors who stand up for themselves.

The Hon. MARK LATHAM: —there is the scream—as soon as someone disagrees with them. The Greens are so committed to diversity that they are in the process of becoming a one-gender party—no men allowed. It is the Manson family minus Charlie. That is the curse and the cancer of identity politics on parliamentary democracy. Ms Abigail Boyd never finishes her speeches because the criminal justice system has laws and procedures that deal with all of her problems.

The second issue that I will raise concerns the mistake of the NSW Police Force to charge the organisers of the Nigel Farage speaking event in Sydney in September. Farage is a widely respected former member of the European Parliament and the spearhead of the Brexit campaign in the United Kingdom. Part of his Australian speaking tour, which was organised by Turning Point Australia, included an event in Sydney on 27 September. Event organisers were forced to pay nearly \$4,000 for the security, which was provided by the police. Based on security advice revealed in documents obtained under Standing Order 52, the security was completely unnecessary. In an intelligence briefing dated 19 August, the public order and intelligence unit of the NSW Police Force stated that it had not identified any planned protest and assessed the risk from the Farage tour as "insignificant" to "minor", with the overall assessment being deemed to be low. That low-risk assessment was reiterated many times in email communications by the police in the days leading up to the event.

On 2 September a constable noted that no explicit intelligence had been received on specific groups of protester numbers. On 13 September another police officer said, "We have still not located any information to suggest that there will be protest activity at this event." On the same day another officer suggested that there was no specific intelligence to suggest any counter-protest activity. Those examples go on and on in the Standing Order 52 documents. There was never any intelligence of a likely protest. It was simply a shakedown to make the organisers pay nearly \$4,000. This was shameful practice by the NSW Police Force, which should refund the money, stop acting on false security advice and let people hold their event at as low a cost as possible.

TRIBUTE TO ALISON MEGARRITY

The Hon. PETER PRIMROSE (01:17): I met Alison Megarrity on a number of occasions in the late 1990s through her roles as secretary of the Moorebank, later Menai, State Electorate Council of NSW Labor, and through her work as a very active councillor on City of Liverpool council. She led the campaign to stop an airport being built in Holsworthy, was chair of many community organisations, and, along with her husband, Robert, was an active promoter of wheelchair basketball. It was not until Australia Day in 1999 that I first became involved in Alison's campaign to become the State Labor member for the new electorate of Menai. A mutual friend asked that I go through some of Alison's draft campaign material with her. Her energy and commitment were genuinely infectious, and soon I was actively involved with her campaign. As we both came from western Sydney, we recognised that neither of us would ever really be accepted by our betters in the inner city. So we decided to just get on with it and win despite them.

Alison was first elected as the member for Menai in 1999 and won re-election in 2003 and 2007. I was proud to have been actively involved in each of these campaigns, which spanned not a few weeks before the election but the whole four years of each term. Having held a marginal electorate, I recognised in Alison the energy and, frankly, the quirky compulsiveness that is needed to be a marginal electorate campaigner. To be successful in an electorate like Menai, one had to care for both the area and the people who lived in it. In her final speech, Alison spoke of two women walking into a polling booth in front of her on election day in 1999. To quote from her speech:

With a note of frustration and derision in her voice, one said to the other: 'Politicians are like my upholsterer: they promise the world but they never deliver.' Right there and then the importance of delivering on one's commitments and keeping faith with people came crashing home to me.

Alison always delivered. She threw herself into dealing with all local issues. I doubt there was ever a meeting in her community that she did not attend and actively participate in. Her caring advocacy for matters both small and large was legendary, and she achieved much for her community. Even after leaving the Parliament, Alison did not stop. She continued working for her local community and was a very engaged member of the executive of the Former Members Association. In all her endeavours, Alison was supported by her loving family—her husband, Robert, and their two children, Liam and Glyn. For as long as I have known them, they did everything together as a loving, caring family. As an active Catholic family, they all found solace, support and inspiration from their faith.

My wife Jan and I last saw Alison on Saturday, in the palliative care unit of Liverpool Hospital. Robert noted with pride that Alison's name was on the plaque on the ground floor of the building. During her time in the unit, Robert did not leave her side, sleeping and eating in the room. At 3.40 yesterday morning, Robert, Liam and Glyn were present when Alison passed away peacefully. Alison was intelligent, hardworking, humble and honest. She was a good person. She made a real and positive difference for her community, which I hold to be the highest praise that any member of Parliament can hope to achieve. Goodbye, my good friend. You did well.

ANIMAL EXPERIMENTATION

The Hon. EMMA HURST (01:21): The use of animals in experimentation is shrouded in secrecy. I know more than most about this secretive industry because I was a member of the Animal Research Review Panel for several years. In that role, I visited the Australian National Baboon Colony at Wallacia, and facilities where experiments were carried out on the bodies of rented out primates. I take this moment to correct the record. The inquiry into the use of primates and other animals in medical research in New South Wales received a supplementary submission from Professor Wayne J Hawthorne, Chair, Animal Ethics Committee, Western Sydney Local Health District, regarding one of the facilities where baboons were used for medical experiment purposes. The submission claimed that I had complimented them on "how well" their animals were, "how well they were cared for" and what an "amazing facility" they have for their housing and care. This is simply not true.

This is what I saw. I saw a torture chamber. I saw baboons who were frightened and angry. I met a baboon named Scar who had been a victim of xenotransplantation. When I visited the facility, Scar and his two female companions rushed towards us and reached out from behind the bars to us for some kind of minor comfort. When the vivisector entered the room, Scar rushed away, climbing up above us, and he urinated on the researcher. We were told this was not the first time, and that it only ever happened to that researcher. In my opinion, there is a good reason for that; Scar knew who that person was and what he was doing to them. This was Scar's only chance at vengeance, and he took it. This is not "amazing". It is a sick reality, hidden from the rest of the world, that is so secretive I cannot even legally talk about it outside of parliamentary privilege.

In 2016 *The Sydney Morning Herald* published an article by Natalie O'Brien, outlining these experiments. I know many at the time assumed I had something to do with that article. I was not the whistleblower—but today I am. The article outlined that the fate of Scar, as well as two other baboons—Belvedere and Frazer—was not

known. My understanding is that all three of these primates have died. They had pig organs transplanted into them, their bodies rejected those organs and they died. It is not a case of one pig for one baboon. Pigs are forcibly impregnated en masse so a large number of piglets can be killed to collect islet cells as part of the process. I still have nightmares about the dark cage in an empty room at the Royal Prince Alfred Hospital, which also rents out baboons for experimental purposes. The rooms felt old, unclean and unkempt, which the researchers recognised. They said that the animal research labs are often given the worst parts of the building.

Of course, it is not just baboons and pigs. Animal research facilities across the country are smoking mice to death, with a former researcher at the University of Newcastle refusing to even have a second staff member present during experiments to help mice that were asphyxiating on smoking machines. I have visited facilities with racks all the way to the roof filled with mice in tiny perspex containers. I cannot tell members how many mice, rats, guinea pigs and rabbits I saw self-harming and missing fur, overgrooming from stress and confinement. I spoke to care staff who complained about being asked to continue breeding animals when no projects were approved to keep the blood lines going, and who were then told to kill those healthy animals because they were not needed.

I saw scientifically invalid research unquestioned; chickens made sick so their faeces could be collected for vaccines; unborn animals used in research as a sneaky way to report that fewer animals were being used in research because they were not technically counted as animals; and animal welfare representatives on animal ethics committees bullied into resignation after years of attempting to get simple changes, such as meeting codes of practice on the sizing of animal housing requirements. The simple reality is that millions of animals are suffering in medical experimentation facilities across the country. Allowing the secrecy in this industry is allowing cruelty to animals to continue.

SIR HENRY PARKES

The Hon. LOU AMATO (01:26): Strolling through Parliament, we see many paintings, photographs and busts of influential people from our political history. Some of those pioneers in New South Wales and Australian politics are remembered with a room in this place, with their name upon an antique wooden door. One of the great pioneers of our Parliament was the seventh Premier of New South Wales, who served for 11 years and 278 days, making him the longest serving Premier in our Parliament. An oil painting of him hangs upon the wall next to the Legislative Assembly Chamber, and his name is upon the door of a small room across from the Jubilee Room. His name was Sir Henry Parkes.

Sir Henry Parkes was born on 27 May 1815 in Warwickshire, England. He was the youngest of the seven children of Thomas Parkes and his wife, Martha. Sir Henry Parkes as a young man attended Stoneleigh parish school and later joined the Birmingham Mechanics' Institute. Times were tough and the young Henry Parkes was tasked with supporting his family by working as a road labourer and in a brick pit before being apprenticed as a bone and ivory turner. At age 22 he started his own bone and ivory turning business. On the 11 July 1836 he married his first wife, Clarinda. Sir Henry was to outlive three wives, father 17 children and sadly bury six of them to early death.

In 1838 Sir Henry's business failed and he was determined to move to Sydney, where he arrived on 25 July 1839. Interestingly, his first surviving child, Clarinda Sarah Parkes—also known as Menie Parkes; the famous Australian poet and writer—was born at sea during the long voyage with his wife to Sydney. After arriving in Sydney, Sir Henry found work as a labourer on Sir John Jamison's Regentville estate, later working in Thomas Burdekin's ironmongery and Peter Russell's brass foundry. In 1840 he took up a job as a tide waiter in the customs department.

Over the coming five years, he saved his money and purchased enough tools to set up a new business in Hunter Street as an ivory turner and importer of ornamental goods. He expanded his business by opening branches in Maitland and Geelong. Sadly, his business failed in 1850, plunging him into financial distress. However, Sir Henry possessed extraordinary writing skills, which landed him a job as the Sydney correspondent for the *Launceston Examiner*. He made contributions of poetry and political articles in *The Sydney Morning Herald*, *The Australasian Chronicle* and *The Atlas*. He published a book in 1842 entitled *Stolen Moments*.

Sir Henry's greatest contribution to Australian democracy was when he laid the foundations that paved the road to Federation and the writing of the Australian Constitution that we all hold so dear. Sir Henry was a staunch patriot and worked with other likeminded individuals to create our proud nation. Whilst Premier, his famous words were "One people, one destiny". Sir Henry campaigned hard for the Federation conference and the Australasian Federal Convention. At the prompting of Sir Alfred Stephen, he campaigned to alter the name of New South Wales to Australia, which we know was unsuccessful.

When Sir Henry visited Melbourne in January 1889, he announced his plans to promote true federation and form a nation. In June 1889 he warmed to the suggestion from the then Governor of New South Wales, Lord Carrington, who impressed upon Sir Henry that federating the colonies would be a "glorious finish" to his life. Sir Henry's campaigning paid off. In 1890 he convened the Federation Conference, the first real step towards Federation. When the convention met again on 2 March 1891, Sir Henry was appointed president and proposed a series of resolutions laying down the foundations for a draft bill to constitute the Commonwealth of Australia. Sir Henry proposed the name "Commonwealth of Australia" for the new nation. The stage had been set and the road to Federation was well underway. Sadly, Sir Henry Parkes passed away on 27 April 1896, less than five years from Federation, and did not live to see his monumental achievement and the glorious finish to his life.

When we think about Sir Henry, we ultimately see him as the "Father of Federation". Although he was the driving force behind the creation of our nation, he was also an effective Premier, who championed many legislative changes that would remain essential to the greatness of our society. Examples of such legislation that have served us all are his Public Schools Act 1866 and the Public Instruction Act 1880, which introduced compulsory free education for all Australians.

STATE ELECTION

The Hon. TARA MORIARTY (01:30): My final adjournment speech in the last sitting week of this Parliament is an opportunity to talk about the upcoming election, which is just over four months away. For many people in New South Wales, election day cannot come fast enough. They will soon have the chance to vote out this tired, old, out-of-touch Government and vote for a new, fresh start for New South Wales under a Minns Labor government. Why should people vote for a fresh start with NSW Labor? I will start with health. Under the Liberal-Nationals Government, our health system has fallen into crisis. We face a chronic shortage of health workers. Experienced people are reducing their hours or leaving the system altogether due to a lack of support. New South Wales has fewer ambulance paramedics per person than every State other than Western Australia. We also have the worst ambulance response times than every State other than South Australia.

In the past five years the Government cut 360 beds from hospitals and downgraded ambulance stations. Meanwhile, people are waiting longer than ever to get an ambulance, longer than ever to be treated in emergency and longer than ever for elective surgeries. Labor will begin the task of repairing our health system and investing in our health workers. We will recruit an additional 500 paramedics in rural and regional New South Wales; take pressure off hospitals by upskilling new and existing paramedics to deliver intensive and extended care; recruit an additional 1,200 nurses and midwives to our public hospitals; and introduce minimum safe staffing levels in our public hospitals. The people of New South Wales deserve better health care and our health workers deserve much better support, particularly after getting us through the pandemic.

After 12 years of this Government, we are facing a chronic shortage of 11,000 teachers over the next decade, while the number of temporary teachers working in our schools has almost doubled. Teachers are leaving the industry in droves, burdened with administrative tasks, demanding workloads and low pay. Over 28,000 permanent teachers have left New South Wales public schools during the term of this Government. As a result of teacher shortages, parents do not know whether their children will have the same teacher next term or next week, or miss out on classes or lessons. Those limitations impact on our kids' education.

Recent NAPLAN results show that 12,500 year 9 students cannot write at the minimum standard and almost 9,000 cannot read at the minimum standard. That is unacceptable. New South Wales is falling further and further behind in international rankings in literacy, numeracy and science. Labor will invest in our schools and our teachers. We will start by converting 10,000 temporary teachers to permanent positions to give teachers, parents and students more certainty. We will also reduce the administrative burden on our teachers by reducing their administration workload to five hours a week, which will benefit our kids with more teaching and learning time in the classroom and keep more teachers in the sector.

What about the cost of living? Under this Liberal-Nationals Government, people are finding it harder to save enough money to buy a house or find an affordable rental. Instead of dealing with the significant housing issues across the State in any substantial way, the best this Government could come up with is a forever land tax on the family home. That scheme started for first home buyers last week. But the Government has said that it wants to extend the scheme. It will be a tax every year forever on the family home. As cost-of-living pressures bite, under this Government people have forked out obscene amounts of money to drive on our roads. This Government has made Sydney the most tolled city in the world. But Labor will provide \$650 million in toll relief to long-suffering motorists to assist with that cost burden.

What about power prices? Premier Perrottet is so out of touch that he has described privatisation as "the golden key that unlocked the door of opportunity for New South Wales", even though power bills immediately shot up after the Libs and Nats privatised our electricity network in 2015. Power prices in New South Wales have

risen by over 25 per cent in the last quarter alone. Now we face the prospect of a further rise of 56 per cent over the next two years, effectively doubling power bills by 2024. The obsession of the Libs and Nats with privatisation and selling State assets like our electricity network means we lose out on billions of dollars in dividends, money that could be spent on schools and hospitals. Labor will end privatisation. There will be no privatisation under the Labor government that will begin in March 2023.

HEALTHCARE REFORMS

The Hon. WES FANG (01:36): I expect this will be my last adjournment speech in this term of Parliament, the second I have served in, having taken the casual vacancy when the Hon. Duncan Gay retired. I could not help but note the contribution of the previous speaker, the Hon. Tara Moriarty. She asked why the Government should be re-elected. I can answer that. It is because of things such as Sunday's landmark pharmaceutical reform announcement by the Liberal-Nationals Government, which will ease the pressure on people who find it difficult to get an appointment with a GP, making it easier to access various medications and vaccines through a local pharmacy without having to see a GP first.

This groundbreaking reform to increase access to primary care services will relieve pressure on emergency departments and reduce wait times to see a GP. We will see an increase in the number of public health and travel vaccinations pharmacists can administer, including those for Japanese encephalitis, hepatitis A and hepatitis B, poliomyelitis, typhoid and zoster. A 12-month trial will be undertaken to evaluate allowing pharmacists to prescribe medication for urinary tract infections, as well as support a statewide pilot where appropriately trained pharmacists can prescribe hormonal contraception and medications for conditions such as skin ailments, ear infections. This reform will see regional and rural communities benefit significantly. We are committed to ensuring access to primary care continues to be further improved for every single person in this State, regardless of where they live. I commend our health Ministers, particularly the Hon. Bronnie Taylor, who sits in this House, for championing this fantastic reform.

Pharmacies are an integral part of our communities. Enabling pharmacists to increase their range of services will be an absolute game changer for so many people. The COVID-19 pandemic was a prime example of the vital role local pharmacists play in keeping the community safe, with many people choosing to visit their local pharmacists to receive a vaccine. This reform demonstrates the Government's commitment to working closely with the health sector to improve access to primary care for people across our State. The New South Wales Government has heard that the process of getting a script for things like birth control or a urinary tract infection must be made easier—and that is exactly what this reform will do. Not only that, but it will also significantly ease the pressure on GPs, ensuring people who require more specialised care receive it.

This Government has listened to our communities and made appropriate reforms that satisfy community expectations. Unlike those on the other side of this Chamber, we on this side actually have policies. We are continuing to innovate and expand accessibility to primary care services, whilst maintaining a high standard of health. That is an absolute priority for this Government. That is why NSW Health will work closely with the pharmacy sector and its regulators to make sure that training is to a high standard. We will also provide increased convenience to the community because we know that improving access to primary care services will result in better health outcomes.

This reform builds upon the New South Wales Government's record funding and commitment to ensuring increased accessibility and financial assistance for health in the regions. That includes the expansion of the Isolated Patients Travel and Accommodation Assistance Scheme, or IPTAAS, for people who need to travel long distances to receive specialist care; unprecedented funding for mental health support; and significant investment into health infrastructure, including \$250 million for Griffith Base Hospital in my duty seat of Murray. The Government has also recently opened the \$50 million Tumut Hospital in my duty electorate of Wagga Wagga. The Government is boosting frontline services with a \$1.76 billion funding injection for NSW Ambulance, and implementing Magseed technology in Griffith to assist with more accurately locating breast cancers during surgery. I am excited by these reforms. Only the Liberals and Nationals in government could have delivered reforms like these; not those opposite. That is why people should vote for the Liberals and Nationals in the upcoming election.

COVID-SAFE WORKPLACES

The Hon. MARK BUTTIGIEG (01:41): On Monday 14 November 2022 SafeWork began a prosecution in the District Court of New South Wales against corporate renegade Qantas. The prosecution concerns former Qantas employee and health and safety representative Theo Seremetidis. In January 2020, in the middle of the pandemic, Theo courageously spoke up about the fact that he and his colleagues were being asked to clean COVID-infected planes coming in from China without being provided with adequate personal protective clothing by Qantas. This was Theo's role and responsibility as an elected health and safety representative under New South Wales law.

As a result of Theo's actions in sticking up for the safety and wellbeing of his workmates, Theo was stood down by Qantas—an unconscionable act of workplace bullying that cannot go unpunished. I congratulate SafeWork for bringing the prosecution to the District Court, and I hope that justice prevails. Because we cannot allow employees, and health and safety representatives, who stick up for their workmates in the workplace on issues of health and safety to be bullied by employers like Qantas. It is about time that the court called these companies to account, brought them to heel, made sure that they are upholding workplace health and safety, and backed that in with legal action.

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

Motion agreed to.

The House adjourned at 01:42 until Thursday 17 November 2022 at 10:00.