



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Eighth Parliament
First Session**

Thursday 12 October 2023

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Thursday 12 October 2023

The PRESIDENT (The Hon. Benjamin Cameron Franklin) 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.

Documents

REGISTER OF DISCLOSURES

The PRESIDENT: According to the Constitution (Disclosures by Members) Regulation 1983, I table the Register of Disclosures by Members of the Legislative Council for the period 1 July 2022 to 30 June 2023.

Motions

DEMENTIA ACTION WEEK

The Hon. AILEEN MacDONALD (10:02): I move:

- (1) That this House affirms its support for Dementia Action Week, with the theme of "Act now for a dementia-friendly future".
- (2) That this House notes that:
 - (a) Dementia Action Week is from Monday 18 September 2023 through to Sunday 24 September 2023;
 - (b) World Alzheimer's Day is on Thursday 21 September 2023; and
 - (c) the focus of the week is to reduce stigma and discrimination experienced by people living with dementia and their carers.
- (3) That this House notes that:
 - (a) the Dementia Australia Research Foundation is the research arm of Dementia Australia;
 - (b) the annual Dementia Grants Program provides funding to support innovative research to:
 - (i) better understand the causes of dementia;
 - (ii) develop strategies to reduce dementia risk and slow the progression of the disease;
 - (iii) provide accurate and timely diagnoses;
 - (iv) improve treatment and care options for people living with dementia; and
 - (v) find a cure.
 - (c) during Dementia Action Week, the Dementia Australia Research Foundation encourages us to reach out within our communities and act by learning about the needs of people living with dementia so that there is:
 - (i) less fear and a greater understanding of dementia;
 - (ii) less stigma and discrimination associated with dementia; and
 - (iii) more support and better systems for people living with dementia to live well in their community for longer.
- (4) That this House calls on the Government to support Dementia Action Week.

Motion agreed to.

AMANDA FAZIO COMMENTS

The Hon. NATALIE WARD (10:02): I move:

- (1) That this House affirms that:
 - (a) antisemitism is a scourge on society and should never be tolerated; and
 - (b) when incidents of antisemitism occur, they must be called out.
- (2) That this House condemns former Labor member and former Labor President of this place, Amanda Fazio, for her antisemitic comments on social media.
- (3) That this House:
 - (a) calls upon the New South Wales Labor Party to remove Amanda Fazio from her role as a member of the Rules Committee; and

- (b) calls upon the New South Wales Labor Party to expel Amanda Fazio for breaches of the NSW Labor Code of Conduct and ALP national Code of Conduct.

Motion agreed to.

COUNTRY WOMEN'S ASSOCIATION OF NSW AWARENESS WEEK

The Hon. AILEEN MacDONALD (10:03): I move:

- (1) That this House affirms its support for the Country Women's Association of NSW [CWA of NSW] Awareness Week.
- (2) That this House notes that:
 - (a) CWA Awareness Week was between 3 and 9 September 2023 with the theme focusing on increasing awareness around neurodiversity, which includes attention deficit hyperactivity disorder [ADHD], autism, dyslexia and Tourette syndrome, and the challenges those with these neurodiverse conditions face;
 - (b) the CWA Awareness Week included awareness around the diagnoses and accessing suitable and affordable treatment options, particularly for those in rural, remote and regional New South Wales; and
 - (c) there was particular emphasis on ADHD and the increasing number of adult women diagnosed with the condition.
- (3) That this House notes that:
 - (a) CWA of NSW is calling for more research into long-term outcomes of ADHD in girls and women;
 - (b) with more than 1.5 million people with ADHD across Australia, it is imperative there be a greater understanding of the condition and that perceptions in the community are reshaped; and
 - (c) CWA of NSW held many events and activities in its branches across New South Wales and raised awareness around the urgency of the issue.
- (4) That this House calls on the Government to continue to support CWA of NSW and the concerns raised during its annual Awareness Week.

Motion agreed to.

INTERNATIONAL DAY OF RURAL WOMEN

The Hon. AILEEN MacDONALD (10:03): I move:

- (1) That this House notes that:
 - (a) 15 October is the International Day of Rural Women; and
 - (b) this year's theme is "Rural women confront the global cost-of-living crisis".
- (2) That this House acknowledges the crucial role that women and girls play in:
 - (a) ensuring the sustainability of rural households and communities internationally and in New South Wales; and
 - (b) improving rural livelihoods and overall wellbeing.
- (3) That this House further notes that:
 - (a) women and girls in rural New South Wales often run rural enterprises and work side by side with their siblings and family to produce the best quality produce for us to enjoy; and
 - (b) achieving gender equality and empowering women is not only the right thing to do but is also a critical ingredient in empowering rural women throughout New South Wales to do their bit to deal with the cost-of-living crisis.

Motion agreed to.

INTERNATIONAL DAY OF THE GIRL CHILD

The Hon. AILEEN MacDONALD (10:04): I move:

- (1) That this House affirms its support for International Day of the Girl Child.
- (2) That this House notes that:
 - (a) 11 October is an international day of observance declared by the United Nations; and
 - (b) UNICEF has given a call to action from October 2023 through to October 2024, and has called on all global stakeholders to invest in girls.
- (3) That this House further notes that:
 - (a) the first International Day of the Girl Child or Day of Girls was declared on 11 October 2012;
 - (b) the day increases awareness of issues faced by girls around the world including but not limited to:
 - (i) access to education;
 - (ii) child marriage;

- (iii) gender-based violence; and
 - (iv) sexual and reproductive rights and more.
- (c) each year there is a theme for the day, which in the past has included:
 - (i) "Ending Child Marriage";
 - (ii) "Innovating for Girls' Education"; and
 - (iii) "My voice, our equal future", and so on.
- (4) That this House calls on the Government to highlight girls' achievements, promote empowerment and "Invest in Girls' Rights: Our Leadership, Our Well-being".

Motion agreed to.

SRI KRISHNA JANMASHTAMI FESTIVAL

The Hon. MARK BUTTIGIEG (10:04): I move:

- (1) That this House notes that:
 - (a) on 7 September 2023, ISKCON West Sydney and the Hare Krishna Community and Cultural Centre held the Sri Krishna Janmashtami Festival in Shanes Park, and the Hon. Mark Buttigieg, MLC, was honoured to attend representing the Premier, the Hon. Chris Minns, MP, and the Minister for Multiculturalism, the Hon. Stephen Kamper, MP;
 - (b) the Sri Krishna Janmashtami Festival celebrates the birth of Krishna, the eighth avatar of the Hindu deity Vishnu, and is an important time for Hindu communities globally, with thousands of attendees at ISKCON West Sydney's festival this year; and
 - (c) the festivities were bright and exciting, involving kirtan, community prayers, Gaura Arati, a lamp-lighting ceremony, fire yajna, prayers to the God of Fire for a successful event, breaking of the pot, a ritual which reflects the great symbolism of Krishna's stealing of butter as a child and his capture of the hearts of Hindus, abhisheka, presentation of baths, new clothes, decorations and sweets to deities, midnight arati, a lamp-lighting ceremony marking Krishna's birth, Ekadashi prasadam, a communal feast, cultural programs and Bhagwat Gita discourses.
- (2) That this House congratulates the ISKCON West Sydney and the Hare Krishna Community and Cultural Centre for holding the event celebrating an important festival for Hindu communities in New South Wales.

Motion agreed to.

Visitors

VISITORS

The PRESIDENT: I welcome to the public gallery family and friends of the late Betty Hounslow: former Senator John Faulkner, Kate Harrison, Mary Hounslow, Diane Minnis, Ken Davis, Mary Valentine, Libby Blainey, Jenny Coopes, Mary Ann O'Loughlin, Louise Chappell, Robert Ridley, Liz Kirby, Deborah Brennan, Frances Rush, Anne Summers, Virginia Bell, Tess Shannon, Margaret Gallen, Jozefa Sobsky, Elly Howse and Garry Wotherspoon. They are all very welcome.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. PENNY SHARPE: I postpone Government business notice of motion No. 4 until the next sitting day.

Committees

STANDING COMMITTEE ON SOCIAL ISSUES

Reference

The Hon. Dr SARAH KAINE: According to paragraph (8) of the resolution establishing the Standing Committees, I inform the House that on 11 October 2023, the Standing Committee on Social Issues resolved to inquire into the following reference from the Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources, the Hon. Courtney Houssos, MLC:

Inquiry into the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales

- (1) That the Standing Committee on Social Issues inquire into and report on the procurement practices of government agencies in New South Wales and its impact on the social development of the people of New South Wales, and in particular:
 - (a) the current state of procurement by New South Wales government agencies, in particular:
 - (i) the value of procurement, through whole-of-government or agency procurement arrangements;

- (ii) the policies, schemes and contracts of all categories that New South Wales government agencies procure, including labour;
 - (iii) the number of whole-of-government procurement arrangements available to New South Wales government agencies;
 - (iv) the application of the New South Wales Procurement Policy Framework and the devolved nature of the responsibilities and obligations of New South Wales government agencies under the framework;
 - (v) the value/volume of New South Wales government agencies procurement undertaken outside of whole-of-government procurement arrangements; and
 - (vi) the accreditation program for goods and services procurement and construction procurement.
 - (b) the effectiveness of whole-of-government and agency procurement arrangements, including standing offers, panels and prequalification schemes, in ensuring that suppliers and their subcontractors deliver value for money and comply with relevant policies and regulations, including labour laws, at the qualification, contract negotiation stage and contract management stages of procurement;
 - (c) current capacity of procurement officials in government agencies to assess suppliers and ensure they, and their subcontractors deliver value for money and comply with relevant policies and regulation, including labour laws, at the qualification or contract stage and throughout the contract management stage;
 - (d) any opportunities that may exist for co-regulation, and other incentives to improve labour market governance and enforcement through the procurement process to ensure the process delivers both value for money and social outcomes;
 - (e) the evaluation criteria used in tenders and how they are weighted in making a decision to award a contract, in particular consideration of:
 - (i) local content;
 - (ii) value for money;
 - (iii) social, economic and labour market outcomes;
 - (iv) environmental considerations, such as sustainable sourcing, energy efficiency and waste reduction;
 - (v) innovation; and
 - (vi) subcontracting arrangements.
 - (f) current approaches to transparency and accountability of procurement by New South Wales government agencies, in particular:
 - (i) function and requirements of the New South Wales Government Procurement Board and the New South Wales Procurement Policy Framework;
 - (ii) recordkeeping arrangements for procurement activities; and
 - (iii) Agency annual self-reports and outcome reports.
 - (g) the New South Wales Government's procurement practices, in particular its ability to:
 - (i) prioritise local content, local manufacturing, and local jobs;
 - (ii) improve opportunities for quality training and workforce participation;
 - (iii) provide opportunities for diversity, inclusion and the participation of disadvantaged groups, including women and minorities; and
 - (iv) support local suppliers, and small and medium enterprises.
 - (h) procurement best practice to encourage ethical conduct and promote social development in other jurisdictions, both nationally and internationally; and
 - (i) any other related matters.
- (2) That the committee report by July 2024.

Bills

STRATA LEGISLATION AMENDMENT BILL 2023

First Reading

Bill introduced, read a first time and ordered to be published on motion by the Hon. Mark Buttigieg, on behalf of the Hon. Penny Sharpe.

The Hon. MARK BUTTIGIEG: According to standing order, I table a statement of public interest.

Statement of public interest tabled.

Second Reading Speech

The Hon. MARK BUTTIGIEG (10:29): On behalf of the Hon. Penny Sharpe: I move:

That this bill be now read a second time.

I am pleased to introduce the Strata Legislation Amendment Bill 2023. This bill implements 31 recommendations from the 2021 statutory review of the Strata Schemes Development Act 2015 and the Strata Schemes Management Act 2015. The bill delivers the first tranche of reforms to implement the review recommendations, providing immediate benefits to people who live in strata and community land schemes. The review, the first since the inception of these Acts in 2015, found that both Acts were generally working well. However, the review also found the Acts could be improved and made 139 reform recommendations. The review report was tabled by the former Government in November 2021, but stakeholders have been waiting nearly two years for action. Despite the clear need for reform and the fact that the review report was tabled in November 2021, the former Government failed to implement almost all of the review's recommendations. That is not good enough.

The Government has acted quickly to assess the recommendations and to move forward with implementation. I stress this point for the House: In its first 6½ months this Government has done more work on strata reform than those opposite did in two years. The Government understands the need for action on reforms that will improve the governance, accountability and effectiveness of strata schemes. The reforms proposed in the bill will improve the lives of residents living in strata and community land schemes. Why is this so important? There are now more than 85,000 strata schemes in New South Wales. That is an increase of almost 9,000 schemes since the Strata Schemes Development Act and the Strata Schemes Management Act commenced in 2016.

There are also now more than 968,000 strata lots—up more than 162,000 on the numbers in 2016. More and more New South Wales households are choosing to call strata title properties their home, and we expect this trend to continue. Strata impacts not only residential owners, but also commercial, retail and industrial owners and retirement villages. I am proud to say that strata, as a form of title, is a New South Wales invention dating back to 1961. Since then, we have exported this innovative form of ownership and housing tenure across the globe.

Before I turn to the detail of the bill, I will run through some key features of strata and community land schemes. As most people understand, strata schemes are a form of community living, typically where an apartment building or collection of townhouses has been divided into lots. Each person who buys a lot within the scheme owns the inside of the lot and shares ownership of the common property with all other owners. Common property includes roofs, driveways, external walls and gardens. Lot owners automatically become members of the owners' corporation, the legal entity comprising all lot owners. The owners' corporation is collectively responsible for the repair and maintenance of common property and for making key decisions affecting the scheme. To assist in decision-making, the owners' corporation elects representatives to a strata committee. Owners pay levies towards an administrative fund and a capital works fund for longer term expenses. To assist in the running of their schemes, owners' corporations may also create rules, known as by-laws, that all people living in the scheme must follow.

In contrast, community land schemes, which are regulated separately under different but comparable legislation, involve subdivisions where a lot owner owns and maintains any buildings constructed on their lot. Lot owners also share the use and maintenance costs of other facilities. Community land schemes range from rural subdivisions that can be used for sustainable eco-developments, with shared dams and communal farmland, to large residential communities with private roads and extensive recreational facilities such as swimming pools, marinas and golf courses.

The Strata Schemes Development Act 2015 and the Strata Schemes Management Act 2015 work together to provide the regulatory framework for the creation, variation, termination and management of strata schemes in New South Wales. The Community Land Development Act 2021 and Community Land Management Act 2021 do the same for community land schemes. The bill amends all four Acts and ensures community land scheme laws remain in step with strata laws. The bill introduces a mix of straightforward reforms to improve liveability and the overall governance and accountability of schemes.

It also contains more pressing reforms. These pressing reforms are more complex and will empower owners to democratically decide on how best to manage, vary and terminate the strata scheme they share, in a flexible and transparent manner. This Government has brought forward the strata reforms in this bill. This bill is just the beginning. The remaining reforms recommended by the review report will be included in a draft bill for consultation in 2024. They include reforms on embedded networks, sustainability infrastructure, repairs and maintenance, and further improving the governance of strata schemes.

Following public consultation, the Government intends to bring a further bill to Parliament to implement these remaining reforms. The Government will not rush these important reforms. They are complex, significant and we need to consult with residents, stakeholders and industry to get them right. This Government has also

appointed John Minns as the Strata and Property Services Commissioner. It is abundantly clear that this Government is committed to improving the outcomes for those who live and work in strata schemes. Further, the reforms in this bill will give everyone the confidence to live and invest in strata buildings, as the Government moves to increase housing supply and improve the quality of the construction industry.

I now turn to the specific provisions of the Strata Legislation Amendment Bill 2023. As I have noted, this bill introduces some of the more urgent recommendations identified in the statutory review and realigns the current laws with the purposes for which they were originally enacted. To this end, schedule 1 to the bill amends the Strata Schemes Development Act to restore balance and create flexibility in the strata renewal regime. Strata renewal was one of the most significant reforms introduced by the 2015 laws. This process allows for the collective sale or redevelopment of a strata building where there is less than unanimous support from owners.

Through an intentionally rigorous stage process, an owners' corporation can develop a plan for the collective sale or redevelopment of their scheme, which must be supported by the owners of at least 75 per cent of the strata lots. In this way, owners are empowered to make decisions about their scheme's future. The regime's ultimate safeguard is the Land and Environment Court's oversight. Before a collective sale or redevelopment can proceed, the court must be satisfied that the renewal plan was developed in good faith, owners are being properly compensated and it is just and equitable in the circumstances that the scheme's renewal plan be approved. These provisions were designed to recognise and protect the interests of all owners but particularly those who do not agree with the majority.

A key concern was to ensure that vulnerable members of the strata community are protected from intimidation and that their objections and concerns are heard. However, time has shown that not all dissenting owners are vulnerable. We are seeing examples where the collective will of the majority is to pursue the renewal of their scheme, but these owners are being held to ransom by rival developers who are manipulating the protections for their own commercial gain. This conduct is highlighted by a well-publicised case at Macquarie Park in Sydney's north-west. There, the vast majority of strata owners wanted to pursue a collective sale proposal, which had been progressed through a tender process. A rival developer, who had been an underbidder in that tender, bought lots in the strata scheme and dissented to the renewal proposal. Using the protective provisions in the existing law, this developer was able to disrupt the process and draw out legal proceedings.

That resulted in the owners' corporation incurring substantial costs. However, under current law, those costs could not be passed on to the dissenting developer. The owners' corporation was ultimately forced to withdraw its application for the court to approve the strata renewal plan, and the winning developer has abandoned its proposal to purchase the scheme. Today this scheme's proposal remains at a standstill while rival developers continue to hold units in the complex. Even though more than 75 per cent of owners want to pursue a collective sale, the future of the building is in limbo until the current safeguards are revised to prevent this kind of underhanded manipulation. Unfortunately, this type of conduct is not uncommon.

We are also seeing situations where competing developers are adopting a blocking position as dissenting owners, while privately negotiating with other owners, in the face of a renewal proposal. Elsewhere, reports of dissenting owners who also own neighbouring property are seeking to preserve that property's views by objecting to a redevelopment proposal. The strata renewal regime was intended to overcome barriers of the previous termination process, where a single owner could veto the decision of all other owners to sell or redevelop. While strata owners own their units, we must remember that they also own a share in the building and decisions about the building must be made collectively. However, we are now seeing the legislation that was intended to support the collective will of strata owners being used against them to thwart the decisions endorsed by the significant majority of owners about the future of their scheme. This is not what was intended by the 2015 reform.

The bill addresses the shortcomings in the current regime with new disclosure requirements relating to conflicts of interest. It will close the loopholes that some developers have been able to use improperly. Under current laws, only those owners involved in the strata renewal committee charged with developing a strata renewal plan must disclose conflicts of interest. A meeting of the owners' corporation then decides whether that committee member can still play a role in developing the renewal plan. It is now very clear that good faith and disclosure obligations should apply to all owners, not only those on the strata renewal committee. The bill will require all owners to disclose any direct or indirect pecuniary or other interest they have in a strata renewal proposal at key decision points throughout the process. I note that just because an owner has disclosed an interest does not mean they cannot have a say in the process. Their voice will still be heard, but the process is more transparent.

The changes in the bill mean the Land and Environment Court will now have to consider potential conflicts of interest for both strata renewal applications and objections to renewal proposals before making an order to approve a plan or endorse an objection. These new disclosures also support the bill's changes relating to costs of legal proceedings. Currently there is a presumption in section 188 that the owners' corporation will pay the

reasonable costs of a dissenting owner in strata renewal proceedings. But, as the Macquarie Park case highlights, the absence of a cost burden for dissenting owners is having the unintended consequence of protracting disputes.

The bill amends section 188 to make it abundantly clear that the court can award costs against dissenting owners acting unreasonably. In particular, where a dissenting owner has a conflict of interest that makes it inappropriate for the owners' corporation to pay their costs, then the court must order the dissenting owner to pay their own costs and any levy contribution for a part of the costs of proceedings. The court can also award costs against a dissenting owner who has not acted in good faith. It is important to note that the bill does not remove the presumption that the owners' corporation pay a dissenting owner's costs of renewal proceedings. That critical protection is still in place. This amendment targets unjustified and frivolous actions, but it remains critical that owners can still raise objections and have their concerns heard.

The strata renewal process relies on balance. Strata owners need to have the means and flexibility to innovate and seize opportunities. At the same time, transparency is crucial to ensure that owners have comprehensive and detailed information to make informed decisions and that the court has all information available when making orders endorsing a strata renewal plan. The bill restores that balance. The review also recommended reforms to the strata renewal process. To be effective, the strata renewal process needs to be fair and transparent, but it also needs to be workable.

Since the regime began in 2016, only 21 schemes have notified the Registrar General of having reached the required 75 per cent owner approval of a renewal plan, and only one of those schemes has fully completed the renewal process and had its renewal plan approved by the Land and Environment Court. In part, this is because some schemes that start on the strata renewal journey ultimately reach unanimous support from owners. With unanimous support, the development Act provides a simpler administrative termination process. The Registrar General has seen a marked increase in administrative terminations since the strata renewal reforms commenced, averaging around 74 per year, more than double the number in the years immediately before the reform commenced.

Consultation feedback has attributed the low take-up of strata renewal to the complexities of the staged process. One barrier is the risk of a renewal plan inadvertently lapsing because of a minor discrepancy or procedural error. Owners' corporations and developers have been hesitant to embark on the renewal process, because currently a renewal plan could lapse if the prescribed steps are not properly followed. Once a plan lapses, a scheme is blocked from pursuing the same or a substantially similar proposal for at least 12 months. The bill gives the Land and Environment Court the power to approve a renewal plan even if there is a procedural irregularity in its development. This amendment will make the process more workable and encourage schemes to pursue renewal plans without the fear of inadvertent lapsing.

However, flexibility will not come at the expense of the protective measures fundamental to this regime. Amendments to section 182 of the development Act give some leeway for the court to approve a plan where the process has not been followed strictly. But the court can do so only if it is satisfied that the procedural irregularity has not and will not cause substantial injustice. More flexibility is created by amendments to section 166 of the development Act, which extends the period of operation for the strata renewal committee that is elected to develop a renewal plan for the strata building from 12 months to two years. That change is needed, as it generally takes longer than 12 months to develop the comprehensive and detailed strata renewal plan necessary for owners to make an informed decision.

That change mitigates the risk of a renewal committee being inadvertently dissolved if the owners' corporation does not pass the resolution to extend its operation in time. The change also supports existing requirements for owners to be given comprehensive information about the proposal. Where the collective will of a significant majority of owners is to sell their strata scheme, it is critical that there is an appropriate mechanism to exercise that collective will. That is particularly important as strata buildings age and the costs of repair, maintenance and retrofitting continue to rise. The bill creates the flexibility needed to boost confidence in the strata renewal regime and encourage owners and developers to use the process as it was intended.

A further important reform in the bill relates to making it easier to keep pets and assistance animals in strata and community land schemes. It would come as no surprise to members that pets provide a range of benefits to their owners. They provide love, affection and companionship. They improve the mental and physical wellbeing of owners. They also help connect communities and promote opportunities for human interaction. Australia has one of the highest rates of pet ownership in the world. That is why the Government is committed to ensuring that residents living in strata and community land schemes do not miss out on the benefits of pet ownership just because they live in a unit or townhouse, or other form of strata or community living. The amendments proposed in the bill align closely with this Government's election commitment to make it easier to have pets in rentals.

Currently, owners' corporations cannot make by-laws or decisions that prohibit the keeping of a pet on a lot, except where the keeping of the pet unreasonably interferes with other residents and other residents' use and enjoyment of their lot or the common property. The Strata Schemes Management Regulation 2016 sets out some circumstances of unreasonable interference. They include, for example, where the pet attacks another person or animal, or endangers the health of another resident. The bill extends these laws and the benefits of pet ownership to community land schemes. These changes will start in community land schemes once regulations have been developed, in consultation with stakeholders, to set out circumstances of unreasonable interference.

In addition, the bill will prohibit an owners' corporation or association from charging a resident a fee or bond for the keeping of a pet on the lot. It will also prohibit an owners' corporation or association from requiring residents to obtain insurance for an animal kept on the lot. This amendment responds to a number of cases where owners' corporations have imposed a high fee or bond on the keeping of a pet. For example, in one case, a strata scheme charged residents hundreds of dollars in fees to consider an application to keep a pet or to allow visitors to bring a pet to their home. Imposing fees, bonds or insurance requirements undermines the intent of the current laws and results in unjust outcomes for people who have pets. They are costly and may force a resident to give up their pet, or pose a barrier to people buying a pet. These costs are unreasonable and unnecessary. Owners already pay levies to finance the administration of their scheme and the cost of insurance for any damage to common or association property. Further, a scheme can already seek remedies if an owner damages common property.

The bill will reduce the barriers and costs for people living in strata and community land schemes who want to have a pet. It will ensure that all strata and community land scheme residents do not miss out on the benefits of pet ownership. The bill also strengthens the protections for persons with assistance animals. Assistance animals play an important role in our society by supporting people with disability. They aid in providing a good quality of life and independence for many. That is why under strata and community land scheme laws a by-law cannot prohibit or restrict a resident from keeping an assistance animal or the use of an assistance animal on a lot or common or association property. However, a by-law may require a person to provide evidence that an animal is an assistance animal.

To strengthen the protections for residents and visitors with assistance animals, the bill clarifies that a by-law cannot restrict the use of, or impose an unreasonable burden on any person in relation to the use of, an assistance animal on a lot or common or association property. This will ensure that by-laws cannot affect the ability of assistance animals to perform their duty. For example, a by-law that requires animals to be carried through common areas will not be able to prevent a vision-impaired resident from using their guide dog to guide them through the common property. The by-law will apply to other residents who do not rely on an assistance animal.

The bill also serves to maintain the privacy of persons with an assistance animal by clarifying the forms of evidence that schemes can request to establish an assistance animal's status. This will prevent schemes asking for medical or personal information about a person's disability, which ultimately would become information accessible via a search of the scheme's records. The bill allows for an owners' corporation to require evidence that the animal holds an accreditation or has received the training referred to in the Commonwealth Disability Discrimination Act 1992, or other evidence prescribed in the regulations. These important reforms will improve the lives of strata and community land scheme residents with pets and assistance animals.

I turn to another area of reform: strata committees. The bill makes amendments to improve the accountability of committee members and the governance of strata and association committees. For simplicity, I will talk about strata committees and the changes made by the bill to the management Act. However, the changes relating to strata committees will also apply to committees under the Community Land Management Act 2021. A strata committee is responsible for the day-to-day running of a strata scheme and for making decisions on behalf of the owners' corporation. Committee duties can include approving renovation applications, approving applications to keep pets, hiring repairers, arranging insurance or issuing a notice to comply with a by-law. It is important that each committee member carries out their duties for the benefit of the owners' corporation and with due care and diligence. These duties are enshrined in the management Act.

The management Act also requires members to disclose if they have a direct or indirect pecuniary interest in a matter the committee is to consider. The strata committee then determines whether that member can be present or take part in the decision. Most committees do the right thing; however, some members do not always act in the best interests of those living in the scheme. Some committees may also find it hard to decide if a member with a conflict of interest should not vote on a matter. This risks poor decisions, loss of confidence in committee decisions and an increase in disputes between owners. The bill provides greater clarity about the duties of strata committee members by preventing members from participating or voting on a matter where they have a financial interest. This does not apply in the strata renewal context.

The bill establishes a separate disclosure framework for strata renewal, which I have mentioned. This change provides clarity, enhances the accountability of committees, sets high standards about the conduct expected of members and helps to ensure that committee decisions are made in the interests of all owners. The bill also makes it easier to remove a committee member if, for example, the member is not performing their duties. Currently, under the management Act, a special resolution of the owners' corporation is required to remove a serving committee member. A special resolution is where no more than 25 per cent of the value of the votes cast are against the resolution. The bill makes it easier to remove a member of a strata committee by lowering the voting threshold from a special resolution to an ordinary resolution. This will mean that only a majority is needed to remove a member.

Reducing the voting threshold ensures that the removal of a committee member still has majority support among lot owners but prevents a minority from retaining a committee member who has lost the confidence of the majority. Alongside this change, the bill prohibits a person from serving on a strata committee again for a period of one year after being removed. The changes may appear small, but they go a long way to improving the governance and confidence in the decisions of strata committees. In addition to the changes on committees that I have described, the Community Land Management Act 2021 will also be amended to increase the cap on association committee members from nine to 15. Community land schemes are often larger and more complicated than strata schemes because of their tiered structure. The bill gives flexibility to community land schemes to increase the committee size to 15, if they wish, to help with the management of the scheme.

I outline the changes made by the bill to improve the governance of meetings of the owners' corporation or community association. The changes will encourage active participation and democratic decision-making at meetings. Again, for simplicity, I will talk about the meeting changes relating to strata schemes. However, the changes will also be mirrored in the Community Land Management Act 2021. The first amendment will extend, from seven to 14 days, the minimum period for giving notice of the annual general meeting of the owners' corporation. Owners' corporations must convene an annual general meeting each year to discuss various financial and management matters, such as the setting of levies and election of committee members.

The meeting can include consideration of complex matters, such as entering into utility agreements, appointing strata managing agents, considering significant repair requests, considering recovery action for unpaid levies and reviewing capital work fund plans. The annual general meetings ensure the continued effective running of the scheme. Feedback to the statutory review indicated that the current seven-day notice period is not sufficient, as it can be difficult for some owners to make arrangements to attend the meeting and to review information before the meeting.

The bill will give owners an extra seven days to consider matters. This will help enable owners' active and informed engagement in the management of their scheme. This change will not increase the administrative burden on owners' corporations or strata managing agents, as the same information needs to be provided, but will have a positive impact on owners. In keeping with this change, the bill will also require the original owner of a strata scheme, who is often the developer, to provide key documents at least 14 days before the first annual general meeting of the owners' corporation. This also aligns with the amendments to the notice period for the annual general meeting. The current notice period of two days is not enough time for owners, particularly new strata owners, to review important foundational scheme documents. Many of the documents can be complicated and lengthy, such as valuations, maintenance and service manuals, the initial maintenance schedule, utility agreements and building contracts.

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

Questions Without Notice

ISRAEL-PALESTINE PROTESTS

The Hon. DAMIEN TUDEHOPE (11:00): Mr President, before I ask my question, I thank you for the statement you made yesterday in relation to the confusion about ministerial responsibilities. It seemed to have taken us by surprise, but it was clarified and I thank you for that clarification. My question is directed to the Leader of the Government. In relation to the disgraceful events that occurred on Monday evening at the Opera House, the Premier said, "As Premier of New South Wales I take full responsibility for it and will make decisions to ensure that it does not happen again." In light of the Premier's statement, is it the Government's position that the Minister for Police and Counter-terrorism had zero responsibility for the decisions to allow the pro-Hamas rally to take over the Opera House forecourt and for the Jewish community to be told to stay at home, as these decisions, in her view, were entirely operational matters for the NSW Police Force?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:01): I thank the Leader of the Opposition for his question. We

could not make it clearer and the Premier could not make it clearer. Yesterday the Premier made a very important statement. He has taken responsibility as the Premier of this State in relation to this matter. He has apologised for the way in which it occurred, and no stone will be left unturned across government as we manage these issues into the future. No-one thinks that what happened in front of the Opera House was in any way reasonable. No-one is in support of that activity, and we have made a very strong statement. The Premier has taken responsibility for it, and we will not let it happen again.

The Hon. DAMIEN TUDEHOPE (11:02): I ask a supplementary question. I acknowledge and thank the Leader of the Government for her concession. In view of the fact that the Premier has taken responsibility, and the fact that the Minister for Police and Counter-terrorism has consistently said that this was purely an operational matter for the police, will the Leader of the Government say to the Minister for Police and Counter-terrorism that she should apologise to the people of New South Wales?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:03): The supplementary question is interesting in that the Premier is the leader of the New South Wales Labor Party and the leader of the Government. I am the Leader of the Government in this Chamber. It is a matter for him, but he has made his position clear in relation to this matter, which is that what happened on Monday night was unacceptable. He has apologised on behalf of all of the Government for what occurred, and we are working collectively across the Government to ensure that it does not happen again.

I am not sure what the Opposition is trying to do. We were all at a very important event last night, including many members in this Chamber, at which we stood with the Jewish community in Dover Heights to deal with these matters. The very strong call there was for unity against hate, unity against antisemitism and ensuring that things that happened last Monday night do not happen again. That commitment was made by all who were there, including the Premier and the Leader of the Opposition. The Premier has collectively taken responsibility for the whole Government in this matter. He has apologised, as is appropriate. You do not often see that in politics these days. We are all working very hard in what are very challenging circumstances to make sure that it does not happen again.

CENTRAL WEST WATER LEAK DETECTION DOGS

The Hon. Dr SARAH KAINE (11:04): My question without notice is addressed to the Minister for Water. Will the Minister inform the House of an innovative way the New South Wales Government is detecting leaks in water pipes?

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:04): I thank the member for her question. The New South Wales Government is releasing the hounds on leaking waters and valves in the State's Central West after an excellent campaign in Sydney by our two leak detection dogs, Joey and Hydro. We are saving every drop of water possible. Who let the dogs out? The New South Wales Government did. I reassure the House: I thought carefully, "No, we don't need the leak detection dogs in New South Wales Parliament anymore because David Elliot has resigned." So I have redeployed them to the New South Wales Central West.

Joey and Hydro are trained to smell chlorine from leaking pipes up to three metres below the ground to ensure that every single drop of water is saved, as we move into dry periods. They can cover 20 kilometres a day. They can operate in the rain. Joey and Hydro think it is a game, but we know that water security and water savings are incredibly important. We are making investments in the long term, but the reality is that the dry periods are starting now.

The PRESIDENT: There is too much audible conversation in the Chamber. The Hon. Sam Faraway will come to order. The Minister has the call.

The Hon. ROSE JACKSON: The dry period is starting now, and we need to act now. The \$12.5 million Regional Leakage Reduction Program involves active leak reduction, support for our local water utilities, and training, systems and data improvement. It is not just Joey and Hydro, cute as they are. We are doing a range of things, including leak noise loggers, electronic listening sticks, ground microphones and real-time monitors. We have the full suite of canine and non-canine active engagement on the ground, sniffing out every single leak. Water loss in our aging network continues to be a problem.

When we tell community members that they need to start thinking about saving water at the individual level, it is incumbent on us as the Government to make sure we are doing our job too. As we enter dry periods and people are doing their best to think about their individual choices, it is distressing to see pipes broken, leaks occurring and water lost. That is why we are taking it incredibly seriously. It is a bit "ruff" sometimes, but this is

all about bark. It is all about getting the bark right, getting the bite right and taking leak detection seriously. I thank Joey and Hydro for their good work. [*Time expired.*]

ISRAEL-PALESTINE PROTESTS

The Hon. SARAH MITCHELL (11:08): My question is directed to the Leader of the Government. On the morning of Tuesday 10 October the Hon. Rod Roberts told media that he was intending to move a motion for an order for papers under Standing Order 52 in relation to the pro-Hamas protest held on Monday 9 October. Were ministerial staff directed to minimise emails and texts in relation to the protest to avoid creating any further documents that may be caught by the order for papers?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:08): I thank the honourable member for her question. I do not believe so, but I will take it on notice to see what occurred, if there is an allegation and the member has specific information. The provision of information is very serious. The Government did not oppose that call for papers because we believe that the information is there. If the member has an allegation, that is fine. I will take it on notice to find the information. Several orders for papers that this side of the House did not oppose were made yesterday. We are actively working with the House regarding the provision of information. There is a very important—

[*Opposition members interjected.*]

The PRESIDENT: Order!

The Hon. PENNY SHARPE: Well, those opposite want us to provide the information and either have a fight about it or work with us in relation to it. The Government has changed, yet those opposite have not reflected on what is reasonable when making a call for papers. Instead they have gone to posturing about what they have done. This side of the House has taken this call for papers seriously. We have done more to try to proactively provide information than the previous Government did in 12 years. We have put in place a new protocol that tries to provide briefings and information when any member of this Chamber seeks it. Whether members choose to do that or not is a matter for them.

All members opposite, including the shadow Ministers, will have experienced our diligent staff and some of our Ministers working closely with them to try to get the information that they want, rather than letting it become a large fishing expedition. On this side of the House we are absolutely committed to transparency in this matter. If those opposite have an allegation then they should say it. I will get more information for the member but let's be clear: This side of the House understands well how calls for papers work. We became very good at them—

The Hon. Sam Faraway: No, you do not because you do not return them on time.

The PRESIDENT: Order! The Hon. Sam Faraway is close to being called to order. The Minister has the call.

The Hon. PENNY SHARPE: —and we take them seriously. We will continue to take them seriously because it is part of the important role of this House. We recognise and respect that. There will be differences of opinion regarding what is in and what is out, and the Hon. Damien Tudehope should know that better than most. We will work through it and continue to engage with all members of the House about this call for papers so that those opposite get the information that they want. We are accountable to this House and we will continue to be.

The Hon. SARAH MITCHELL (11:11): I ask a supplementary question. Will the Minister elucidate the part of her answer where she said she would seek some more information from staff and advise the House whether ministerial officers have been directed or encouraged to use Signal or similar apps to avoid potential scrutiny by the House?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:11): I will take the supplementary question on notice and get a response.

CONSULTING SERVICES

The Hon. CAMERON MURPHY (11:11): My question without notice is addressed to the Minister for Finance. Will the Minister update the House on the New South Wales Government's plans to address the previous Government's excessive use of external consultants?

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (11:12): I thank the honourable member for his excellent question.

The PRESIDENT: Order! The Minister will resume her seat. When a Minister gets up to answer a question, it is not acceptable for half the Opposition frontbench to start talking at her. They will stop doing so or I will call them to order. The Minister has the call.

The Hon. COURTNEY HOUSSOS: I thank the honourable member for his excellent question about the previous Government's excessive use of consultants. Earlier this year the Auditor-General released a damning report on the former Government's use of consultants. More than \$1 billion was spent on consultants by New South Wales Government agencies between 2017 and 2022. What made up that figure? Of all the consulting engagements examined, 30 per cent included contract variations that increased the cost. That is typical of the former Government's waste and mismanagement of public resources, but it said something different before the election.

In 2019 the former Government went to the election promising that it would reduce consultant spend by 20 per cent each and every year, but what did it do? It cut departmental budgets but there was zero accountability for enforcing it. So what happened? The actual spend went up. It continued to increase. Unwinding 12 years of the former Liberal-Nationals Government's draining of public sector resources and over-reliance on external consultants takes time.

The PRESIDENT: Order! The Leader of the Opposition will cease interjecting.

The Hon. COURTNEY HOUSSOS: It takes time but that important work started in the budget that the Treasurer delivered last month. Our expenditure review has a clear mandate to reduce the Government spend on consultants.

The Hon. Sam Farraway: The cuts! Those scissors are blunt now.

The Hon. Daniel Mookhey: We were cutting consultants.

The Hon. COURTNEY HOUSSOS: I acknowledge the interjection. Overall we identified \$13 billion worth of savings through the comprehensive expenditure review process. That figure included more than \$530 million in savings through reducing the public sector's reliance on consultants and external labour hire, which was redirected to essential services. We have been clear and consistent on that. We will not waste money with the use of consultants—

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

The Hon. COURTNEY HOUSSOS: We must ensure that our important public services are rebuilt, and part of that is reducing our spend on external consultants. That work is underway but is going to take a long time to fix. [*Time expired.*]

COASTAL HARVESTABLE RIGHTS

The Hon. ROD ROBERTS (11:15): My question is directed to the Minister for Water. On 1 February this year the Minister and I and a number of other members attended a forum at Bega. Warwick Ragg, the convener, asked, "So doubt has been raised about whether sustainable harvestable rights for coastal waters is an automatic increase from 10 per cent to 30 per cent, and I seek all your comments on whether we should seek to ensure the communities have 30 per cent." The Minister's answer, from the transcript, was:

We supported the increase in coastal harvestable rights. I mean we of course are interested in ongoing research, and ongoing reviews. That's what we have the NRC for.

...

But we felt as though a case has been made.

I'm actually not familiar with those doubts about where it is [*unintelligible*]. If indeed that is the case, I'd be very keen to talk to people about what those concerns are, and why those doubts are in place. Because we did feel a case had been made, and we were comfortable with that increase. And if that now isn't happening, and that is having a negative impact, we'd be really keen to talk about that.

How does the Minister reconcile that statement with her recent decision to abandon catchment-by-catchment assessment to allow harvestable rights from 10 to 30 per cent of run-off?

The PRESIDENT: Before I call the Minister, I make the point that members who ask questions must observe the time limit of one minute. Members have gone over that time on three occasions. I have not pulled anyone up on it before now, but from this point on I will. The Minister has the call.

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:17): I thank the honourable member for his question. It is true, as I acknowledged in my answer to a similar question yesterday, that at the time that the decision to increase coastal harvestable rights from 10 per cent to 30 per cent was made by the former Government, Labor supported that decision. We did that because we had assumed that that work to ensure that water extraction in our coastal catchments was sustainable and was being done. When I became the Minister I was shocked and disappointed to realise that it had not only not been done but also had barely begun. I had to make the difficult decision, as we entered a drying period, to take a more precautionary approach to our use of water. That involved returning the coastal harvestable rights from 30 per cent to 10 per cent.

I have asked the department to get on with the job of catchment-by-catchment assessment. Far from abandoning it, I am accelerating it. I am hopeful that there will be catchments where rights can be increased from 10 per cent to 20 per cent or 30 per cent, but that can only be done based on assessments of what is sustainable. If it is not sustainable, water captured in private storages further up in the catchment is not available to those downstream. I receive representations, since becoming the Minister, from downstream water users, including aquaculture facilities, commercial fishers and oyster farmers who were concerned that, as the drying period started, more water captured upstream means less water downstream. When it is in abundance—happy days. But those happy days are not in front of us, so I have taken a more precautionary approach.

I assure the Hon. Rod Roberts that I understand there is frustration around the decision that has been made and that we are accelerating the catchment-by-catchment assessment to ensure that each and every catchment has sustainable water extraction. I also alert the member to the fact that, because of the way the former Government constructed its policy, individuals had to alert the department if they intended to increase their on-farm storage from 10 to 30. Only 12 individuals had done that because if the assessment—let me remind the member that it had barely begun—indicated that it had to come back to 10 per cent because that is what was sustainable, the cost was on the landowner or the farmer. I did not want to put people in that difficult position of uncertainty. For those 12 individuals, we have individual case—

The Hon. Sam Faraway: You say one thing in the community and do another thing down here.

The PRESIDENT: Order!

The Hon. ROSE JACKSON: The Hon. Rod Roberts is trying to listen respectfully, could you be quiet? We have case-managed those individuals one by one. I assure the member that we want to get on with the job, but I have taken a more precautionary approach. [*Time expired.*]

ISRAEL-PALESTINE PROTESTS

The Hon. NATALIE WARD (11:20): My question is directed to the Leader of the Government and Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage. The Premier has stated that further pro-Hamas rallies "are not going to happen". Can the Minister assure the House that the planned rally by the Palestinian Action Group Sydney will not take place this coming Sunday?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:21): I thank the member for her question. The point that the Government makes in relation to this is that we do not believe that anyone should be gathering on Sunday because it is not authorised. We do not want a repeat of Monday night. As I said in my previous answer, the Government is working on diligently and strongly, both in community and across government, to ensure that it does not.

Government members do not oppose peaceful protests, but Monday night was not peaceful. We do not want a repeat of those events. The advice we have is that a gathering can occur but people need to be aware that if they set one foot outside the area in which they gather they will feel very strong consequences. The Premier made a very important commitment. We intend to uphold that commitment and hold people to account. We will not see a repeat of what happened on Monday night. We will manage these things carefully, as we have to.

The Hon. NATALIE WARD (11:21): I ask a supplementary question. I thank the Leader of the Government for her answer. In that part of her answer when she spoke about the advice received, will the Minister table that advice?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:22): I will have to take that on notice.

The PRESIDENT: Before we move to the next question, I make another point about question time. There is an established order of questions in this Chamber that I made clear on my first day in the Chair. That order is: the Leader of the Opposition, a representative of the Government, the Deputy Leader of the Opposition, the crossbench, the Government, the crossbench. Then this order: the Opposition, the Government, the crossbench, the Opposition, the Government, the crossbench.

On a number of occasions, including just now, members have not sought the call. I have been quite lenient but on this occasion the Government was to seek the call and did not. When I was looking at Government members, they did not stand, and that is why I gave the call to the Hon. Natalie Ward. On this occasion the order will be: the Government, the crossbench, then back to the Government so that we are back in order, but that is the last time I will do it. If members do not seek the call, I will go to the next member on the list who is seeking the call. That is what is happening from today. On this occasion, we will go to the Government for a question.

NATIONAL PARKS AND WILDLIFE SERVICE

The Hon. BOB NANVA (11:23): My question is addressed to the Minister for the Environment. Will the Minister update the House on the latest information regarding the visitation numbers to New South Wales national parks and the contribution that national parks make to New South Wales?

The Hon. Wes Fang: Probably a lot lower when you leave the brumby bodies all around the place.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:23): To the Hon. Wes Fang, it is an excellent question because this is extremely important. If the Hon. Wes Fang cares about regional New South Wales, he might want to hear the answer.

The PRESIDENT: Order! I call the Hon. Wes Fang to order for the first time.

The Hon. PENNY SHARPE: Across the State there are 895 national parks, nature reserves, State conservation areas and regional parks. Our national parks and reserves are the front line of nature conservation efforts in New South Wales, but they do so much more. These are places to be in nature, to swim, to seek adventure, to understand Aboriginal and other cultural heritage, to appreciate the beauty of our natural environment. I am very happy to inform the House that there has been a significant surge in the number of people getting out and about in our national parks estate.

The NSW National Parks and Wildlife Service has released the results of its latest park visitor survey. Across the State, there were more than 53 million domestic visits to national parks in 2022—an increase of 49 per cent in the last 10 years. In addition to those domestic visitors, many international travellers also enjoy our parks; however, they are not counted. The survey shows that in a post-COVID world visits to national parks are growing. We are getting out and about and we are appreciating the diversity of plants and wildlife in New South Wales. Of those 53 million domestic visits, a record 12.5 million were made by children, which is great news for the future of our State. Research shows that building a meaningful connection with nature at an early age delivers far higher levels of connection with our environment.

I would like to run through the top 10 most visited national parks in New South Wales. The first one is the Blue Mountains National Park. It retains its top spot. There were 6.4 million domestic visitors to the World Heritage listed national park last year. I am very pleased that we have protected that by not raising the Warragamba Dam wall. The second most visited is the Royal National Park, on the southern coast, with five million visitors. I encourage people to get down there. They might see the platypus that we recently released there. Others include Ku-ring-gai Chase National Park, Lane Cove National Park, Kosciuszko National Park, Sydney Harbour National Park, Eurobodalla National Park, Garigal National Park, Cape Byron and Brisbane Water National Park. The great news for those living in the harbour city is that five parks in Greater Sydney made the top 10. Parks in the Greater Sydney area have set a record with more than 20 million domestic visits. But there is also enormously great news in relation to the regions, particularly western New South Wales.

The Hon. Wes Fang: How many carcasses were in the Sydney one?

The Hon. PENNY SHARPE: The Hon. Wes Fang might be interested in this. In the space of 10 years, visits to the Far West—I know the Minister for Regional New South Wales is interested—have tripled because people are visiting those areas, spending their money, staying over and seeing the rock art of Mutawintji.

The PRESIDENT: Order!

The Hon. PENNY SHARPE: I know that members opposite do not really care about this, but this is really great news for our regions, for conservation, for jobs, and for celebrating Aboriginal heritage. Our national parks are one of our most precious public park assets.

The PRESIDENT: It has been drawn to my attention that part of the mistake relating to the order of questions was on my behalf and I apologise for that.

The Hon. Wes Fang: It doesn't surprise me.

The PRESIDENT: I call the Hon. Wes Fang to order for the second time. I call the Hon. Greg Donnelly to order for the first time. I gave the call to the Hon. Cameron Murphy before the Hon. Rod Roberts. To fix this, I will call the two crossbench members to ask the next two questions before we go back to the Opposition.

COVID-19 VACCINE AND FIREFIGHTERS

The Hon. JOHN RUDDICK (11:27): My question is to the Special Minister of State, representing the Minister for Emergency Services. I am encouraged to hear reports in the media that some conscientious objectors to the COVID vaccine in Fire and Rescue NSW have received notices that they can return to work. However, I am also informed that no return-to-work date has been set and some of these firefighters are being pursued for misconduct with potential impediment to their firefighting careers. Can the Minister inform the House when these firefighters can return to work? Can the Minister assure the House those firefighters who have been investigated on grounds of misconduct in relation to the silly COVID vaccine will not be subject to professional harassment? Will their leave while they were stood down be reinstated?

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (11:28): I thank the Hon. John Ruddick for his question. I know he has taken a close interest in this matter over time. I can give him some information. As he indicated, there has been a change in this area. From 11 October 2023, Fire and Rescue NSW replaced its previous COVID-19 vaccination requirements policy with a new policy, a holistic vaccine requirements policy, covering the range of vaccinations required for various work groups. It is based on risk and it is similar to the approach that has been taken in the past by the New South Wales Health. That transition has been the subject of close consultation with unions, health and safety representatives, and members of the workforce. That is a very important priority.

I am advised that Fire and Rescue has worked with staff and volunteers on a case-by-case basis to resolve their individual concerns and needs during an absence from duty. The new policy should allow staff who have not been at work to return to work, as the Hon. John Ruddick has observed, subject to the completion of refresher training, any medical clearance needed and the finalisation of workplace conduct matters. That is the advice that I have received. Staff information sessions have taken place and staff have been notified in writing of the changes. The Hon. John Ruddick asked about a range of other specific matters that are quite reasonable, including some of the dates. I am very happy to take those on notice and get some answers from the Minister who I am representing in this Chamber. I can update the Chamber and say that the policy has changed, and we will be happy to get some of the additional details that the member has requested.

PEST MANAGEMENT CAMPAIGNS

The Hon. MARK BANASIAK (11:30): My question is directed to the Minister for Agriculture. Will the Minister provide the House with the total number of currently authorised campaigns for pest management approved by Local Land Services, broken down by LLS region?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:30): I thank the Hon. Mark Banasiak for that terrific and important question. Pest management is a key priority for the Government, and it is certainly a key priority of mine as the Minister for Agriculture. Pests and weeds are a significant issue across all of New South Wales, particularly in the agriculture space across the regions. The Government is working hard to deal with that issue, and Local Land Services does a terrific job dealing with it through its localised programs. I will be honest and say I do not know the stats off the top of my head. However, I will get all of the specific details of each program and the areas as per the question. I am very happy to provide the specific information to the House and to the member.

The Hon. MARK BANASIAK (11:31): I ask a supplementary question. Given that the Minister spoke about the importance of pest management to her and her Government, will she elucidate what grounds LLS would have to refuse commencing a pest management program in a particular area when it is requested by farmers?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:32): I thank the Hon. Mark Banasiak for the supplementary question. If a specific situation or a specific refusal has occurred, I am very happy to take the details from the member and have a look into what the issue might be, what the grounds might have been, what reasons were provided and what the circumstances were. I am not aware of any right now, but if the member would like to provide me with any details then I am very happy to come back with a specific answer.

ISRAEL-PALESTINE PROTESTS

The Hon. BRONNIE TAYLOR (11:32): My question is directed to the Minister for Jobs and Tourism. Images of pro-Hamas demonstrators spouting vile hate speech in front of Sydney's iconic Opera House have been seen around the world and will be for some time to come. What assessment has the Minister been given of the potential damage to New South Wales' global image as a result of the admitted failure by the Government to prevent that distressing event from occurring?

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (11:33): The Leader of the Government has spoken in this Chamber for all of the Government on those matters, and I reiterate the view I put earlier in the week. The acts on the other side of the world were reprehensible. Seeing those acts of terrorism on Israeli soil was just heartbreaking, and seeing what then happened in Sydney was heartbreaking as well. Seeing acts of antisemitism and hate at the Opera House was exactly the opposite of the beautiful culture we have evolved in this country and in this State, and I think all members felt appalled by those acts.

I will answer the Hon. Bronnie Taylor's question directly: I have not received a specific assessment about the tourism damage. Frankly, the Government has had other priorities in dealing with the concerns of the Jewish community. It is clear that the damage to the State's and country's reputation is real when people commit acts of hate or antisemitism anywhere in the country. I will be clear: I think it clearly has been damaging. What can we do from here? I refer to the earlier response from the Leader of the Government. One of the things we can all do together is respond to the call for unity that has been issued by the Jewish community. We should respond to it. The Leader of the Opposition and the Premier responded to it, and all members should bear that in mind.

We now need action together so that every citizen in New South Wales feels safe, wherever they are and whatever their background is. That has always been our tradition, and it is one we should be acting to reinforce at every opportunity we have as leaders in this Parliament, working with community leaders right across the State. Members should not forget that the consequences of getting that wrong can be catastrophic. That is a lesson from elsewhere around the world that we all have to bear in mind.

The Hon. BRONNIE TAYLOR (11:36): I ask a supplementary question. As the Minister has said that he has not been given any assessment of the potential damage, will he be seeking such an assessment?

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (11:36): No, I will not. It is clearly damaging. The Government will be focused on keeping people safe and supporting members of the Jewish community, bearing in mind the millennia of persecution that they have suffered and why this is so hurtful—why they are concerned. After pogroms around the world over millennia, to have an act of terrorism on Israeli soil with hundreds of people killed is devastating. That is why people are worried, and to see some of that antisemitism on Australian soil is really hurtful. The Government's focus is on making sure that that sense of community is retained and that people of Jewish faith feel safe and secure in the State.

STATE DEBT

The Hon. GREG DONNELLY (11:37): My question without notice is addressed to the Treasurer. What action has the Treasurer taken to lower the State's debts? Will he remind the House of the levels of gross debt and net debt inherited by the Government in March?

The Hon. DANIEL MOOKHEY (Treasurer) (11:37): I thank the Hon. Greg Donnelly for his question. The Government is taking steps to reduce the levels of debt that we bequeath to families now and into the future. On Sunday there will be a newly formed family that we are doing that for, which I draw the House's special attention to. Jimmy Bai, who is well known to many of us, is getting married on Sunday. My wedding gift to him is sound public finance and reduced debt, and he can take comfort in knowing that through the life course of his very long marriage, the State's gross debt will be \$14 billion lower and its net debt will be \$10 billion lower than was projected in March. Let me assure the House that should anyone else be getting married and invite me to their wedding they will also get the same gift from me and my family. At any wedding to come I am happy to give the same speech, without interruptions, about how those families can have confidence in the Minns Government's plans to stabilise the debt.

The Hon. Sarah Mitchell: Well, you'll be popular at the weddings.

The Hon. DANIEL MOOKHEY: I am popular at weddings, in this life and in the next. That is true. The way that we are stabilising the debt for Jimmy, Jimmy's family and the families of New South Wales is by cleaning up many of the fiscal messes that were left to linger for too long by members opposite. I point out that, under the watch of the former Treasurer and former finance Minister, we were on track to having the highest levels of gross

debt, in absolute terms, recorded in our history. We were on track to divert billions of dollars of interest payments to our creditors, not our essential workers, and we were on track to pass on to our children and grandchildren debt that was climbing faster than at any point in recent history.

That is not the case after the budget that we delivered less than a month ago. We have tackled problems like the Transport Asset Holding Entity—that glorious structure we were told meant that we could have it all, that we could build railways and not record them on balance sheets and that it would all work out perfectly well, until it blew up the State's finances, creating great distress and bringing the State into disrepute. We were told it would be fixed by members opposite, yet all that happened, year after year, was that we had to find more money to pump into the former finance Minister's failed structure. As the shareholder Minister, I am pleased—and I know the finance Minister is too—that we are correcting the failures of the former finance Minister. We are doing it so Jimmy does not have to worry about the Transport Asset Holding Entity on Sunday.

The PRESIDENT: Order!

The Hon. Sarah Mitchell: Jimmy wanted a toaster.

The PRESIDENT: I acknowledge that interjection.

The Hon. Robert Borsak: Before I ask my question, I acknowledge the objections of Opposition members who were not invited to the wedding.

The Hon. Damien Tudehope: I put my hand up and say that you would get a much better present from me.

CONSERVATION HUNTING

The Hon. ROBERT BORSAK (11:41): My question is directed to the Minister for the Environment. Ecologists are celebrating the recent first sighting in New South Wales of the long-footed potoroo in Bondi State Forest. That forest was extensively burnt in the 2020 fires, and it is indeed pleasing to see that wildlife such as the potoroos and, no doubt, the ever-present koalas have survived. It is notable that the Bondi State Forest has been open for conservation hunting since 2006 and the Game Council ran its first three-day deer hunting training workshops in that forest, and I attended them. It is time to acknowledge that hunting can coexist with rare wildlife and large numbers of public users. Will the Minister inform the House how this success can be continued and expanded upon with the support of the Government for conservation hunting by responsible, R-licensed hunters in New South Wales?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:42): I thank the honourable member for his question. There is no doubt that there can be conservation hunting in New South Wales. However, that is not something that we allow to happen in our national parks. The question is best directed to my colleague, the Hon. Tara Moriarty, but the member and I have talked about some of these issues. There are opportunities for us to better manage pests, and there are ways in which we can join with the community on that. There are many private landholders and farmers who do just that on a regular basis, and a lot of work has taken place. It is true that threatened species can live in State forests. In fact, many of them do. They are actually very well protected by the regimes that are in place. To be clear, conservation hunting or hunting generally is not something that we would consider in relation to national parks, but we know that it is occurring in a range of other places. I refer the rest of the question to the Hon. Tara Moriarty, and we will come back with more detail.

ISRAEL-PALESTINE PROTESTS

The Hon. CHRIS RATH (11:43): My question is directed to the Leader of the Government. Did any ministerial office staff or electorate office staff of Labor MPs participate in the pro-Hamas rally on Monday? If so, what steps have been taken in response to their attendance?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:43): I thank the honourable member for his question. I will say two things. The first is that I am not aware of any of those issues or whether anyone has. If the Opposition has information that it wants to provide, it should provide it. I am not trying to be tricky; I am just trying to answer the question in a reasonable way.

The Hon. Sam Faraway: Answer the question.

The Hon. PENNY SHARPE: I am answering the question. I am not aware. That is the directly relevant answer. The second point I make is to ask where the Opposition is going with these questions. We have a very serious matter that we are dealing with. There is horror occurring in the State of Israel. There are calls across the world for unity and calm as we work through the issues and as we stand with Israel while it tries to defend itself

on the back of the horrific terrorism experienced in the past week. The horrifying moments that all of us have talked about extensively—

The Hon. Damien Tudehope: And that we all agree are horrifying.

The Hon. PENNY SHARPE: That's fine. So what are you trying to pursue with the question?

The Hon. Damien Tudehope: Because we are holding—

The Hon. PENNY SHARPE: It is not about holding anyone to account.

The PRESIDENT: Order! The Leader of the Government will her address her comments through the Chair.

The Hon. Bronnie Taylor: Show some leadership.

The Hon. PENNY SHARPE: You'd know all about that.

The Hon. Wes Fang: She does actually.

The PRESIDENT: Order! I remind the Hon. Wes Fang that he is on two calls to order.

The Hon. PENNY SHARPE: The Government is focused on two things. One is supporting and giving solidarity to the people of Israel as they deal with the horror they are currently experiencing. The second is that we are supporting the Jewish community in New South Wales to ensure that what happened last Monday never occurs again. That is where the Government is directing its resources, time and effort. We are also working extensively in the community to understand that all of this causes community tension and that we all have a responsibility to work through that, to call for calm in our communities and to make sure that the issues are addressed properly.

We need to be serious about this. Hamas is a terrorist organisation. The people who did the wrong thing at that protest are abhorrent, and the full force of the law should be brought to bear upon them. But let's not go to questions about staff. I have given the answer. I am not suggesting members opposite cannot ask the question, but I am saying that I will give the answer I want to. I place on record that what those opposite have done all week has been pretty ordinary. Bringing members' children into the discussions on these matters is something we should not see again. I thought we had moved on.

The Hon. Mark Buttigieg: Sewer rats.

The Hon. Natalie Ward: Point of order: The Hon. Mark Buttigieg just yelled an offensive term across the Chamber. I will not repeat it. I have taken offence and I ask that he be directed to withdraw it.

The PRESIDENT: Order! I did not hear the term. If the Hon. Mark Buttigieg made a remark that offended the Hon. Natalie Ward, I ask that he withdraw it.

The Hon. Mark Buttigieg: If the term "sewer rats" offended my colleagues opposite, I withdraw it.

SOUTH BY SOUTHWEST FESTIVAL

The Hon. ANTHONY D'ADAM (11:47): My question is addressed to the Minister for the Arts. Will the Minister inform the House of why the Government chose to back in Great Southern Nights in this year's budget and the likely impact across the State of such events, as well as South by Southwest?

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (11:47): I thank the member for his question, and I thank the Hon. Rose Jackson for her answer earlier in question time. This Sunday, for the first time in its 37-year history, Austin's famed South by Southwest festival will take place outside of Texas, right here in Sydney. That week-long festival of festivals is a famed hotbed of creativity and innovation. It is where Uber and Billie Eilish both got their starts. Twitter took off at South by Southwest and *Everything Everywhere All at Once* premiered there.

The Hon. Daniel Mookhey: Hang on, it's called X.

The Hon. JOHN GRAHAM: The Hon. Daniel Mookhey makes a fair point. What Australian talents will we be name-dropping five years from now? What a chance, as South by Southwest unfolds next week, for the Leader of the Opposition to update his repertoire of lyrics that he uses in the Chamber on a routine basis. I recognise that bringing that conference to Sydney was the result of a decision of the former Government, but it could not have come at a better time, because this Government is driving an arts, culture and creative industries policy that is exactly aligned with the direction of that conference. This is such a good moment to bring the conference to New South Wales. It is precisely aligned with the direction for creative industries that we are very

keen to drive in the art space. We will have a chance to see Chance the Rapper, Nicole Kidman, *Black Mirror* creator Charlie Brooker and Future Today Institute founder Amy Webb.

The fun will continue when Great Southern Nights makes its return with a special taster event in November, featuring 10 nights of performance in Western Sydney and the inner west. At this point I have to come clean to the Chamber. It is true that:

I love the nightlife—

on occasion—

I've got to boogie,
On the disco 'round, oh yeah.

I warmly recognise that this has become a bipartisan issue. It is supported across the Chamber. I could equally say that Opposition members "love the nightlife" and they've "got to boogie on the disco 'round, oh yeah". I make particular reference to the Leader of the Opposition's fine work over his time in this Chamber.

HOMELESSNESS SUPPORT SERVICES

Ms ABIGAIL BOYD (11:50): My question is directed to the Minister for Homelessness. In October of last year the Standing Committee on Social Issues inquiry into homelessness amongst older people aged over 55 in New South Wales, of which the Minister was a member, handed down 40 substantive recommendations spanning government policy, funding and data collection to address the serious and growing issue of homelessness amongst older people, and older women in particular. Which specific recommendations of the inquiry will the Minister be implementing?

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:51): I thank the honourable member for her question. Indeed, that was an excellent inquiry and I thank her for initiating it. The inquiry was also confronting and heartbreaking, and it led to a range of recommendations, all of which the Government accepts in principle and which the department is now working through. I have already made a number of changes that were specifically recommended as part of that inquiry, including changes to temporary accommodation. The inquiry recommended that the day cap for temporary accommodation be amended to offer more dignity for people who need emergency accommodation, and I have done that. The initial period has been increased from two days to seven days, and the day cap has been removed overall.

The parliamentary inquiry also recommended the abolition of the seeker diary. There was a lot of clear evidence about how degrading it was for older women to have to join queues that could stretch around the block to inspect private rental properties, knowing that they never had a chance of getting them, just to fill in a bureaucratic diary to prove to the Government that they were trying to resolve their housing circumstances in the private market. It was so clear to the committee that that was degrading, humiliating and unnecessary. One of my first actions as Minister was to abolish the rental seeker diary, which was a specific recommendation of that inquiry.

Another thing that I have done on the recommendation of the inquiry is to change the annual reporting of the social housing waiting list data. That data was not even accurately released annually; it was released six or seven months after the annual snapshot was taken, so the data was often almost 18 months out of date. I have made the change from annual reporting to monthly reporting for social housing waiting list data. I invite the member to visit the Department of Families, Community Services, and Indigenous Affairs, or FaCSIA, website to see that rolling update. Again, that was a specific recommendation of the inquiry in order to have clear information about the social housing waiting list. We cannot fix the problem unless we acknowledge that it exists. I have been open about the fact that we must do more for social housing.

Those are some examples of the things that I have already done in the six months I have been the Minister. Obviously, as the member said, there were 40 recommendations from the inquiry. They are comprehensive. Some of those recommendations will take more time to implement. I am working through options for some specific things that can be done more quickly. I bring to the member's attention one thing that we are actively working on, which is the Home at Last service for older women. A similar service exists in Victoria and Queensland, and I accept that there is a lot of merit in that offering. It is a specific concierge referral service for older people to access information about their housing needs. We are working through how we can bring that service to New South Wales. We need to increase social housing overall and we need to make changes to the private rental market—those were also recommendations. I have run out of time.

Ms ABIGAIL BOYD (11:54): I ask a supplementary question. I thank the Minister for her comprehensive answer. In relation to the specific recommendations of the inquiry being implemented, will the Minister elucidate

her answer in relation to recommendation 20, which is to ensure that all new social housing is fully accessible? Will the Minister inform the House what she is doing to assist older people with mobility issues in housing?

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:54): That is a fantastic supplementary question. The honourable member is a well-known and extremely effective and vocal advocate for disability rights in this Chamber. All new social housing that is built in New South Wales is built to the 7-star Silver standard. The new social housing in New South Wales all meets the highest requirements. That is appropriate because, as the member said, many people who rely on social housing are older and have mobility issues. All new stock meets the highest standard. I am pleased to say that there is a bunch of new housing stock coming online and all of that will meet the standard.

That does not deal with the comprehensive amount of older housing stock on hand, much of which will require modification. The Government is pursuing opportunities to make some of the modifications that can be more easily done on a case-by-case basis, such as shower modifications and expanding doorways. That follows recommendations from the Ombudsman in relation to the way that the department deals with people in public housing who have disabilities. At the moment that is being done as needed on a case-by-case basis. The case numbers are substantial, so that is a big piece of work, but we are trying to be incredibly responsive in order to ensure that work is done.

If I may make one point in relation to that, one of the things that I am trying to do is to transform properties such as 82 Wentworth Park Road in Glebe. That property currently holds 17 dwellings that are not energy efficient or disability accessible. I would demolish that property to build a new property that will hold 43 new dwellings, all of which will be fully accessible and energy efficient. I am facing opposition from some members of Ms Abigail Boyd's party in relation to that project, so I ask the member to support those kinds of initiatives.

The Hon. NATASHA MACLAREN-JONES (11:57): I ask a second supplementary question. In the Minister's answer she referred to the Home at Last initiative, which is the Victorian call line. Does that mean that the Minister intends to increase funding to implement that service in New South Wales, or will she be expanding the current Link2Home service?

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:57): I thank the member for her question. Home at Last is not a call line; it is an in-person referral service. I understand why the member did not implement that program when she was the Minister. She obviously does not even know what it is.

The Hon. Natasha Maclaren-Jones: Point of order: The question is whether or not the Minister intends to increase funding to deliver that service, or make changes, or use the current funding for Link2Home.

The Hon. Courtney Houssos: To the point of order: The Minister was being directly relevant to the question that was asked. The member might not like the answer, but the Minister was being directly relevant.

The PRESIDENT: There is no point of order. The Minister has the call.

The Hon. ROSE JACKSON: If we are to implement Home at Last, it will not be an expansion of Link2Home. There is a reason for that: Link2Home was specifically called out as failing this cohort. The evidence from the inquiry that Ms Abigail Boyd chaired was that Link2Home does not work well for this cohort of older people, and older women in particular, who have never interacted with the system before. As good as Link2Home is, in some ways, as a number—1800 152 152—that everyone can call if they are experiencing homelessness, there are some cohorts for whom that format of interaction is not working. That is why we need Home at Last, a service that specifically provides a concierge for people who may struggle to engage with some of the established service delivery mechanisms.

So, yes, it would be a new service and we would need to fund it. At the moment, we are working through that and looking into ways we would deliver that service. In Victoria and Queensland it is done in partnership with non-government organisations. They do the service support. We will explore how we could roll that out. But, as I said, it is really important to understand that it could not be delivered through Link2home. That is the entire premise, and that was made really clear in the parliamentary inquiry. Because Link2home is failing this group, we need to develop a new service. I am exploring that. I have met many times with the Housing For The Aged Action Group, and the Ageing on the Edge coalition, to discuss their enthusiasm for that service. I am looking forward to working out how we may deliver it in New South Wales.

ISRAEL-PALESTINE PROTESTS

The Hon. SAM FARRAWAY (11:59): My question is directed to the Minister for Regional New South Wales. In question time yesterday, the Minister said:

... I do commend the work of the Minister for Police and Counter-terrorism, who is of course not involved in police operational matters and who is doing a terrific job.

In light of the clear statement by the Premier that he takes full responsibility for the shameful events on Monday and for ensuring that similar events do not happen again, does the Minister stand by her comment that the Minister for Police and Counter-terrorism is doing a terrific job?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (12:00): Yes, I absolutely do.

The Hon. SAM FARRAWAY (12:00): I ask a supplementary question. What role, if any, does the Minister for Police and Counter-terrorism, alongside the Premier, have in "making decisions to ensure that it doesn't happen again" with specific reference to the disgraceful pro-Hamas rally?

The Hon. Penny Sharpe: Point of order: My view would be that that is not an elucidation of the—

The Hon. Wes Fang: Point of order—

The Hon. Penny Sharpe: I am actually taking a point of order, and you are on two calls. Do you want to sit down?

The PRESIDENT: The Hon. Wes Fang will resume his seat. I will get to him in a second.

The Hon. Penny Sharpe: We'll get to you.

The Hon. Wes Fang: Maybe you should be on a call.

The PRESIDENT: Order! The Leader of the Government is speaking to her point of order.

The Hon. Wes Fang: Two—I can count—the number of terms of Parliament you won't be Government for.

The PRESIDENT: Order! The Leader of the Government has the call.

The Hon. Penny Sharpe: The point of order that I am taking is—

The PRESIDENT: Order! The Leader of the Government is not being helpful. I call the Hon. Penny Sharpe to order for the first time. We are almost at the end of question time. The Leader of the Government has the call.

The Hon. Penny Sharpe: Thank you, Mr President. My point of order is taken on the basis that the Hon. Sam Farraway has asked a completely different question. Also, it does not seek an elucidation of what was a very clear answer given by the Minister. I believe it should be ruled out of order.

The PRESIDENT: I uphold the point of order.

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

COVID-19 VACCINE AND FIREFIGHTERS

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (12:02): Earlier in question time the Hon. John Ruddick asked me a question about the COVID-19 vaccine and unvaccinated firefighters who were stood down from their roles. Further to my answer, I indicate two things: firstly, the workers are permitted to return as of 11 October; and, secondly, I am advised that the firefighters will not be disciplined for not having been vaccinated. If other serious misconduct was committed, then that would be investigated. That is the advice I have been provided.

*Supplementary Questions for Written Answers***COASTAL HARVESTABLE RIGHTS**

The Hon. SARAH MITCHELL (12:02): My supplementary question for written answer is directed to the Minister for Water. In the answer that the Minister gave the Hon. Rod Roberts in relation to harvestable rights in coastal catchments, she indicated that she has asked the department to accelerate the catchment-by-catchment assessments. Will the Minister please advise when those assessments started and when they will be complete?

*Questions Without Notice: Take Note***TAKE NOTE OF ANSWERS TO QUESTIONS**

The Hon. DAMIEN TUDEHOPE: I move:

That the House take note of answers to questions.

ISRAEL-PALESTINE PROTESTS

The Hon. DAMIEN TUDEHOPE (12:03): I take note of answers given today by the Leader of the Government to various questions about the manner in which the demonstration on Monday night was handled. There is a serious misunderstanding by the Government—or perhaps there is not such a serious understanding. There is no criticism of the Government's response in condemning the actions taken by Hamas in Israel. There is no criticism of the Premier's response to what occurred on Monday night in the forecourt of the Opera House. But the Government seems to be suggesting that the Opposition should be prevented from exploring what went wrong in what occurred on Monday night. It is saying, "Don't look here anymore, because we are all on a unity ticket in condemning what occurred." That is fine. We are on a unity ticket. We condemn what occurred. The Premier has condemned what occurred. But why is the Opposition not entitled to investigate what actually took place and who was responsible for that?

That is the responsibility of the Opposition: to hold the Government to account. The Government agrees that what occurred on Monday night was disgraceful and wrong, so it should be with us on a unity ticket to investigate why that occurred and what went wrong. The Opposition will not stop investigating. We will not stop asking questions in respect of what occurred, because the Westminster system still applies in this place. There was an interesting comment made by the excellent journalist Alexandra Smith in *The Sydney Morning Herald* today on this matter. She commends the Premier for accepting responsibility for what occurred on Monday night. That is a responsible thing to do, and I also congratulate the Premier for having done so. But she then goes on to say:

His No. 1 job is to lead his Government. He is not the only firefighter in the station ... ministers are responsible for the actions of an agency within their control. The buck does not stop with the leader.

Following from that, the inference is that the buck should stop with the Minister for Police and Counter-terrorism, who had responsibility for what occurred in that demonstration on Monday night. What has occurred in this place, on a consistent basis, and has been borne out by the answer given by the Minister representing the— [*Time expired.*]

CONSULTING SERVICES**STATE DEBT**

The Hon. CAMERON MURPHY (12:06): I take note of answers given today by Minister Houssos and the Treasurer. The Minister's answer exemplifies the problem under the former Government, where the use of external consultants was absolutely out of control. We are all aware of the circumstances uncovered by the Commonwealth Senate which exemplify the problems of using external consultants: They are often hopelessly conflicted, they cost an enormous amount of taxpayer money and they decimate the public service, leaving us in a position where governments cannot get frank and fearless advice because they are going to external consultants who have an inherent interest in the advice they provide.

We have seen that these consultants are absolutely incapable of putting in place measures that prevent other parts of the same business from using information gleaned from government to the advantage of their firm—as in the example of PricewaterhouseCoopers, and I suspect many others. The great thing about this Government is that we have set about correcting this. We are going to bring outsourcing to those consultants back into the public sector. We are going to build up our knowledge base so that we are in position to have public servants provide the frank and fearless advice that government needs and ought to rely on in proper decision-making.

I also take note of the Treasurer's answer in relation to the State debt. His wedding gift to Jimmy Bai is wonderful and one that will last throughout the marriage. The Government is setting about fixing the budget. It is engaging in the budget repair that those opposite were incapable of doing during their 12 years in office. We inherited a massive debt, projected to be \$187 billion, and a budget deficit. This excellent Labor budget turns that debt around but also refocuses the Government on looking after essential workers. We will put nurses, hospital workers, police officers, firefighters, public servants and others at the centre of what the Government does. We will deliver frontline services for communities, and we will make sure we have the money in the budget to do so. We are not privatising, which is how those opposite sought to pay for things, but we will manage the economy properly. [*Time expired.*]

ISRAEL-PALESTINE PROTESTS

The Hon. JOHN RUDDICK (12:10): I take note of what the Leader of the Government said about a protest on the weekend being banned. The Government is wrong to ban any protest, and I will explain why. I have been a lifelong supporter of the Jewish people and the State of Israel. Indeed, I have been accused of being a broken record at social functions for talking about my admiration of the Jewish people and the State of Israel. I was deeply moved when attending the pro-Israel rally in Dover Heights yesterday. The Leader of the Government was there too. I have spoken at length in this Chamber and in the media this week in attacking the pro-Hamas rally on Monday. Indeed, I was the first member of this Parliament to point out that chanting "Gas the Jews" is a crime under section 93Z of the Crimes Act 1900 and that arrests should have been made. Others have since repeated that point, which is good.

All that said, I am 100 per cent against the State's banning of public demonstrations. Protests are a form of free speech, and anyone who ever wants the State to ban speech does not believe in free speech. The true test of our belief in free speech comes when a person or group says something we most disagree with. In the 1970s there was an infamous pornographer in the United States, Larry Flynt, and he was not just a pornographer; it was obscene pornography. The State banned that. He went to the Supreme Court and won. Famously, he said on the steps of the Supreme Court, "If the First Amendment will protect a scumbag like me, then it can protect all of you", and he was right. The gold standard in civil liberties is the US bill of rights, and in it is the First Amendment, which protects the right to peaceably assemble.

Of course, it is possible and may be probable that a protest becomes violent. At that point, arrests should be made. Even more seriously, inciting violence towards individuals or specific groups is a crime, and arrests must be made. The lack of arrests on Monday has now resulted in protests being banned. This is doubling down on error. In difficult moments like this, we truly reveal our commitment to our ancient liberties. I place on the record that libertarians are always against the State banning protests because it does not like the message. As usual, the libertarians are right and both the Government and the Opposition are wrong on this occasion.

ISRAEL-PALESTINE PROTESTS

The Hon. SAM FARRAWAY (12:12): I take note of answers given by the Leader of the Government today in question time. There is no doubt that the Opposition and every MP in this Chamber share thoughts and condemn the acts done earlier this week. But, at the end of the day—I have said this before—since March we all have new roles in this Chamber. The now Leader of the Government is being incredibly hypocritical. For so long she sat on the Opposition benches asking questions, fleshing out answers and calling for transparency. The job of the Opposition and the crossbench is to hold the Government to account. Our job is to ask those questions. There has been a lot of commentary within the media this week, from leading media figures and publications, saying that the Premier in this State has an issue, which is that he has Ministers who are out of their depth. Not so long ago, I was called upon to explain myself.

The Hon. John Graham: Hear, hear!

The Hon. SAM FARRAWAY: I think the Hon. John Graham moved the motion calling on me in this place to explain myself and the actions of the agency I represented, even though they were operational issues. The Hon. Anthony D'Adam, now a Government member, spoke about ministerial responsibility. I quote from *Hansard*:

I speak about two conventions that are under attack: the conventions of individual ministerial responsibility and collective responsibility. The convention of individual ministerial responsibility requires a Minister to take responsibility for the actions of their department.

How hypocritical of the Leader of the Government to say, "How dare you Opposition ask any questions of our incompetent Government?" I do not know why the Leader of the Government feels that she can push the view that the Opposition is out of line in asking questions of an incompetent Minister, an incompetent Government and a Premier who is trying to hold the place together with a bandaid. If not that, we will follow the precedent set by those opposite, who when in opposition would call Ministers before this House to explain themselves, and follow those mechanisms of this House to require them to explain something that was out of their control. I quote again:

The convention of individual ministerial responsibility requires a Minister to take responsibility for the actions of their department.

[Time expired.]

ISRAEL-PALESTINE PROTESTS

CONSULTING SERVICES

The Hon. Dr SARAH KAINE (12:15): I will reflect on the answers given by a number of Ministers today. But first of all I thank the leaders of the Government in this place and our Ministers for conveying on behalf

of all of us on the Government benches our deep sadness and condolences to all of those impacted here and abroad by the events of this week. I thank those Ministers and Parliamentary Secretaries who have answered questions for doing so in a dignified and appropriate way that reflects the seriousness of the situation and for not being drawn into answering, although it must have been tempting at times, questions asked by those opposite which were, frankly, unedifying.

I also reflect on the finance Minister's answer about the previous Government's use of consultants. I have been working as a member of the Public Accountability and Works Committee on the inquiry into the Government's use and management of consulting services. The evidence we have received has been revealing. But it is not only my, the Minister's or the Treasurer's accounts of the excessive use of consultants. In March the Auditor-General released her report on government agencies' use of consultants. She was very concerned, and one of the key findings was that consultants were used for core public service functions. That was not a proper strategic use of consultants—to fill a gap or to provide expert advice on a subject. They were being used to fulfil core public service functions. A key problem with that is it causes a deskilling of the public service over time, which needs to be addressed and leads to repeated engagement of external consultants. So I commend the Government for drawing a line in the sand and saying, "We will make sure that we reduce spending on consultants in government agencies."

ISRAEL-PALESTINE PROTESTS

The Hon. TANIA MIHAILUK (12:18): I take note of the Special Minister of State's answer to the Hon. Bronnie Taylor's question about the global image of Australia being severely impacted this week. The response from the Minister could have been a lot stronger. The scenes of Monday night are not just heartbreaking; they are an international embarrassment. I have spent years working within a community in which I have worked closely with Islamic community groups, organisations and residents. The antisemitic and dangerous behaviour that we saw on Monday night actually started on Sunday night. I will be very clear about that: That behaviour started on Sunday night. There was disgusting criminal behaviour in Greenacre.

The Hon. Rod Roberts: Lakemba.

The Hon. TANIA MIHAILUK: There was a rally in Lakemba. That behaviour started on Sunday night, and the Labor Government was utterly silent about those incidents. It disappoints me greatly that it took all week for Premier Minns to try to fix this. To give credit to him, he has done his best to manage a horrendously embarrassing week for Australia. There is no question of that. Clearly, there are Ministers who are dangerously incompetent. There is no question that there are problems in parts of Sydney. I was a member of Parliament for 12 years, representing a region that I grew up in, where I saw many antisemitic incidents. I remember the synagogue in Bankstown being burnt down when I was a teenager. It never got rebuilt. There are problems. When I was a member of Parliament, I worked for many years to try to stop that behaviour from becoming entrenched in the community. It is important to educate people from a young age that this type of behaviour is utterly unacceptable in Australia.

I have my own issues. My family is both Ukrainian and Russian, so I know what it is like to deal with a war that you do not agree with and the issues that relate to that. But the problems we are seeing are entrenched in certain parts of the community. The Government has to be a lot stronger than it has been this week, because there will be more to come. I am concerned about the protests that will happen this weekend. I am concerned about the actions and behaviour that may happen over the course of the next 12 to 18 months. We know the war in Israel will keep going for that long. It is a problem that we have a dangerously incompetent government that cannot manage these issues. What happened on Monday could have been avoided entirely. We saw what happened on Sunday, and the Labor Government acted too slowly to rectify the issues. [*Time expired.*]

WATER HARVESTING

The Hon. WES FANG (12:21): I take note of answers given today, particularly the answer given by the Minister for Water to the question asked by the Hon. Rod Roberts about cuts to water allocations for coastal farmers, but also the answer that she gave to the forum on the South Coast that they both attended. Hypocrisy is writ large in this Government. There is no better example of that than the Minister saying one thing to one crowd and then saying something else to another. That is what we have here. A forum was held on the South Coast, which both the Hon. Rod Roberts and the Minister attended—

The Hon. Mark Banasiak: And me.

The Hon. Rod Roberts: And the Hon. Mark Banasiak.

The Hon. WES FANG: Sorry, and the Hon. Mark Banasiak. Are you chopped liver? I acknowledge the Hon. Mark Banasiak. I digress. The Minister, who is in the House today, said to those people, "Why do you think

that they're going to take the water allocations and reduce them? Do you have any proof of this?" The proof is clear: It has happened. She has done it. She is the Minister responsible for doing it. It is hypocrisy. She says one thing to one crowd and then says something else to another. The worst part was in her answer, where she said that she had heard from the people downstream—the coastal people, the farmers and the fishers. But we have discovered that the Minister did not consult them before she made the decision. She did not consult with farmers. She made the decision, told them about it and then called that "consultation".

The Minister took representations from every other organisation, group and stakeholder, but not the people who are directly affected by her decision. When I say that Labor is anti-farmer, when I say that Labor is anti-regions and when I say that Labor is hypocritical, this is what I am talking about. Those opposite said one thing before the election and then did something else afterwards. They do not consult with farmers. They make decisions that directly affect farmers, tell them about it and then say, "Isn't that consultation?" No, it is not. Farmers deserve better.

CONSULTING SERVICES

ISRAEL-PALESTINE PROTESTS

The Hon. MARK BUTTIGIEG (12:24): My advice to members opposite is to not go after the Minister for Water. She is one of the most competent Ministers in the Chamber, so I would leave that alone if I were them. I take note of two issues that were raised during question time. The first is the \$1 billion of wasted consultant expenditure between 2017 and 2022. The Public Accountability and Works Committee, which is chaired by Ms Abigail Boyd and includes my colleagues the Hon. Peter Primrose and the Hon. Dr Sarah Kaine, is doing great work and has found out what we intuitively knew for a long time: The public sector is wrought with all sorts of rorts in terms of the expenditure on consultants.

I remember that from when I worked in the public sector. I worked in the electricity industry for about 30 years. But it is not isolated to that industry. Anyone who has worked in the public sector knows the use of consultants is out of control. It is a testament to the Minister for finding some \$530 million in savings to be directed where it needs to be to fulfil the Government's commitments to the New South Wales public by funding essential workers. It is important work. It is important that the House and the public understand that those savings are critical to satisfying the reasons we were elected, and we intend to make good on those promises. It is important that we acknowledge those gains.

The other point I make is about the tenor of debate this week regarding the unfortunate incidents that have occurred. It would be obvious to anyone who cared to review the *Hansard* of both this place and the other place that there is a blatant desire to politicise this subject. The Premier has been exemplary. He was the one who decided to light up the sails of the Sydney Opera House to show solidarity with the Jewish people over the reprehensible act that occurred on the West Bank.

As a result of an operational issue, which obviously had flaws and is not under the direct micromanaged control of Ministers as those opposite would like to purport, those opposite have used this to try to create a wedge and disunity. I do not think they are interested in the outcome; they are interested in getting hits on Ministers. That is what it is all about. We saw how desperate they were. It is symptomatic of an Opposition leader who, after six months, has thought to himself, "What the hell have I done? I am on a hiding to nothing." An opportunity presented itself, he over-egged it, those opposite over-egged it, and I think they should pull their heads in and join with the Government in settling the place down in the interest of harmony—[*Time expired.*]

ISRAEL-PALESTINE PROTESTS

COASTAL HARVESTABLE RIGHTS

The Hon. ROD ROBERTS (12:27): I take note of answers today. I start with the policing issue and Israel. Members will recall that I congratulated the Government yesterday on its initiative to light up the Sydney Opera House sails and talked about how the police allowed protesters to rain on their parade. For a number of weeks now I have highlighted the incompetence of the police Minister. I have done so on numerous occasions over numerous things. We have debated how she has misled the Parliament with answers, how she was missing on the Cooma thing and now this. Chris Minns listened to me about the mental health issues of police and decided that he would send people to London to investigate that. I believe he has also listened to me in that there is some stuff coming about the recruitment of police.

I give the Premier another free tip, because I am good at giving out free advice. There needs to be a new police Minister. She is a dead woman walking, I am sorry to say. The new police Minister is sitting opposite me, and that is the Hon. John Graham. He is the only talented Minister I can find in this Government that would have

the capacity to carry out that role. I urge the Premier to think about a reshuffle and to give him the job. It will elevate him to a statesman-like equivalent when he takes over and rights the ship, and he is the man to do it.

Let's go to the elephant in the room, who is the Hon. Rose Jackson and her statements at Bega. The Labor Party is very reminiscent of what happened in the Graham Richardson days—"whatever it takes". Going into the election its members said, "Let's tell them whatever they want to hear and then, when it happens, we'll walk it back." Minister Jackson is not the only Minister. Members will recall that I gave notice of a motion about the Hon. Ron Hoenig, who said to Cootamundra-Gundagai Regional Council, "We supported demergers." Later I might move the motion and bring out the *Hansard* record of when the now Government was the Opposition and supported my motion to demerge the council. But the Hon. Ron Hoenig said, "That is apart from the fact that you didn't vote for us. We are not going to demerge now. You have to go back through the whole process all over again."

I have all the transcripts from the whole conversation from the night. Minister Jackson said, "No, this is what we are going to do. We will keep the 30 per cent. There are no complaints." All of a sudden, Labor gets into power and they change it. There is no science to support it. There is no decision-making or engagement with landholders or stakeholders. Today she said that there have been only 12 applicants to increase from 10 per cent to 30 per cent. If there have been only 12 across the entire east coast of Australia, how come there are complaints downstream? The Minister's own argument falls apart.

ISRAEL-PALESTINE PROTESTS

The Hon. BOB NANVA (21:31): I take note of answers given by the Leader of the Government to questions relating to the Israel conflict. I do so with some reluctance, because what I am about to say can often be perceived as self-serving. But I could not help but reflect, on occasion during question time, about whether more cultural and religious diversity in this place might otherwise have restrained some of the language, tone and lines of questioning that have taken place over the course of the week, particularly today, and whether those with a greater variety of lived experiences might otherwise provide a better assessment of what is a legitimate line of questioning about Government action and inaction, and what is erring on the side of insensitive and politicisation. Our Government should be held to account. The Opposition does that, by and large, in much of its questioning.

The Hon. Rod Roberts: And the crossbench.

The Hon. BOB NANVA: And the crossbench. There is no straying from that legitimate line of questioning from the crossbench, but there is from the Opposition. I find that bitterly disappointing and personally offensive. I sincerely hope that those difficult events do not see race emerge as a brace for what is ostensibly divisive and menacing rhetoric, cloaked as questioning and debate. We all have a responsibility, including the Opposition, to show tolerance and forbearance to all those feeling vulnerable at the moment and to avoid, at all costs, any shrill and opportunistic debate, no matter the temptation. I fear that has been lost this week.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (12:33): I commend my colleague the Hon. Bob Nanva for the remarks he just made. I also agree with a number of things that the Leader of the Opposition said. I thank him for his acknowledgment of the Premier's response over the week. I also agree with him that it is the right and obligation of the Opposition to investigate what took place and what went wrong. That is the Opposition's right, but the fact that they have strayed from that is the issue the Government has raised over the course of the week. We have not seen the sort of surgical inquiry that is the obligation of oppositions. Rather, it has been the haphazard spray just described by my colleague. The Opposition has a right to pursue those issues. It does not have a right to make the issues worse. That is the view of the Government.

I make it clear that members have a right to specifically question the police Minister. But my view of this police Minister is that she is incredibly hardworking and has a very big heart. I defend the police Minister on the record. She will be a very good Minister. She is a good Minister in this Government, and I commend her to the Chamber. We need to be as precise as possible about what the problem is. That is the problem with the haphazard spray of questions we have had from the Opposition. What has happened is not in the interests of the Muslim community or supporters of Palestine. The small group of protesters spewing hate were not interested in peace or understanding or even nationhood. In fact, they set those things back dramatically.

I thank the Hon. Bob Nanva for his commentary, and I direct the Chamber to the commentary of Minister Jihad Dib in the other Chamber to make clear how damaging the actions we have seen this week have been. I thank him for his comments on the public record. The Government and the Premier take very seriously our obligation to make every citizen in the community feel safe. That is why we are trying to respond to the call for unity that has been issued. I agree with the comments of some members that we have heard in the course of the debate about

why that is important. There are two reasons: First, it is important because of the scale of what has happened. Even despite the millennia of persecution that Jewish people have suffered, the scale of what has just occurred is absolutely horrific. When we look back on it, it will be seen to be of an enormous scale in the context of those millennia of history. Secondly, I think everyone is aware that as the situation unfolds it could get worse, and our obligation is to make sure that the community is supported right across New South Wales.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): The question is that the motion be agreed to.

Motion agreed to.

Deferred Answers

LOCAL GOVERNMENT

In reply to **Dr AMANDA COHN** (20 September 2023).

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales)—The Minister provided the following response:

Matters relating to Hurstville and Georges River councillors were reported to the Office of Local Government in March 2019. The Office of Local Government assessed that the available information did not disclose contraventions of the pecuniary interest provisions of Georges River Council's *Code of Conduct*, as alleged.

The matter was referred back to council to deal with in accordance with the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*.

Further information provided to the Office of Local Government in September 2019 was the subject of extensive preliminary enquiries, and liaison with the Independent Commission Against Corruption [ICAC]. In March 2020, the Office of Local Government discontinued its examination of the matter noting that the matter was being examined the ICAC.

The corruption prevention recommendations made by the ICAC are being considered. The Government will respond formally to these recommendations in due course.

Written Answers to Supplementary Questions

ISRAEL-PALESTINE PROTESTS

In reply to **Ms SUE HIGGINSON** (11 October 2023).

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales)—The Minister provided the following response:

I am advised:

The protest on Sunday was not authorised, and may have involved unlawful conduct by some participants.

Part 4 of the Summary Offences Act 1988 creates a statutory regime under which public assemblies may be "authorised" or "not authorised".

To be authorised under the Summary Offences Act 1988, organisers of proposed public assemblies, processions and protests must notify the NSW Police Force using what is known as a "Form 1". Police will then work with them to ensure that the arrangements for the assembly are appropriate, and to limit the impact on public safety and amenity.

Participants in authorised public assemblies are afforded protection from being charged for certain offences relating to participating in an unlawful assembly or the obstruction of any person, vehicle, or vessel in a public place.

As no "Form 1" was lodged, the status of the protest in question was "not authorised". During the protest, there were several instances of criminal conduct, such as the letting off of flares and the chanting of obscene messages. Those members of the public assembly involved in that conduct can be said to have been involved in unlawful conduct at a protest that was not authorised.

PUBLIC SCHOOLS PHONICS CHECK

In reply to **the Hon. MARK LATHAM** (11 October 2023).

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources)—The Minister provided the following response:

I am advised by the Deputy Premier, Minister for Education and Early Learning, and Minister for Western Sydney that:

The Year 1 Phonics Screening Check is a short assessment that tells teachers how students are progressing in phonics. Results are available immediately to enable teachers to monitor each student's learning progress and inform decisions about next steps. Students can be rechecked in year 2 at the teacher's discretion.

A class summary analysis is also available providing teachers with an overall picture of the progress of the class. This can assist in making decisions based on patterns that may be evident in the data to plan next steps for a whole class, small groups or individual instruction.

The phonics diagnostic assessment is available on demand for teachers to implement at point of need to generally monitor progress in their student's phonics knowledge.

Unlike the former Government, the Minns Labor Government is committed to transparency. The final public report on the results of the 2023 Year 1 Phonics Screening Check is expected to be released prior to the end of the calendar year.

PUBLIC SCHOOLS PHONICS CHECK

In reply to **the Hon. SARAH MITCHELL** (11 October 2023).

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources)—The Minister provided the following response:

I am advised by the Deputy Premier, Minister for Education and Early Learning, and Minister for Western Sydney that:

All year 1 students in New South Wales public schools are required to complete the Year 1 Phonics Screening Check. Schools complete the assessment in term 3 each year.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): I shall now leave the chair. The House will resume at 2.00 p.m.

Bills

STRATA LEGISLATION AMENDMENT BILL 2023

Second Reading Speech

Debate resumed from an earlier hour.

The Hon. MARK BUTTIGIEG (14:02): On behalf of the Hon. Penny Sharpe: As I was saying earlier, those documents inform the decisions, including important decisions that will be made at the first annual general meeting, so it is important they are provided to owners, including new owners, well ahead of the meeting. Owners should have sufficient time to review documents and come to the meeting prepared, informed and empowered to make decisions and ask questions that will impact their finances and the liveability of the scheme.

Another way the bill will improve governance of meetings is by closing a loophole in the current legislation that enables proxy farming by using powers of attorney or company nominees. An owner can give a proxy to another person, which grants that person the right to exercise the owner's vote at meetings. The Strata Schemes Management Act limits the number of proxies a person may hold. For schemes with 20 lots or fewer, a person can hold one proxy. For schemes with more than 20 lots, the number of proxies the person may hold is not more than 5 percent of the total number of lots. The purpose of these laws is to prevent proxy farming.

Proxy farming is where a person holds proxies, and hence voting power, on behalf of multiple lot owners. That allows some individuals or small groups of people to wield disproportionate control over a scheme. The practice undermines democratic decision-making at general meetings and disenfranchises other owners who participate at meetings in good faith. However, some owners are using company nominees and powers of attorney as a way of getting around the proxy limits in the Strata Schemes Management Act. The bill extends existing proxy restrictions to powers of attorney and company nominees. The bill does not restrict who can be a company nominee or hold a power of attorney for an owner, but places restrictions on how many they can hold. An exception is made if the holder of the power of attorney is a member of the owner's family. That will ensure a fairer process and that decisions made within a scheme are representative of all those living in the scheme.

I turn to the changes in the bill that aim to improve the overall governance of strata and community land schemes. The bill contains three amendments to strengthen and clarify the financial management requirements for schemes. First, it clarifies the rules around repayment of money that has been transferred between the administrative fund and the capital works fund or has been paid from one fund for expenses that should have been paid from the other fund. The bill clarifies existing provisions that state that schemes must make a resolution about whether the money is to be repaid and the amount that will be transferred from one fund to the other, or raised as a levy, at a general meeting held within three months of the transfer or payment.

Second, the bill gives flexibility to schemes to request payment of levies in 14 days, instead of the usual 30 days, for repairs that are necessary to mitigate a serious or imminent threat to the health or safety of the occupants, as these funds are more urgent to collect. Third, the bill extends to all strata and community land schemes the current requirement on large strata schemes to obtain at least two quotes for proposed expenditure over \$30,000. That ensures that competitive quotes are obtained for significant expenditure, regardless of the size of the scheme.

The bill also includes amendments to strengthen record keeping requirements and notices to tenants in schemes. First, the bill will improve record keeping and make it easier to find records by requiring owners'

corporations and associations to store records in electronic form. That change will apply to records made six months after the bill commences. It does not apply retrospectively and does not prevent the keeping of hard copies. Second, the bill will require a landlord's agent to provide notice of a tenancy to the owners' corporation or association of the scheme. The landlord's agent must also give a copy of the by-laws and other relevant documents to a tenant, unless the strata scheme's by-laws have already been provided to the tenant under the Residential Tenancies Act 2010. These notice obligations, including penalties for noncompliance, already apply to landlords. The bill will extend the obligations, including any penalties, to agents.

Third, the bill enables tenants to provide their own notice of their tenancy to the owners' corporation or association where the landlord or agent has failed to do so. A regulation-making power has been included in the bill to allow further evidence of tenancy to be prescribed, if needed. Strengthening the tenancy notice provisions will enable greater participation by tenants in scheme matters. That will ensure that schemes have updated information about tenants living there and can notify tenants of upcoming general meetings so tenants can attend. It will also assist schemes identify whether 50 per cent of the strata scheme or neighbourhood scheme's lots are tenanted. That is important because it is the threshold needed to appoint a tenant representative on the strata or neighbourhood committee.

The bill also includes amendments to correct some unintended consequences of the Strata Schemes Management Act in relation to two-lot strata schemes. The first amendment will allow an owner in a two-lot scheme to issue a notice to comply with a by-law to the other owner without requiring the agreement of that other owner. Currently, a notice to comply can be issued only following a resolution—a majority vote—of the owners' corporation. That is generally impossible in two-lot schemes because the second owner is unlikely to support a resolution against themselves. Second, the bill maintains the original owner of a strata scheme's full unit entitlement and voting rights when voting in a two-lot scheme. Under the current Act, the original owner's voting rights are reduced by two-thirds if the original owner continues to own at least half of the voting rights in a scheme. This is to prevent the developer from continuing to control a strata scheme. However, this is not appropriate in a two-lot scheme because an owner would then hold a controlling interest over the original owner.

I conclude this section about the governance of schemes by highlighting two other changes made by the bill. First, the bill will give the Fair Trading Commissioner standing to apply to the NSW Civil and Administrative Tribunal to seek the appointment of a compulsory managing agent. Owners and certain other people, such as a creditor, can already apply to the tribunal to appoint a compulsory managing agent in situations where the scheme is not functioning or the owners' corporation or association has failed to perform its duties. In these situations, the appointed managing agent takes over some or all of the functions of the owners' corporation, the committee or both. Allowing the Fair Trading Commissioner to apply for appointment of a managing agent will provide an avenue for Fair Trading to protect owners or others when a scheme is so dysfunctional that it is not undertaking its core duties.

Second, the bill will require strata managing agents to give notice of the expiry of their contract with the owners' corporation or association within three to six months before contract expiry. This gives schemes time to consider renewing the contract or explore alternatives. The change prevents the practice of some agents who are giving notice at the beginning or middle of the contract term. That notice can easily be forgotten, which sees owners' corporations or associations caught unaware when the contract ends. This may limit the time that schemes have to shop around and consider alternative managing agents.

Finally, the bill makes several other minor and editorial changes to strata and community land scheme laws. These minor changes clarify when changes to strata by-laws take effect; that a consolidation of strata by-laws needs a special resolution, even though the consolidation does not add, delete or vary an existing by-law; and that by-laws made under previous Acts must comply with all relevant provisions in the current laws. Another minor change harmonises community land scheme laws with strata laws so that the appointment of strata managing agents, facilities managers or others who assist with the management, maintenance or repair of association property ends at the first annual general meeting. This was an omission when the community land scheme laws were rewritten in 2021 to align with strata laws.

I seek an extension of time.

Leave granted.

The Hon. MARK BUTTIGIEG: The bill also modernises the laws to support service of notices by electronic means. The editorial changes in the bill include changes to avoid duplication, remove unnecessary words, correct terminology errors and clarify the meaning of certain words. They do not change the operation of the laws. The bill makes important and urgent changes to strata and community land scheme laws. The changes will improve the lives of those living in strata and community land schemes, which comprise a growing share of housing in New South Wales. In particular, the bill continues to modernise strata and community land laws and

addresses pain points identified by stakeholders over the past few years. Importantly, it will help increase confidence in and demand for properties in the strata sector, which is an essential part of the Government's housing supply strategy.

The bill's reforms will address significant issues identified in the statutory review, including some developers' manipulation of safeguards intended to protect vulnerable owners in a strata renewal. This reform will also uplift strata and association committee governance, improve the performance of schemes, remove impediments to keeping pets in strata and community land schemes, and better recognise the unique position and challenges faced by two-lot schemes. I thank everyone who contributed and provided feedback to the review in 2020 and 2021. I also thank key strata stakeholders whose submissions on the draft bill have helped to improve its provisions. They include the Strata Community Association NSW, Owners Corporation Network, Real Estate Institute of New South Wales, Law Society of New South Wales, Tenants' Union of NSW, Australian College of Strata Lawyers, Association of Consulting Surveyors NSW, Australian Property Institute, Property Council of Australia, NSW Land Registry Services, People with Disability Australia, Animal Care Australia, Cat Protection Society of NSW, RSPCA NSW, Domestic Violence NSW, and Women's Legal Service NSW.

This bill shows that the Government is not wasting any time and is quickly taking action on issues facing strata and community lands schemes in New South Wales. These sensible and proportionate reforms are being implemented in a way that limits any further regulatory burden on residents and industry. This bill is just the first step in reforming the sector. The Government plans to bring further reforms to Parliament to implement the remaining recommendations of the review and, unlike the previous Government, will do so in a timely manner. This Government is determined to deliver reform that improves the lives of the people in our great State, including those living in strata and community land schemes. I commend the bill to the House.

Debate adjourned.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. PENNY SHARPE: I postpone Government business notice of motion No. 2 to a later hour of the sitting.

Bills

CLIMATE CHANGE (NET ZERO FUTURE) BILL 2023

First Reading

Bill introduced, read a first time and ordered to be published on motion by the Hon. Penny Sharpe.

The Hon. PENNY SHARPE: According to standing order, I table a statement of public interest.

Statement of public interest tabled.

Second Reading Speech

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:17): I move:

That this bill be now read a second time.

Prior to the March election, NSW Labor committed to the people of New South Wales that we would take serious action on climate change; that we would make sure that we honoured our responsibility to protect the future prosperity, sustainability, health and wellbeing of the people and precious ecosystems in New South Wales; and that we would introduce clear and unequivocal laws that would commit to reducing greenhouse gas emissions through legislated targets. We committed to ensuring that this Government and future governments would be kept accountable for delivering on those targets through an independent Net Zero Commission. This commission would monitor, provide advice and then report to Parliament on New South Wales' journey to a low carbon future. It is an honour for me to introduce this bill to Parliament on behalf of the Minns Government today.

It is time for New South Wales to step up for the future. Today we take the next step to join the Commonwealth, Victoria, the Australian Capital Territory and Tasmania, which already have laws in place to get them to net zero. We join Western Australia and South Australia, which also have plans to enshrine net zero emissions targets into law. Internationally, the UK, New Zealand, Germany, Spain, Denmark and many sub-jurisdictions have all committed in law to reducing their emissions. Why are we and other jurisdictions around the world doing this? It is very simple: The impact of global heating on our planet is one that affects us all and one that requires every jurisdiction to make a contribution if we are to reverse the current trajectory we are on.

There is overwhelming scientific evidence that human activity is causing abnormal changes to our climate. To meet our global goals and to secure a sustainable future for the people of New South Wales, effective and progressive responses to the urgent threat of climate change are needed. The bill upholds the international commitment established through the 2015 Paris Agreement to hold the increase in the global average temperature to well below two degrees Celsius above pre-industrial levels, to pursue efforts to limit the temperature increase to 1.5 degrees Celsius above pre-industrial levels and to increase the ability to adapt to the adverse impacts of climate change. The bill commits the Government to effective action on climate change to ensure a sustainable and fair future for the people, economy and environment of New South Wales.

We are seeing and feeling the impacts of climate change locally and abroad, and we are seeing them now, not in some distant future. The climate is already changing, and the effects of climate change are already apparent in the severity of extreme weather events and natural disasters. Just this month Sydney experienced its hottest ever start to October after a month of heatwaves and record-breaking temperatures. That followed Australia recording its warmest winter on record, the unprecedented Black Summer bushfires and the devastating 2022 floods experienced across New South Wales, particularly in the Northern Rivers.

Across the globe we have observed horrific images of typhoon damage in Hong Kong, catastrophic flooding across Libya, heatwaves and wildfires in North America and southern Europe, and record low levels of ice in Antarctica. Our Pacific neighbours are experiencing the loss of land, the decrease in agricultural production and their island homes literally disappearing before their eyes. We have lost the luxury of time—if, indeed, we ever had it. More frequent and intense climate events are no longer just a possibility in the future; they are a present reality. Impacts are felt differently across the regions and communities of New South Wales, and it is undeniable that our most vulnerable communities will bear the highest costs of climate change. It is therefore our duty to ensure that the move to a low-emissions future for the State is just and equitable.

Those events are threats not just to our lives and livelihoods but also to the natural environment and biodiversity. Australia is lucky to be home to more than one million species of plants and animals, many of which are found nowhere else in the world. Every aspect of climate change is a threat to our unique biodiversity. The Black Summer bushfires burned more than five million hectares of habitat in New South Wales, impacting thousands of species and wide-ranging ecosystems. Nearly 1,000 threatened species are at risk of extinction in the State, and only half are expected to survive the next 100 years without effective management. We have a responsibility to protect our animals, plants, land, water, air and soil. Climate change impacts them too. Their health and protection are critical to the future wellbeing of the State.

The bill is about taking action now, embracing the challenges and seizing the opportunities. This Government recognises climate change not only as an existential energy and environmental challenge but also as a great economic opportunity for the people and businesses of New South Wales. We also recognise that failure to act will cost the State far more than taking action now. Action to address climate change will require bold and coordinated effort across government, community and industry. The bill provides regulatory certainty for industry, local and international investors, and all sectors of the economy. The role of subnational governments is critical in both addressing the worsening climate crisis and driving innovative solutions.

New South Wales has the largest population and economy in Australia. Decarbonising our economy will require concerted and meaningful engagement across our State's diverse communities—particularly Aboriginal communities—to ensure that climate action is community led and informed, and is fair and transparent. By contributing to the global movement to decarbonise and to decouple economic growth from greenhouse gas emissions, New South Wales can demonstrate that strong action is necessary to foster a strong economy.

The bill shows that New South Wales is open for business and ready for investment. There is broad business support for achieving net zero by 2050. Business has a critical role in driving the energy transition, investing in new technology and starting new industries. The business sector is already showing leadership in pursuing net zero by 2050. Companies in Australia and across the world are recognising that environmental, social and governance [ESG] considerations are key to ensuring their own sustainability and long-term profitability, as well as contributing to a safer climate.

Climate-related risks are already a relevant consideration for Australian company directors, according to regulators such as the Australian Securities and Investments Commission and the Australian Prudential Regulation Authority. Companies are already changing their behaviour, including in response to the recommendations of the Task Force on Climate-Related Financial Disclosures and ESG concerns in the domestic and global markets. The health of the New South Wales economy is strongly linked to the environment and the natural resources and ecosystem services that it provides. That is increasingly recognised.

Like other economies across the world, we are also considering ways to take advantage of new industry opportunities. Our solar and wind conditions to deliver renewable energy are some of the best in the world. If we

get this right, Australia can be a renewable energy superpower. The New South Wales Government Electricity Infrastructure Roadmap is driving the largest investment in renewable energy in the history of the State. The Government is delivering 12 gigawatts of new renewable energy generation and two gigawatts of storage by 2030. The people of New South Wales are already taking it upon themselves, creating their own virtual power plants through rooftop solar and batteries. The decarbonisation of our electricity grid is well and truly underway.

Under the previous Government, NSW Labor gave bipartisan support to the targets of net zero by 2050 and 50 per cent emissions reduction by 2030. It was a vital change in approach in New South Wales, and I recognise members in the previous Government who drove the adoption of those targets. At a time when conservative governments across Australia were pushing back against emissions reduction targets, New South Wales stepped up when it was desperately needed. The previous Government was aspirational in its approach to addressing climate change, and that was welcome. However, it did not legislate any emissions targets in an Act.

The environmental, economic and social challenges that we face in effectively addressing climate change require that this Government goes beyond just aspiration. We need resolute commitment, accountability and to demonstrate the strength of our words by actions that will last beyond any single Minister or, indeed, any single government. That is why, with this bill, this Government will enshrine the targets of net zero by 2050 and 50 per cent by 2030 in our statute book.

Last year's Intergovernmental Panel on Climate Change *Mitigation of Climate Change* report confirmed that embedding climate action in law enables mitigation action. It creates a single focus, and ours will be in line with the domestic and international community, supporting policy and investment consistency across State and national borders. The two greenhouse gas emissions targets in the bill are ambitious but achievable. It is important to note that the targets are floors, not ceilings. They provide a critical foundation on which coordinated policies, programs and innovation can be built across government. The task of climate action cannot be achieved by one Minister alone. Instead, this legislation will act as the platform and driver for action across government and across successive governments. The bill sends a clear signal of the State's long-term emissions reduction goals and provides a stable and enduring framework to adapt to the impacts of climate change that ensures the State remains liveable, resilient and prosperous.

Many parts of New South Wales are already experiencing the impacts of climate change. Unprecedented heatwaves, droughts, bushfires, storms and floods are affecting the lives and livelihoods communities all over our State. I especially acknowledge the challenge faced by our farmers, who have to deal with all that while feeding and clothing the nation. Adapting now and preparing for our new climate are essential. With effective and considered adaptation, we can maximise opportunities, minimise harm and help secure the State's ongoing prosperity. I recognise the previous Government's work developing the NSW Climate Change Policy Framework and the NSW Climate Change Adaptation Strategy. The bill goes further and establishes an adaptation objective so that New South Wales can be more resilient to a changing climate. Again, this Government will take an aspiration and strengthen it through concrete legislation.

The objective will be underpinned by continuing and expanding on the existing work to build resilience, including the Government's \$4 billion investment in natural disaster support and response programs, and the ongoing delivery of publicly available regional-level climate change projections through the NSW and Australian Regional Climate Modelling project, which assists all New South Wales stakeholders to assess and manage their climate risks. As a statewide objective, the adaptation objective provides direction not only for the Government but also for the private and not-for-profit sectors to contribute to New South Wales being a more resilient State.

The plans to reduce emissions to net zero and to adapt to climate change will be complex, challenging and require original and creative thinking. An independent statutory body to oversee climate action and provide advice has been adopted by climate leaders including the Commonwealth, New Zealand and the United Kingdom. The Net Zero Commission will provide strong, independent expert advice on developing and accelerating these plans, put New South Wales on the path to net zero and increased resilience, and keep us accountable and on track. It will drive whole-of-government action and bring key stakeholders together.

Achieving our net zero and adaptation goals requires meaningful engagement across our State's diverse communities, especially in our regions and particularly with Aboriginal communities, to ensure a fair and equitable transition. The commission will consult on its advice, enabling the New South Wales community to consider and contribute to the information being provided to Parliament. It will hear from the government sector, other sectors like our incredibly important agricultural sector, the mining sector and other high-emitting industries. It will hear from worker representatives, the non-profit sector and Aboriginal, regional, and remote communities. And let's remember, all of this will be driven by the scientists giving us advice as well. The pathway to net zero is not linear, and the commission will bring all perspectives together as it provides advice and reports on progress.

I turn now to the details of the bill. As I have outlined, the bill has four key objects. The first object is to establish guiding principles for action to address climate change. The second object is to set targets for 2030 and 2050 net greenhouse gas emissions reductions in New South Wales. The third object is for New South Wales to be more resilient to a changing climate. The fourth object is to establish the Net Zero Commission and its functions. The bill, at clause 8, sets out the guiding principles that will underpin the way we address climate change in New South Wales. These guiding principles recognise the urgent need for swift and decisive action on climate change. They seek to ensure that action is consistent and coherent without being overly prescriptive or limiting flexibility or innovation. The guiding principles are the considerations that will shape action, make sure nothing and no-one is left behind and keep government accountable.

The guiding principles highlight that climate change is a serious threat to the social, economic and environmental wellbeing of the State. This is not just an environmental issue, but a systemic and existential crisis that affects all areas of government. The guiding principles call for action to be taken as early as possible in a way that is fiscally responsible, promotes economic growth and considers the economic risks of delay. A shift to a net zero economy will provide jobs and skill opportunities that will go elsewhere if we delay our action. The guiding principles state that actions to address climate change should be consistent with the right to a clean, healthy and sustainable environment and also be consistent with the principles of ecologically sustainable development. Further, there should be appropriate consultation with affected people, communities and stakeholders. The guiding principles ensure actions consider the perspectives and knowledge of Aboriginal communities, who have lived on and nurtured this land for over 65,000 years. They recognise that climate change affects the ability of Aboriginal people to access and care for country, practise culture and establish and maintain relationships with family and communities.

The guiding principles state that actions should take into account the best available science. Further, actions should consider impacts on communities, economies, consumer costs, utilities and infrastructure, education and skills, jobs and health. Climate change impacts are far-reaching, and the work going into preparing our actions needs to reflect this. Finally, the guiding principles call out specific responsibilities of the New South Wales Government. The first is its responsibility to urgently develop and implement strategies, policies and programs to address climate change. The second is that government will pursue best practice in addressing climate change.

Clause 9 of the bill sets out the targets for reducing net greenhouse gas emissions in New South Wales. The 2030 target is for a 50 per cent reduction from 2005 levels, and the 2050 target is to achieve net zero. The targets align with the international commitments established through the 2015 Paris Agreement. It is significant and remains essential that these targets have bipartisan and, hopefully, multi-partisan support. The legislation of these targets will keep them firm and in place, transcending political whims and providing an architecture to hold our current and future governments to account.

When considering our net zero and 2030 targets, we recognise the fundamental need to reduce emissions and decarbonise our economy. We cannot rely on offsets for this work. Offsets, while important, need to be balanced with a true reduction in emissions across all sectors. The bill allows the regulation to specify how we implement and measure progress towards these targets. However, only Parliament will have the power to add further interim targets, informed by advice and recommendations from the Net Zero Commission.

The adaptation objective for New South Wales to be more resilient to a changing climate is set out in clause 10. The bill recognises that the climate is already changing. Even if all global emissions stopped today, changes to climate could continue for decades. Building our capacity to adapt to these changes is crucial to ensure New South Wales remains liveable and resilient. Ambitious and transformative adaptation is critical to build resilience, minimise harm from climate change and maximise opportunity in our new environment.

Finally, the bill establishes the Net Zero Commission. The Net Zero Commission will provide the necessary independence, scrutiny and rigour to position and oversee the State's transition to net zero and increased resilience. It will play a critical role in monitoring, reviewing and reporting on the State's progress towards its targets and the adaptation objective. The commission will consist of at least five and no more than seven permanent commissioners, each appointed for up to five years. It will include the chief scientist and up to three temporary commissioners who may be appointed for up to 18 months. They will be appointed based on their collective skills, qualifications and experience in the best available climate science, economics, technologies, the impacts and effects of climate change and the interests of Aboriginal communities. The commission will advise on the environmental, social and economic impacts of proposed actions to address climate change in New South Wales, highlight emerging opportunities and advise on the implementation of New South Wales Government strategies, policies and programs.

In addition to its advisory role for government, the commission will be responsible for educating and informing businesses, organisations and individuals to promote climate action. This will involve coordination and consultation with relevant bodies such as industry sectors, existing advisory boards and community organisations.

There is so much work being done in this space. We want to work with all of it and harness it together. The way in which we have set up the commission is extremely important. It is not just another arm of government; it will sit separately from government. It will be accountable directly to Parliament. We want frank and fearless advice from a commission with the right expertise and with legislation behind it that empowers its accountability and functions.

To maintain transparency and the Government's accountability, clauses 19 and 20 set out clear requirements for reporting to Parliament and government's response time frames. Reports provided to the Minister, including recommendations or advice, must be tabled in both Houses of Parliament within 28 days. This means the work of the commission is seen and can be assessed not only by the government of the day but also by members of the Opposition, members of the crossbench and, most importantly, the people of New South Wales. Within six months, the Minister must publish a response to a commission report, and, 28 days later, the Minister must table that response to the report in Parliament.

The bill also provides that the commission must prepare annual reports on the State's progress towards the targets and the adaptation objective, ensuring that we know how New South Wales is tracking and giving us advice on the improvements that could be made. The responsible Minister must table annual reports in Parliament no later than the end of November each year. The Minister has four months to publish their response to an annual report and an additional 28 days to table the response in Parliament. The commission can also give the Minister a report, information, advice or recommendations on its own initiative. We will not let this Government, nor any future government, ignore the commission's recommendations. However, it will be up to the Government to decide whether to accept, refuse or note the commission's recommendations. If the Government accepts the commission's recommendations, it must state the action to be taken by the Government to implement the recommendation. If the Government refuses or notes the commission's recommendation, it must provide reasons for doing so.

The Net Zero Commission is proposed to build on and replace the functions of the existing Net Zero Emissions and Clean Economy Board. I recognise and thank the board members and chair, Judy Slatyer, for their invaluable contributions. The board provides helpful and considered strategic advice to the Government on the implementation of the State's net zero plan. I thank the board for its efforts to date to progress New South Wales towards net zero and its recent work providing advice on the establishment of the commission. That contribution in particular will support a smooth transition for the Net Zero Commission, building on the work of the board. The board will continue in its function until the Net Zero Commission is established.

I turn to an additional layer of accountability that the Government will seek to establish, but one that is not covered in the text of the bill. Once the legislation is passed, the Government will move to establish a joint standing committee, to be known as the Net Zero Future Committee, whose role will be to inquire into and report on the findings, reports and operations of the Net Zero Commission. That means that members of both Houses will be able to examine the findings and reports of the commission in greater detail than is possible if the matter were just considered in the House. The committee will also provide additional opportunities for the public to have its say on the commission's reports and their implications.

The bill provides the framework and guidance for New South Wales to embark on the challenging but essential journey to net zero emissions and becoming more resilient to climate change. It positions our State to think big and act boldly. With clear goals and objectives, we can drive innovation, creativity and investment across our cities and regions. The bill demonstrates to the people of New South Wales that we care and that we are listening and that we are taking action. We acknowledge the challenges that climate change is already causing across regions and cities, and we are committed to taking real action.

The bill shows business and industry that they are not alone in responding to climate change and we stand right beside them. The bill assures our scientists, engineers, economists and other experts that this Government recognises that their knowledge, skills and experience are key to strong, evidence-based decision-making. The bill shows our State and Territory neighbours, the Commonwealth and our international friends that New South Wales is doing its bit for Australia and for the planet. The bill is an important and robust foundation for profound environmental, social and economic change for the better in New South Wales.

After my speech—members will be pleased to know the end is coming quickly—the Government will send the bill to committee for inquiry. I thank Ms Sue Higginson for agreeing to take on that inquiry through Portfolio Committee No. 7 - Planning and Environment. The point is very straightforward: The Government wants as much support for the bill as it can gather. We want input from all stakeholders who will be impacted by the decisions that the Parliament will make if we pass this legislation later this year. There will be a bills inquiry. There will be time for people to make submissions, and there will be the opportunity for the report to be considered when the bill is brought back. I indicate that the Government plans to bring the bill back in November.

I particularly thank the departmental staff, who always have to do a huge amount of work when it comes to putting together this type of legislation and to thinking through how we can put in place the best architecture in New South Wales to tackle climate change. I also thank my staff. They have put a lot of hours into getting us here today, including their input on this speech. They have been very patient with me. Finally, I urge members to think about what we are doing here and to understand that this is not something that is "nice to have"; it is something that we must do. I commend the bill to the House.

Debate adjourned.

Committees

PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT

Reference

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:43): I move:

- (1) That the Climate Change (Net Zero Future) Bill 2023 be referred to Portfolio Committee No. 7 - Planning and Environment for inquiry and report.
- (2) That:
 - (a) on the tabling of the report on the bill, the order of the day for the second reading of the bill will be set down for a later hour; and
 - (b) standing orders be suspended to allow the passing of the bill through all its remaining stages during any one sitting of the House upon the order of the day for the second reading being read.
- (3) That the committee report by 17 November 2023.

Motion agreed to.

Bills

BUILDING LEGISLATION AMENDMENT BILL 2023

First Reading

Bill introduced, read a first time and ordered to be published on motion by the Hon. Penny Sharpe.

The Hon. PENNY SHARPE: According to standing order, I table a statement of public interest.

Statement of public interest tabled.

Second Reading Speech

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:45): I move:

That this bill be now read a second time.

I am pleased to introduce the Building Legislation Amendment Bill 2023. The bill delivers on the Government's ongoing commitment to transformational reforms to the oversight of the New South Wales building industry. Our comprehensive reform agenda will secure behavioural change in the industry and uplift the quality of buildings in New South Wales, helping restore public confidence in the construction industry. The Government understands the serious impacts that unsafe building products and noncompliant buildings can have on people's lives. We have examined the data, listened to the public and to the industry, and developed reforms that will make buildings in New South Wales safer and more reliable.

The bill makes amendments to various Acts to improve accountability and responsibility in the construction industry by expanding proactive enforcement powers for the Building Commissioner, including rectification and stop-work orders for residential homes to ensure greater oversight of, and confidence in, low-rise residential construction—a key recommendation of the Legislative Council's Public Accountability Committee's report on further inquiry into the regulation of building standards that this Government has already started to implement; imposing obligations and accountability on all persons in the building product supply chain to ensure the design, manufacture, supply and installation of safe and compliant building products; enhancing the framework for decennial liability insurance to increase consumer protections for apartment building owners; expanding powers for the New South Wales building regulator to tackle illegal phoenixing; enabling immediate suspension of key building, design and certifier practitioners where allowing them to continue to work would pose a serious risk to public safety, consumers or other building businesses; and ensuring existing data and information-sharing arrangements remain viable when the NSW Building Commission is established towards the end of this year.

I first give an overview of the big-ticket items the bill delivers. Schedule 1 to the bill will support the NSW Building Commissioner to carry out crucial proactive work in the residential building space. It will ensure the building regulator has the right powers and access to information to weed out poor workmanship at the construction phase. We are using industry-leading, data-driven regulatory interventions so that the Building Commissioner can restore confidence for homeowners, future purchasers and renters in the quality, safety and trustworthiness of low-rise residential buildings, as he has so successfully begun to do for high-rise residential apartments. The work of the Building Commissioner in addressing serious defects in class 2 apartment buildings has been transformative for the people of New South Wales, giving owners confidence that the building regulator has the tools it needs to hold to account those who cause building defects. The amendments in the bill will extend those powers to ensure the regulator can effectively oversee the construction of class 1 residential houses across New South Wales.

As we prepare to set up the State's first Building Commission, we want to ensure that the commissioner has the right tools to support the work of the commission and ensure it is effective. Schedule 1 to the bill also enhances powers for the building regulator to ensure that people who have been involved with a building company that has become insolvent, or people who have engaged in intentional phoenixing activity, cannot continue to operate in the industry. The level of harm that can occur when building companies become insolvent and set up a new company to avoid paying outstanding debts, often to subcontractors further down the contracting chain, cannot be overstated. The bill gives the building regulator new tools to target intentional phoenixing, providing better protections from that abhorrent behaviour. The amendments set out in schedule 2 to the bill focus on ensuring that building products are safe and compliant, that the regulator has ample powers for early intervention in the construction of homes and that consumer rights and interests are well protected.

These amendments will enable the regulator to identify, manage and respond to building products that pose a safety risk to consumers and building practitioners. All persons in the supply chain of building products will have a duty to ensure that the building products they design, manufacture, sell or install are suitable for their intended use. This will signal to the industry that everyone will be held accountable. Cutting corners will not be tolerated when it comes to safety.

In 2018, the Australian Government and the Building Ministers' Forum commissioned Professor Peter Shergold and Ms Bronwyn Weir to examine compliance and enforcement problems across jurisdictions. One recommendation in their *Building Confidence* report was to establish a compulsory product certification system for high-risk products. To achieve this, the Australian Building Codes Board developed the National Building Product Assurance Framework. The framework was developed as a model for jurisdictions to use with a view to providing national consistency through legislative reforms. New South Wales supports the goal of national consistency, given the international nature of supply chains. The bill has, therefore, taken the Australian Building Codes Board framework into account and will provide immediate improvements to New South Wales oversight of building product safety.

Through schedule 3 to the bill, New South Wales will be well-placed to offer stronger consumer protections for apartment building owners through decennial liability insurance, also known as DLI. DLI provides 10-year protection against serious defects in the common property of the building, starting from when the building is completed. DLI covers critical building elements, including the building's structure, enclosure, waterproofing, fire safety systems and building services. New South Wales is a national leader in providing this strong consumer protection for apartment owners—a protection that applies even where the developer or builder has become insolvent. The bill will set up a procedural framework of administrative requirements enabling DLI to continue operating and to expand as an alternative to the strata building bond. The amendments will provide DLI with the necessary legislative framework to encourage insurers to enter the market and will also encourage uptake by developers of available DLI products.

The Government intends to introduce more comprehensive and prescriptive DLI legislation to Parliament next year, following detailed consultation with industry and insurers. This is a massive win for apartment owners in New South Wales and provides confidence for owners that they will not be out of pocket if there is a need to rectify the sorts of serious defects we have seen all too often in apartment buildings. These amendments are a precursor for future reforms to come. I am pleased to introduce these building reforms, which will make the lives of the people of New South Wales safer and provide peace of mind to apartment owners through encouraging an insurance system which will cover serious defects in common property for up to 10 years.

I now turn to the substance of the bill. Schedule 1 to the bill will expand proactive regulatory powers to the building regulator for class 1 buildings. The expansion of those powers to buildings, which include freestanding houses and terraces, is critical and builds on the success of the NSW Building Commissioner in the stronger regulation of apartment buildings. The proposed amendments have been informed by the ongoing operation of the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020, known as the

RAB Act. The RAB Act contains comprehensive and wideranging investigation powers. This includes powers to issue rectification orders to eliminate or mitigate defects in class 2 apartment buildings. Class 2 buildings are defined as apartment buildings. They may also be single-storey attached dwellings with a common space below—for example, two dwellings above a common basement or car park. The legislation has empowered the building regulator to proactively investigate, audit and target poor performers in the industry.

Home owners deserve a building regulator that has sufficient powers to call out poor performers in the industry. The current rectification order provisions under the Home Building Act are reactive and can only be issued for class 1 buildings if a complaint or dispute is raised by the customer. This puts pressure on consumers to pursue complaints and can lead to expensive litigation to have defects rectified. The emotional and mental stress of having to pursue rectification through the courts is taxing on consumers. Schedule 1 to the bill will enable rectification orders to be used proactively, ensuring that inspectors can identify issues early and defective work is rectified before the building is occupied. As of March 2023, more than 37,000 class 1 houses were under construction in New South Wales. The regulator currently has no powers to audit the quality of construction in any of these houses during construction. Defective building work in low-rise residential construction costs Australian consumers more than \$700 million annually. This cost can be reduced, if not avoided, through proactive identification of those defects early and having them rectified during construction.

The bill will remedy this regulatory gap by giving the regulator powers to inspect, investigate and issue relevant orders while class 1 buildings are under construction. Inspectors will have powers to enter houses that are under construction and may seek the production of documents or information regarding building work. Of course, inspectors will need to obtain the consent of the home owner or a search warrant to enter homes that are occupied. But the key change here will mean practitioners cannot avoid scrutiny during construction. The secretary may issue a rectification order for any defective work for buildings being carried out in a way that could result in a defect.

This power will extend not only to work that is being contracted for but will also cover situations where the defective work has caused damage to parts of the building or other structures, including neighbouring properties. Further, to ensure that the rectification orders have sufficient impact, the amendments require the regulator to give a copy of the order to the local council of the area where the building work is being carried out. If the local council is not the principal certifier, a copy is also provided to the principal certifier. This is an extra measure to ensure defective work is rectified before it receives final certification from the certifier.

The bill will extend the powers for the regulator to issue rectification orders for residential homes being built. This will create a consistent approach across the industry, with the existing powers currently available for class 2 buildings. These amendments send a strong message that the New South Wales Government will ensure the Building Commissioner has the power to tackle noncompliant building work. These amendments will make compliance with a rectification order a licence condition for the licence holder and failure to comply will result in disciplinary action.

Failure to comply with a rectification order will also attract large penalties of up to \$330,000 for a corporation and \$110,000 for an individual. For every day that the offence continues, corporations will be hit with penalties of up to \$30,000 per day or \$11,000 per day for individuals. These penalties will ensure that noncompliant players are held accountable. The New South Wales Government is aware of the impact these orders can have on industry. Provisions in the bill ensure those amendments are procedurally fair. Parties will be given an opportunity to be heard or remedy any wrong before an order is made. These amendments also allow a party to appeal against rectification orders, preserving the party's right to natural justice and making sure the provisions are balanced.

To ensure any building work that could cause or is likely to cause significant harm or loss is stopped, the bill will also introduce stop work orders similar to those that have been effectively used to address serious issues concerned with class 2 residential apartment buildings. Expanding the operation of stop work orders to all residential building work will mean the developer of a project can be ordered to stop work if that work could result in significant harm or loss to the public or building residents. This power is necessary and will enable the secretary or their delegate to take immediate action, when necessary, on unsafe work practices or serious noncompliance. A breach of a stop work order is a serious offence and can carry penalties of up to \$330,000 for a corporation or \$110,000 for an individual. Procedural fairness will again apply, with an appeal process available for a developer issued with a stop work order. In the spirit of transparency and accountability, rectification orders and stop work orders will be published on a public register. This will not only warn customers about the existence of such orders but also signal the seriousness of these orders to industry and the public.

Schedule 1 to the bill also strengthens crucial protections to prevent people from holding contractor licences under the Home Building Act 1989 where they have been involved in insolvencies or intentional phoenixing activity. The construction industry experiences the second highest rate of external administration in

Australia. We know insolvency has significant and devastating effects on trades, suppliers and consumers. While the oversight and regulation of corporate behaviour and insolvencies remains the primary responsibility of the Commonwealth, it is critical that the New South Wales building regulator has sufficiently strong powers to take action in relation to those who have a history of insolvency to prevent them from creating further harm in this State.

In these circumstances, the bill produces new powers in schedule 1 to prevent the issuing of licences, cancel existing licences and disqualify a person from holding a licence to disrupt dodgy corporate behaviour and stop poorly behaved players from operating in New South Wales. New section 22 (2A) of the Act enables the regulator to cancel a licence where that licence holder was a director or involved in the management of a company and that company is under administration or has been convicted of an offence under the relevant provisions of the Corporations Act 2001. The powers will extend to the period six months before these events to ensure directors and people with corporate influence are not simply allowed to walk away without consequence.

Amendments to section 33A of the Act largely mirror these cancellation powers but permit the building regulator to disqualify a person or company from holding an authority under the Home Building Act. Where a person seeks a licence, the bill provides further insolvency reach by extending the period to be considered from the existing three-year period out to 10 years, again sending a clear message that this Government does not condone this type of behaviour.

When applying for a licence, applicants will be required to disclose their prior association with a body corporate that has become insolvent. In addition, the bill will reverse the presumption on a person applying for a licence. This means that, where the applicant has become bankrupt or been a director or person involved in the management of a company in the six months prior to that company becoming insolvent, they will have to prove why they are not a risk to consumers or subcontractors. The change has been made to capture the unlawful behaviours of directors who deliberately surrender their directorships before insolvency to avoid liability, leaving others to deal with the consequences of their actions. The measures in the bill will hold individuals accountable where their actions or decisions have resulted in the insolvency of a company that has left consumers and subcontractors unduly exposed.

As I mentioned earlier, this Government is creating accountability in the building products supply chain through the amendments in schedule 2 to the bill. Those proposed changes to the Building Product (Safety) Act 2017 will introduce a chain of responsibility for building products. Part 2A will create a legally enforceable regime of responsibility of compliance for all persons involved in building product supply. Those who design, manufacture or sell products; those who prepare building designs; and those who install products in a building, such as tradespeople, will be captured in the chain of responsibility. Proposed section 8B also allows lawmakers to respond to changing circumstances in the way products are manufactured and distributed, by allowing the regulations to expand or limit those people captured in the chain of responsibility.

That is particularly relevant given the rapid pace of change in technology and processes we are seeing in the construction industry. Currently not all persons in the chain of supply for a building product are held to the same level of accountability. Licensed builders who install products at the end of a long supply chain can face high penalties for noncompliance, while those who produce or supply products do not bear much responsibility. This provides less incentive for manufacturers and suppliers of products to provide compliant and fit-for-purpose products.

To reverse this, the bill introduces clear duties on persons in the chain of responsibility. The primary duty, in section 8E, is to ensure that products used on buildings are conforming and compliant. This means that not only does the product itself need to meet performance standards under the National Construction Code or prescribed standard, but also that it must be used in a way that conforms with how it has been manufactured to ensure it does not create a safety or build quality risk. For example, certain wall systems are appropriate where they are internal but may not be conforming if used for structural purposes. The offence attaching to this provision means corporations will pay up to \$165,000, or \$55,000 for individuals, for failing to ensure the product is conforming and compliant.

To ensure that building products used in New South Wales buildings are compliant with the National Construction Code and relevant Australian standards, the bill will introduce information obligations on parties in the chain of responsibility, with the same penalties attaching to this duty as for that in section 8E. Each person in the chain must provide certain information about a building product to the next person in the chain, such as whether the product is suitable for its intended use, whether the product is suitable in only certain conditions, and instructions on how to ensure compliant use of the product and how to maintain the product. For example, the bill provides that a building designer who incorporates or recommends the use of a particular product in a building must ensure that required information is given to the person who will give effect to the design, such as the builder

or installer. Likewise, installers and those who use a product in a building must ensure the owner of the building is given information about the product.

The focus to date of building reform has been on ensuring building work is compliant, safe and trustworthy. We rightly impose clear obligations on designers and engineers to design compliant buildings and for builders to follow those designs to deliver buildings that meet the performance requirements of the Building Code of Australia. However, the missing piece has been ensuring that the products being used in the construction of buildings meets Australian standards and building codes. The first step to filling this gap is making information about the product available to all persons in the supply chain so that practitioners have accurate information to make informed decisions about whether the product is compliant and conforming for the intended purpose.

Therefore, the bill will introduce requirements for manufacturers, suppliers and importers to provide information or representations about building products. By enhancing transparency and information flow between players in the chain, the bill will allow for industry to self-regulate in conjunction with more formal government regulation. It will also clarify the role and responsibilities of each person in the chain, which will make it easier for people to exercise their rights against the relevant party if something goes wrong.

Ensuring everyone in the chain has the information they need to do their role effectively will also benefit consumers at the end of the supply chain. The bill will also require a person in the chain of responsibility to inform the secretary if they become aware of a noncompliance or safety risk for an intended use of a product. We understand this duty imposes a small burden on industry. But the benefits of creating better risk awareness and visibility are clear and will allow the Government to work hand in hand with industry to identify unsafe and noncompliant building products.

We know that there has been an unacceptable increase in the use of nonconforming building products on Australian construction sites. Inferior and sometimes dangerous products are being used in the construction of buildings that the people of New South Wales live and work in. Negligent and often deliberately fraudulent behaviour occurring in the building products supply chain includes falsifying product test certificates and hiding underweight steelwork with water-filled tubes. This must all end. We have designed a framework that industry agrees can work, but we also have proposed new regulatory powers to back up our chain of responsibility changes.

The bill will give the secretary the powers to identify and prevent nonconforming building products from being used in New South Wales buildings. The secretary will be able to issue a notice to warn consumers about a building product where there is a noncompliance risk or safety risk in relation to the product. Further, where the secretary is reasonably satisfied that a building product is noncompliant or unsafe, they may issue a building product supply ban to prohibit continued supply of the product. Under a supply ban, a person in the chain of responsibility who is in possession or control of the building product may be required to notify the secretary that they have the product and must ensure that they dispose of the product appropriately.

The bill provides powers to the secretary to issue a building product recall in circumstances where swift action should be taken to protect the public. The issuing of a compulsory recall will be limited to instances where the building product is a nonconforming product and a safety risk regarding the use of the product exists. A safety risk exists if a product has caused, will cause or may cause death or serious injury to a person or damage to or a defect in a building which results in the building being uninhabitable, destroyed or at risk of collapse. Manufacturers will be given prior notice of the issue of a warning, recall or ban. Where the product manufacturer is based overseas, the secretary may give notice to the Australian importer or supplier instead. Where appropriate, the secretary may also call for public submissions on the question of whether a warning, recall or ban is warranted, and the proposed terms of the notice.

The residents of New South Wales are used to seeing product recalls for allergen risks in food or choking risks for toys. Similarly, we owe it to the people of New South Wales to quickly pull unsafe or otherwise nonconforming building products off shelves and alert consumers in the same way. If a compulsory recall is issued, the secretary can immediately alert the community of safety concerns and enforce the withdrawal of products without delay from the supply chain and the marketplace. To enhance accountability, the bill will provide offences for continuing to supply a building product where a building product supply ban is in place, or to cause a building product to be used where the secretary has issued a building product use ban. Those who contravene or fail to carry out requirements and duties under a building product recall will also be guilty of an offence.

Recognising the serious consequences, both to human safety and financially, that can arise where unsafe and nonconforming products are used in or on buildings, a maximum penalty of \$1.1 million will apply to corporations and \$220,000 to individuals. Where the offence continues, a further maximum penalty of \$110,000 per day for corporations and \$44,000 per day for individuals will apply. The size of those penalties reflects the seriousness of the offences and will provide a strong deterrent to the use of unsafe building products. Similarly, the bill provides a similar offence for falsely representing that a product would be suitable for use in a building

when the product is subject to a ban or recall. Those penalties are entirely appropriate to protect the people of New South Wales from safety risks and the devastating financial impacts where shoddy products are used on their homes.

The bill also gives the secretary powers to remove dodgy operators from the supply chain. Where the secretary is satisfied that someone involved in building product supply or use has repeatedly engaged in unlawful conduct, the bill will give the secretary powers to issue a show-cause notice to the person. The person would have two weeks to make a submission as to why they should not be banned from carrying on the business of supplying building products. The secretary must consider the submissions and further inquiries if necessary.

If the secretary considers the person is likely to engage in unlawful conduct again, the secretary may apply to the Supreme Court of New South Wales for an order to prohibit the dodgy supplier from carrying on business, either indefinitely or for a period of time, depending on the seriousness of the unlawful conduct. Although the secretary has this power under section 73 of the Fair Trading Act, existing limitations to consumer goods will not apply to the supply of building products under the bill. A benefit of the trade prohibition provision is that it would allow the court to order the supplier to give compensation to people in the chain or consumers who incurred loss or damage.

The bill will also provide powers for an authorised officer to issue directions about the use of building products to appropriate persons where needed—for example, to address safety risks. The direction may require the person to cease using or supplying a product, cease using a product in a specific way or make a product incapable of being used or operated. For the purpose of new section 46B, an "appropriate person" might be a person in the chain of responsibility, someone in possession of the building product or an employee of a company where the building product is manufactured, supplied, stored or used. A direction will remain in force for 90 days, unless revoked sooner.

The bill also creates necessary enforcement and investigation powers so that noncompliant building products can be tested and seized if needed to determine whether they carry a noncompliance or safety risk or if an offence against the Act has already been committed in relation to the product. Turning to schedule 3 to the bill, decennial liability insurance, or DLI, is a game-changing consumer protection insurance product for apartment owners in New South Wales. The insurance provides protection for strata buildings and is a first-resort insurance product—that is, where an owner can prove that there is a defective work, the claim would be paid without the need to establish fault. DLI is currently a voluntary alternative to the Strata Building Bond and Inspections Scheme for residential apartment buildings under the Strata Schemes Management Act 2015.

The strata bond scheme requires developers to lodge a bond worth 2 per cent of the development's contract price for two years before the building is occupied. The bond covers the cost of defect rectification works up to the 2 per cent bond amount and is limited to defects identified in the first 18 months of the building being occupied. However, the current bond does not provide sufficient funds or time to deal with typical claims of a minor nature, let alone those that require rectification of a serious defect. For example, a building with a contract price of \$10 million would only need a bond of \$200,000. Clearly, that is inadequate. To give an idea of how insufficient that amount of money is, a survey carried out by the Office of the Building Commissioner in 2021 identified that the average cost to rectify serious defects per building was \$332,000, with audits by NSW Fair Trading indicating the average cost of rectification exceeds \$40,000 per dwelling.

DLI, on the other hand, provides cover up to the full construction value of rectifying the defects, providing a significant new consumer protection to apartment owners in this State. This is also at no additional project cost, with modelling showing that 2 per cent of the project contract value is likely to be the upper limit of premiums for a DLI product. The bill supports the uptake of an insurance scheme that will provide sufficient cover to rectify defects for up to 10 years for a class 2 building. Further, this coverage of the full construction value is generated from premiums paid for by the developer. To firmly enshrine DLI in legislation, schedule 3 to the bill proposes important amendments to the Strata Schemes Management Act and its supporting regulations. These amendments set up a robust regulatory framework for DLI that will assure and encourage insurers to enter the market knowing that they have the appropriate legislative support.

The inclusion of new section 211AB makes it clear that developers that obtain a DLI product for their class 2 apartment building project are exempt from the existing Strata Building Bond and Inspections Scheme requirements, except for section 206 of the Strata Schemes Management Act, which permits a builder reasonable access to a building to rectify defects. We must work with industry to ensure the success of DLI in New South Wales. This includes making DLI an attractive proposition for developers of class 2 buildings and removing the unnecessary expense associated with a mandatory inspection scheme. This will allow insurers in the market to manage their own risk and have greater control in ensuring that developers and builders produce defect-free buildings, while concurrently extending the duration of remedies for home owners from two to 10 years.

New section 211AC enables regulations to be made that would allow DLI to be taken out as an alternative to home building compensation insurance for the construction of low-rise apartment buildings that are up to three storeys. It does this by providing exemptions from the insurance requirements of sections 92 and 96 of the Home Building Act 1989 where the developer has notified the secretary of the developer's intention to obtain DLI for the building work. The regulations can also set out conditions and requirements for DLI being used as an alternative to home building compensation insurance. This regulation-making power will only be exercised with careful consideration about the impact on strata home owners and necessary conditions and requirements to protect their interests.

A DLI product will provide protection on a strict liability basis. In contrast, home building compensation insurance is claimable as a last resort where a building business has become insolvent. DLI is primarily intended as a market-driven solution to prevent and address building defects. However, it is important that the secretary has sufficient powers to monitor the state of the market and ascertain when there is market maturity in the DLI space. Market maturity is a key factor in any future consideration of mandating DLI. To enable this, new section 211AD includes appropriate powers for the secretary to direct an insurer to give information about their DLI policies, such as the number of policies issued, including the terms and premiums payable; the names of developers that DLI policies have been issued to and the buildings they relate to; and the number and value of claims made under DLI policies issued.

The amount and duration of the existing strata bond is intended to be increased and lengthened incrementally, with these changes being informed by the maturity of the DLI market. As a first step, the bill will amend the current 2 per cent strata bond mandated in the Act to enable a prescribed percentage in the supporting regulation. Likewise, the two-year period that a bond must be held will be prescribed in the supporting regulation. The Strata Schemes Management Regulation will prescribe that the strata building bond increase to 3 per cent of the total contract cost of the build from 1 February 2024, providing more money to be set aside for consumers to rectify defects identified during inspections done under the scheme.

These regulation powers will enable proportionate and responsible changes to the strata bond scheme to encourage greater uptake of DLI products, which is a far superior consumer protection for apartment owners in New South Wales. Complementary to the direction powers for insurers are new powers in new section 211AE to direct developers to give information about their insurance, which will ensure that the building regulator has sufficient ability to interrogate DLI policies that have been purchased by developers. Failure by an insurer or developer to comply with the secretary's direction attracts a maximum penalty of \$55,000 in the first instance, and \$22,000 for every day the offence continues, which provides an appropriate incentive to comply. Importantly, the directions can also be issued to insurers and developers who are located outside of New South Wales where the building work is in New South Wales.

New section 211AF also creates a general penalty provision of \$110,000 for a corporation and \$22,000 for any individual who knowingly gives the secretary information relating to DLI that is false or misleading in a material particular. In rare cases where a resident denies access to their unit, and this access is necessary to determine whether there is defective building work or to rectify defective building work, new section 211AG of the bill allows the NSW Civil and Administrative Tribunal to make an order requiring that access to the building be granted.

Finally, new sections 211AH and 211AI establish the necessary regulatory framework for DLI within the building regulatory framework. The requirement for DLI will interact with the existing statutory building certification scheme under the Environmental Planning and Assessment Act 1979. A developer will be required to provide the secretary with a certificate of currency of the DLI policy for the building before an application is made for a construction certificate for the building work. Where a developer does not provide this notification, the application will not be able to be progressed and, consequently, work will not be able to be carried out.

Likewise, there will be a check and balance before an application for an occupation certificate is made to ensure that a DLI policy is in place. The insurance itself can commence once an occupation certificate is issued, but there needs to be evidence of the policy before an occupation certificate is applied for or issued. Like the construction certificate provisions, an application for an occupation certificate will not be able to be progressed until appropriate notification has been provided to the secretary.

As a backstop, there will be a new ground added to the RAB Act to prohibit the issuing of an occupation certificate where the developer has failed to notify the secretary of their DLI policy. If an occupation certificate is issued in contravention of a prohibition order, it will be invalid by virtue of the prohibition order powers under RAB. The reason there is such an emphasis provided at this stage is because occupation certificates are often used for strata buildings to settle contracts. This Government is committed to ensuring that people who live in and own apartments have the strongest consumer protections in the country, and DLI is a crucial step towards this.

Schedule 4 to the bill ensures that the building regulator will be able to immediately suspend players in the building process where their conduct poses a serious risk to public safety, consumers or other businesses. Under part 4, division 2 of the Home Building Act 1989, the building regulator has an existing power to immediately suspend an individual from holding a contractor licence, supervisor certificate or tradesperson certificate pending a determination by the secretary whether to take disciplinary action under that Act. The bill replicates this power in the Building and Development Certifiers Act 2018 and the Design and Building Practitioners Act 2020 to allow the secretary to immediately suspend a registered certifier or registered practitioner in circumstances that pose significant risk of harm to persons or buildings. Under those reforms, a certifier or design practitioner may be immediately suspended where that person has been issued a show cause notice.

A show cause notice is a procedural fairness mechanism that gives practitioners a chance to explain why their conduct should not attract cancellation or ongoing suspension of their registration. It allows them to make submissions to the secretary as to why they think their conduct does not pose a risk of harm, loss or damage to the public, consumers or businesses. The secretary must consider those submissions when deciding whether to proceed with cancelling or suspending a registration. The secretary must be satisfied that there is, or is likely to be, a serious risk to public safety, a consumer or another business if the person was to continue to do building, design, engineering or certification work during the show cause period. A suspension will be in place for no more than 60 days at a time and may be extended if the cause of action continues. However, the bill ensures that a suspended person has a right of appeal to the NSW Civil and Administrative Tribunal if they are aggrieved by the secretary's decision to issue an immediate suspension or to otherwise take disciplinary action. These are strong but necessary preventative powers to ensure protection against unlawful, harmful conduct.

Finally, in schedule 5 the bill proposes some minor but important amendments to the Building and Development Certifiers Act and the Home Building Act to ensure that necessary information sharing can take place between New South Wales government agencies to support the establishment of the Building Commission. The information that can be shared will be limited to that which is reasonably necessary to assist the secretary and relevant agencies to carry out relevant functions related to these Acts, such as allowing for the registration of certifiers. The amendments will ensure that the new Building Commission has access to the information needed to assist with the investigation and enforcement of residential buildings in New South Wales.

The Government has made a commitment to delivering more housing for the people of New South Wales. However, we will not sacrifice quality for quantity. The Government sees the soon-to-be-established Building Commission as a critical enabler of the Government's housing delivery strategy. The bill gives the commission the tools and powers it needs to execute that strategy. But that is not the end of the action our Government is going to take. Building failures across all building types are a risk to safety for people left with noncompliant building work, and they increase costs to owners, other practitioners, financiers and insurers to remediate those defects. Those failures tarnish the industry, even for those who produce quality work, and reduce confidence in the building and construction industry.

The bill implements important reforms and lays the groundwork for the sweeping transformation under our building bill to be introduced into Parliament next year. This is not a Government that rests on its laurels. We are pushing forward with meaningful reform. Our rental reforms, the appointment of a Rental Commissioner, the injection of new money for the Building Commission and the reforms proposed by the bill are strong indicators to industry and the community that this Government will deliver on its commitments to support industry to deliver compliant, safe and affordable housing across the State. I commend the Building Legislation Amendment Bill to the House.

Debate adjourned.

Documents

STATE BUDGET 2023-2024

Return to Order

The CLERK: According to the resolution of the House of Wednesday 20 September 2023, I table documents relating to an order for papers regarding the 2023-2024 budget, received on Thursday 12 October 2023 from the Acting Secretary of the Cabinet Office, together with an indexed list of the documents.

STATE BUDGET FINANCES 2023-2024

Return to Order

The CLERK: According to the resolution of the House of Wednesday 20 September 2023, I table documents relating to an order for papers regarding 2023-2024 budget finances, received on Thursday 12 October

2023 from the Deputy Secretary, General Counsel of the Cabinet Office, together with an indexed list of the documents.

Claim of Privilege

The CLERK: I table a return identifying those of the documents received on Thursday 12 October 2023 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.

POLICE TASER USE

Further Return to Order

The CLERK: According to the resolution of the House of Wednesday 13 September 2023, I table additional documents relating to a further order for papers regarding the tasering incident in Cooma, received on Thursday 12 October 2023 from the Deputy Secretary, General Counsel of the Cabinet Office, together with an indexed list of the documents.

Claim of Personal Information

The CLERK: I table a return identifying additional documents received on Thursday 12 October 2023 that are subject to a claim that they contain personal information and should not be published or copied. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

THE HON. SAM FARRAWAY QUESTIONS ON NOTICE

Return to Order

The CLERK: According to the resolution of the House of Wednesday 20 September 2023, I table documents relating to an order for papers regarding questions on notice submitted by the Hon. Sam Faraway, MLC, received on Thursday 12 October 2023 from the Acting Secretary of the Cabinet Office, together with an indexed list of the documents.

Claim of Privilege

The CLERK: I table a return identifying those of the documents received on Thursday 12 October 2023 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

CRIMINAL PROCEDURE AMENDMENT (CHILD SEXUAL OFFENCE EVIDENCE) BILL 2023

Second Reading Speech

The Hon. ANTHONY D'ADAM (15:25): On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

The New South Wales Government is pleased to introduce the Criminal Procedure Amendment (Child Sexual Offence Evidence) Bill 2023. The New South Wales Government takes the need to reduce trauma for children who provide evidence in child sexual offence matters very seriously. It is well recognised that children face significant difficulties as complainants and witnesses in these cases, due to their young age and the nature of the evidence they must give. Providing that evidence to police and the court can be a highly stressful and traumatic experience. It is vital that these children are supported to give the most complete and accurate evidence they can. As child sexual offences are frequently committed in private, often the only direct evidence of the abuse is the evidence that the child gives about what occurred.

Clear evidence is critical for investigations and prosecutions of child sexual offending. When it was introduced in 2016, the Child Sexual Offence Evidence Program was a key initiative aimed at reducing the stress and trauma experienced by complainants and child prosecution witnesses in child sexual offence proceedings. It also aimed to help these witnesses to give their best evidence. The program does this through two special measures. First, eligible child complainants and prosecution witnesses can give the whole of their evidence, including cross-examination and re-examination, in a prerecorded evidence hearing. That complements other provisions in the Criminal Procedure Act 1986 that enable a recording of the child's interview with police to be admitted as the child's evidence-in-chief. Second, witness intermediaries are available to assist with the child's communication needs. Witness intermediaries are available both at the police investigative stage and at the court stage.

Combining prerecorded evidence hearings and witness intermediaries in the Child Sexual Offence Evidence Program was a novel approach in Australia. The implementation of those measures also coincided with the appointment of two specialist judges in the New South Wales District Court. The program began as a three-year pilot in the Sydney Downing Centre and Newcastle District Courts. Witness intermediaries were also made available in the central metropolitan, south-west metropolitan and Hunter child abuse units. The program was evaluated by the University of New South Wales in 2017 and 2018. The evaluation found strong widespread support for the special measures in the program. Those measures were seen to reduce stress for children and result in better quality evidence.

In its 2017 *Criminal Justice Report*, the Royal Commission into Institutional Responses to Child Sexual Abuse recommended that all State and Territory governments ensure that legislation and resources are in place to allow for the prerecording of the whole of a witness' evidence in child sexual abuse matters. It also recommended the use of witness intermediaries for the matters at both the police interview and court stage. The Child Sexual Offence Evidence Program, and its expansion to every District Court location and police district in New South Wales, ensures that those recommendations are implemented in New South Wales. In April 2019 the program transitioned from a pilot to an established program at the Sydney Downing Centre and Newcastle District Courts and corresponding child abuse unit locations. The program has been extended twice by regulation—first to 30 June 2022 and most recently to 30 June 2024.

The program will now be expanded to every District Court location and police district in New South Wales. Witness intermediaries became available in all police districts from 1 July 2023. The use of witness intermediaries in the police investigative stage is not governed by legislation, so that was able to be done without amending any Act. The use of witness intermediaries at court, and prerecorded evidence hearings, are currently covered by part 9 in schedule 2 of the Criminal Procedure Act 1986 and part 10 of the Criminal Procedure Regulation 2017. A District Court practice note also facilitates the operation of the Child Sexual Offence Evidence Program.

The bill will expand the availability of prerecorded evidence hearings and witness intermediaries to all District Court locations in New South Wales. It also makes amendments to enhance the operation of those special measures and to ensure that they are available across the State. Along with the measures in the bill, three new District Court judges will be appointed to support the expansion of the program. The bill, and the expansion of the child sexual offence evidence program across the State, is a significant and medical step towards improving complainant experiences and supporting child complainants and witnesses in child sexual offence proceedings.

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

Leave granted.

I now turn to the substance of the bill.

Application

Item [3] of schedule 1 to the bill will omit part 29 in schedule 2 of the Criminal Procedure Act 1986. Schedule 1, item [2] to the bill will insert proposed division 1A into part 5 of Chapter 6 of the Criminal Procedure Act, which will contain the provisions governing pre-recorded evidence hearings and witness intermediaries. The provisions in the new division 1A largely reflect those that were already in place to govern the program. I do not propose to go through each of these provisions in full but will focus on areas where the bill makes changes to improve the operation of the Program and facilitate its state-wide expansion.

The proposed division will remove existing references to a "pilot scheme", as pre-recorded evidence hearings and witness intermediaries will be available on a permanent basis.

Unlike the current legislation, the proposed division does not apply only to prescribed sexual offence proceedings heard in particular District Court locations. Rather, pre-recorded evidence hearings and witness intermediaries will be available for child complainants and child prosecution witnesses in any prescribed sexual offence proceedings at any District Court location, no matter where the case is heard.

Pre-recorded evidence hearings

I now turn to a core component of the bill, which is pre-recorded evidence hearings. These hearings are currently governed by schedule 2, part 29, division 2 of the Criminal Procedure Act 1986. The relevant provisions will be carried over into the proposed Division 1A, with some changes to facilitate the state-wide expansion of the program and ensure that it is able to operate effectively.

A pre-recorded evidence hearing is part of the trial, but it takes place before a judge and the parties to the proceedings, with no jury present. The recorded interview with the child, along with any additional oral evidence-in-chief, cross-examination and re-examination that occurs at the pre-recorded evidence hearing, is then played before the jury in the trial.

Under the current legislation governing the Child Sexual Offence Evidence Program, there is a presumption in favour of children under 16 years of age giving evidence via a pre-recorded evidence hearing. However, young people aged 16 or 17 may do so only if the court considers it is in the interests of justice and makes an order allowing them to.

Schedule 1, item [2] to the bill will insert proposed subsection 294G (1) into the Criminal Procedure Act. This provides that all child complainants and prosecution witnesses under 18 years of age, or who were 18 when the accused was committed for trial or sentence, are to give evidence via a pre-recorded evidence hearing unless the court makes an order to the contrary.

This approach recognises that these children and young people who are complainants and witnesses in sexual offence cases are inherently vulnerable, due to the nature of the evidence they must give and their relatively young age. Children under 16, and young people aged 16 or 17, are all likely to benefit from giving evidence in a pre-recorded evidence hearing, instead of in front of a jury.

Further, schedule 1, item [2] to the bill will insert proposed section 294E into the Criminal Procedure Act, which contains definitions that largely reflect the definitions in the existing legislation that governs the program. Importantly, this section will now expand the definition of a witness to specifically include a complainant or prosecution witness who was 18 when the accused person was committed for trial or sentence, but has since become an adult. This is to ensure that a young person does not become ineligible to give evidence via a pre-recorded evidence hearing, or with the assistance of a witness intermediary, simply because they turned 18 in the period between committal and the pre-recorded evidence hearing.

Schedule 1, item [2] to the bill will also insert proposed section 294G, subsections (1) and (2), into the Criminal Procedure Act. This reflects the current legislation and enables the court to make a contrary order—that is, order that the child complainant or child prosecution witness give evidence in the usual way - but only if the court is satisfied it is appropriate to do so in the interests of justice.

Proposed section 249G, subsections (3) and (4), prescribe the factors to be considered by the court in determining whether to make a contrary order that the child witness or eligible prosecution witness give evidence in the usual way. The bill prescribes that the primary factor that must be considered by the court is now only the wishes and circumstances of the child. The availability of court and other facilities necessary for a pre-recorded evidence hearing to take place will be changed by this bill from a primary factor, which the court must consider, to a discretionary factor, which the court may consider in deciding to make an order. The other discretionary factors that a court may consider remain unchanged. This appropriately ensures that the interests of the child witness will be the primary factor that a court considers, over and above other considerations.

Audio-visual link in pre-recorded evidence hearings

Under the current legislation governing the Child Sexual Offence Evidence Program, a child complainant or child prosecution witness is entitled to give evidence remotely. The bill clarifies that appearances by all participants in pre-recorded evidence hearings, including the accused person and legal practitioners, may be made by audio visual link or "AVL".

It is not envisaged or intended that participants in pre-recorded evidence hearings, other than the child complainant or a child witness, will always appear via AVL, or that this will be the standard way to conduct pre-recorded evidence hearings.

Rather, the bill seeks to provide sufficient flexibility to address the individual needs of cases and to enable pre-recorded evidence hearings to occur in a timely way across the state, including in regional areas. A single model for conducting pre-recorded evidence hearings would not be able to meet the needs of all matters.

Logistical and resource constraints may make it difficult to hold a pre-recorded evidence hearing in a timely manner without the occasional use of AVL, where necessary. It is in the best interests of the child witness that pre-recorded evidence hearings are held as early as possible. Not only does this help to preserve the memories of the child, but it also enables them to complete their evidence, as part of the criminal justice process, at an early stage.

The bill seeks to ensure that there is flexibility for the pre-recorded evidence hearing participants to appear remotely or in person. This will be enabled by schedule 1, item [2] to the bill, which will insert a number of proposed sections into the Criminal Procedure Act:

- Proposed section 294E provides that "audio visual link" has the same meaning as in the Evidence (Audio and Audio Visual Links) Act 1998.
- **Proposed section 2941, subsection (1) (b)** provides that a child complainant or child prosecution witness is entitled to give evidence via AVL. This provides flexibility for the child to provide evidence remotely from either a location outside the court, or from a remote witness room at the court via closed-circuit television facilities.
- **Proposed section 2941, subsection (8)** provides that it does not matter if, while the pre-recorded evidence hearing is conducted, the judicial officer, an Australian legal practitioner acting in the proceedings, the accused person, the witness and the witness intermediary are at different places and appearing by audio visual link.
- **Proposed section 294N, subsection (1)** provides that the evidence of a witness for whom a witness intermediary is appointed may be given while the witness intermediary is at the same place as the witness, or is in the courtroom, or is at a different location and appearing via AVL. This provides flexibility for the witness intermediary to appear from the same location as the child, or from another location on rare occasions where necessary.

Except for a child complainant and child prosecution witness, who already generally give evidence via video from outside the courtroom, having participants appearing via AVL is not intended to be the preferred approach. Rather, the availability of AVL for these other participants is meant to be a back-up for flexibility, particularly for regional areas and to ensure timeliness.

The bill contains important safeguards to protect the integrity of the proceedings and ensure that the accused person can participate in the proceedings without detriment. Schedule 1, item [2] will insert proposed subsection 2941 (5), which provides that the accused person must be able to see and hear the witness giving evidence by AVL. It also provides that the accused person must be able to communicate with their legal practitioner, including by way of AVL, if they are appearing from separate locations via AVL.

Proposed section 294N (1) (c) provides that if the witness intermediary appears via AVL, the witness, the court and legal practitioners acting in the proceedings must be able to see and hear the witness intermediary. Further, proposed subsection 294 (2) (a) provides that the court and a legal practitioner acting in the proceedings must be able to communicate with the witness intermediary, including through the use of AVL if the witness intermediary is appearing via AVL.

Different judges in the pre-recorded evidence hearing and the trial

I now turn to components of the bill that relate to judicial officers. The bill makes clear that the judge who presides over the pre-recorded evidence hearing, and the judge who presides over the remainder of the trial, may be different. The purpose of this is to give the court the flexibility to meet the individual needs of the case.

Schedule 1, item [2] to the bill will insert proposed section 2941, subsection (7) into the Criminal Procedure Act. This provides that it does not matter whether the judicial officer presiding at the pre-recorded evidence hearing is the same as the judicial officer presiding at the proceeding at which the recording is viewed or heard by the court.

Amendments are also proposed to section 164A of the Criminal Procedure Act, which governs the process for when a judge in a trial before a jury dies, becomes ill or is otherwise unable to continue the proceedings. Schedule 1, item [1] to the bill will insert proposed section 164A, subsection (3A) into the Criminal Procedure Act, which makes it clear that section 164A does not apply to a pre-recorded evidence hearing or require the same judge to preside over the pre-recorded evidence hearing and the remainder of the proceedings.

While it is clearly preferable to maintain continuity of the judicial officer between the pre-recorded evidence hearing and the remainder of the trial wherever possible, in some instances the need to facilitate a timely pre-recorded evidence hearing, to ensure that a child complainant or child prosecution witness is able to give their evidence at an early stage, may take priority. To achieve this, it may be necessary for different judges to preside over the pre-recorded evidence hearing and the balance of the trial.

As the witness' evidence is recorded at the pre-recorded evidence hearing and played before the judge presiding over the balance of the trial, this judge will not be at a significant disadvantage compared to the judge who presided over the pre-recorded evidence hearing. They will hear all of the witness' evidence.

Witness intermediaries

I now turn to the other key component of the bill: witness intermediaries. Witness intermediaries assist children with their communication needs and help them to give their best evidence.

The use of witness intermediaries at court is currently governed by schedule 2, part 29, division 3 of the Criminal Procedure Act 1986. The relevant provisions have been carried over to the bill, with some important changes.

Significantly, the bill uses the term "witness intermediaries" instead of "children's champions". The term "witness intermediaries" better reflects the neutrality, independence and function of the role.

Witness intermediaries are not advocates or support persons, though child witnesses are entitled to have support persons attend with them too. Witness intermediaries are officers of the court and their duty is to impartially facilitate communication of, and with, the witness, so the witness can give their best evidence.

Schedule 1, item [2] to the bill will insert proposed section 294L, subsection (1) into the Criminal Procedure Act. This will provide that the role of the witness intermediary is to communicate to the court whether the witness can understand questions put to them and explain to the court and the person asking questions the best way a witness can be asked questions that the witness can understand. This wording is different to the current legislation and better reflects current practice and the training provided to witness intermediaries.

Another key change made by the bill relates to the appointment of witness intermediaries. The current legislation provides that a person must not be appointed as a witness intermediary, relevantly, if they have assisted the witness in a professional capacity, other than as a witness intermediary. This provision remains in the bill, at proposed subsection 294M (5) (b).

However, schedule 1, item [2] to the bill will insert proposed section 294M, subsection (6) (a) into the Criminal Procedure Act. This subsection provides that a court is not prevented from appointing a person as a witness intermediary where the person has assisted the witness in a professional capacity if the court, in the interests of justice and on its own motion or on the application of a party appoints the person as a witness intermediary. This approach provides more flexibility to the court to accommodate the needs of each particular case.

Commencement and transitional provisions

The bill is to commence on proclamation. This will provide participant agencies in the Child Sexual Offence Evidence Program with time to implement these measures across the state. The New South Wales Government will work with agencies and the District Court of New South Wales to settle a commencement date, expected to be before the end of 2023.

Schedule 1, item [4] to the bill will insert transitional provisions into the Criminal Procedure Act. The effect of these provisions will be that the previous provisions governing the Child Sexual Offence Evidence Program will apply to sexual offence proceedings that were commenced in either Newcastle or in the Sydney Downing Centre, either by the filing of a Court Attendance Notice or the presentation of an ex officio indictment, before the commencement of the bill.

Commencement of the proceedings may occur either by the filing of the Court Attendance Notice in the Local Court or by the presentation of an ex officio indictment in the District Court. The relevant question is when the proceedings commenced, which must have been prior to commencement of the bill.

The new provisions, contained in proposed chapter 6, part 5, division 1A of the Criminal Procedure Act, will apply to sexual offence proceedings commenced in Newcastle or in the Sydney Downing Centre courts, either by the filing of a Court Attendance Notice or the presentation of an ex officio indictment, on or after commencement of the bill. This approach will avoid disrupting proceedings that are already in progress in the Sydney Downing Centre and Newcastle courts, that started under the previous provisions, at the time the bill commences.

For all other District Court locations in New South Wales, the new provisions in proposed chapter 6, part 5, division 1A of the Criminal Procedure Act will apply to sexual offence proceedings commenced, either by the filing of a Court Attendance Notice or the presentation of an ex officio indictment, on or after the commencement of the bill. The new provisions will also apply to matters commenced by the filing of a Court Attendance Notice or the presentation of an ex officio indictment before the commencement of the bill, but only if the matter had not yet been committed for trial.

This would capture matters that were commenced in the Local Court by the filing of a Court Attendance Notice before the commencement of the bill, as long as the accused had not yet been committed for trial. It would also capture matters that were commenced in the District Court by presentation of an ex officio indictment, before the commencement of the bill, without there having been any committal proceedings first.

Schedule 1, item [2] to the bill will insert proposed section 294S into the Criminal Procedure Act which requires a statutory review of the reforms to be undertaken as soon as possible after three years after commencement. This will enable the operation of these special measures to be monitored and assessed.

Conclusion

I am very pleased to introduce this bill, which reflects the importance that the New South Wales Government places on improving complainant experiences and reducing trauma for children who provide evidence in child sexual offence matters.

Pre-recorded evidence hearings and witness intermediaries have been shown to be effective in making the criminal justice process easier for child witnesses. The bill will ensure these special measures are available for child complainants and prosecution witnesses in all sexual offence cases in New South Wales, no matter where the case is heard.

Second Reading Debate

Ms ABIGAIL BOYD (15:30): I speak on behalf of The Greens as its spokesperson for gendered violence, domestic and family violence and sexual assault to support the Criminal Procedure Amendment (Child Sexual Offence Evidence) Bill 2023. The Greens have been fighting alongside victim-survivors for this important reform for years to ensure that children are empowered to have their voices heard and their lived experiences taken into account. Too often our broken system not only does not hear but also blatantly ignores the voices of children and young people. The bill seeks to permanently extend the Child Sexual Offence Evidence pilot scheme, which was first introduced in 2016 to allow children to testify via prerecorded evidence in court hearings for crimes related to sexual offences. The bill will permanently extend the scheme to every District Court and police district in New South Wales.

I acknowledge the incredible work of the many advocates and activists who have fought and continue to fight tirelessly for justice for victim-survivors of child sexual assault, including Pippa and Rose Milthorpe, who fought for this particular reform; Grace Tame; Harrison James; and Jarad Grice. Their work really demonstrates the power and importance of platforming victim-led initiatives to lead the conversation, like the Your Reference Ain't Relevant campaign, which calls for law reform that ensures character references can no longer be used to lessen sentences of convicted perpetrators of child sexual abuse. Victim-survivors in the community have worked tirelessly since the commencement of the pilot to have the Child Sexual Offence Evidence scheme extended statewide, and for prerecorded evidence to be used as a default method of testimony for children, or those who were children at the time of the offence. That was also recently submitted as a request for legislative reform to the Government by Domestic Violence NSW [DVNSW] and Women's Domestic Violence Court Advocacy Program in August 2023.

I welcome the Government's bill before us, which listens to the calls from the sector and the community. While The Greens support the bill and the modest reform that it legislates, I place on record that DVNSW has expressed the desire for the legislation to include ongoing proceedings, given that if a victim is currently awaiting trial, or committal proceedings have taken place, they will not be eligible for the scheme after its introduction. However, after discussion with the Government it appears that that is an unavoidable practical limitation of the statewide transition and it is necessary to reduce the disruption to ongoing proceedings. The Government's second reading speech outlines the logistical impacts of the rollout and why its implementation in these cases would not be appropriate.

The bill provides for concessions if a court attendance notice has not yet been filed and committal proceedings have not yet taken place. That is an important, albeit modest, step forward in the right direction, and a stark reminder of how far we still have to go in reforming our broken system and putting an end to sexual violence and abuse against children. Our current legislative and judicial framework is outdated and inconsistent, and seeks to protect perpetrators of child sexual abuse, instead of protecting, listening to and supporting victims.

Child sexual assault victims in New South Wales, particularly those in regional areas, are being re-traumatised by our legal system. While the bill will create positive change in the experiences of victim-survivors by reducing the stress, trauma and difficulties placed on child victims and child witnesses of sexual abuse, we must go further in breaking down and rebuilding the system to protect, support and see justice for child victims. The Government must fight far more fiercely alongside victim-survivors to ensure that victims are not re-traumatised by the justice system that has for years failed to support victims who speak out against perpetrators. It must listen to calls for systemic reform and seek justice for child sexual abuse crimes. The Greens support the bill.

The Hon. SUSAN CARTER (15:34): I speak in debate on the Criminal Procedure Amendment (Child Sexual Offence Evidence) Bill 2023. Sexual offences against children are among the most heinous of crimes. Children should be protected and when they cannot be protected before the event, perpetrators must be prosecuted. Importantly, children should not be re-traumatised by the very process of the prosecution. That is why, as part of our ongoing commitment to the protection of child victims of abuse, the Coalition Government introduced the Child Sexual Offences Evidence Program in 2016. It was an innovative program that aimed to protect child victims

of abuse from suffering further abuse in the court process. It made a fundamental change to the way in which children gave evidence in cases involving sexual offences against them. It made it easier for children to give evidence and assisted them in giving accurate evidence so that their abusers can be brought to justice. We piloted and tested the program to ensure that it was fit for purpose.

We started the program in 2016 in two locations: the Downing Centre in the Sydney District Court and in the Newcastle District Court, as well as in the corresponding South West Metropolitan Region, Central Metropolitan Region and parts of the Northern Region police districts. We ensured that it was independently assessed by the University of New South Wales. We were confident that that was a good step forward for children but we wanted to make sure that it would work well, and it did. The University of New South Wales found that the program received strong support from participants, reduced stress for children and resulted in a better quality of evidence from child witnesses. The program is also consistent with recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse. In its 2017 report it made recommendations about the importance of prerecording witness evidence and using intermediaries in child sexual offence prosecutions. The legislation will do exactly that.

Following those successful endorsements, in 2018 we invested more than \$28 million to make the program permanent in the two initial locations. In February this year we also committed to invest \$64.3 million over four years to roll out an expanded program across New South Wales from 1 July this year to every District Court and police district in New South Wales. We are glad that the present Government is finally catching up with that commitment. Unfortunately, because the first Minns Labor Government budget abolished the Coalition's detailed statements of funding for programs, it is impossible to tell whether Labor's budget includes a funding commitment to match our promise. We need that detail to ensure accountability, because protecting children is of the utmost importance. Despite the lack of detail, it is a pleasure to see that the Government has finally turned its attention to the bill and the successful work of the Coalition Government within the criminal justice system.

The bill makes two significant reforms. The first change is the current legislation's presumption in favour of children under 16 giving evidence via a prerecorded hearing. Under the changes in the bill all child complainants and prosecution witnesses under 18, or who were under 18 at the time the accused was committed for trial, will give evidence via a prerecorded hearing unless the court makes an order to the contrary. That helps to ensure that the proceedings of the court are not a source of further trauma to a child.

The second reform is the continuation of children's champions, who will henceforth be called witness intermediaries. A witness intermediary is an expert who has a background in social work, psychology, teaching, occupational therapy or speech pathology. They will be appointed by the court to assist a child under the age of 16 during the prerecording of their evidence and to facilitate communication of questions put to the witness and the answers given by the witness in reply. The changes build on the very successful program we introduced which protects children who have been caught in the terrible trauma of child abuse. It is a good program and it is important that it becomes a permanent part of our criminal justice system in New South Wales. I commend the bill to the House.

The Hon. STEPHEN LAWRENCE (15:39): I support the Criminal Procedure Amendment (Child Sexual Offence Evidence) Bill 2023. I recall some years ago seeing a news article that reported a survey had been done of lawyers, police officers and other participants in the criminal justice system, asking them if they would want their own child, if they had reported such an offence, to go through the process of being a complainant in a child sex trial. It was quite extraordinary to see the very high percentage of people intimately involved in these sorts of matters who would not put their child through that experience. Having appeared both as a prosecutor and as a defence lawyer in child sex prosecutions for almost 20 years, I can certainly agree with all that has been said, including by my honourable colleague, about the insidious problem of re-traumatisation of complainants in the criminal justice system.

The rate of complaints after child sex offences is shockingly low and the rate of attrition is shockingly high. By that I mean people who engage in the criminal justice system as a complainant find aspects of the process so upsetting and traumatic that ultimately they do not proceed with their matter. I am sure many members have heard of a book entitled *Eggshell Skull* by Bri Lee, which I commend to anyone who wants to have more understanding of the plight of complainants, in particular child complainants in sexual offence proceedings in Australia. It is indeed quite a difficult and harrowing read. I strongly support the bill. As has been said, it is intended to reduce the traumatisation of vulnerable witnesses in our courts in child sex matters. It is intended to do that in three particular ways. The first is by minimising the delay that people endure as complainants in these matters, as a complete prerecording of their evidence-in-chief, their cross-examination and their re-examination will occur as soon as possible after the indictment is presented in the District Court.

Normally, a complainant turns up to the trial proper. As any participant in the criminal justice system knows, there are many and varied reasons why a trial runs off the rails or is adjourned. I well know how traumatic

it is for complainants when, through reasons that seem routine to the professional participants in the system, the case is adjourned. While it is just another day at work for the professionals involved, it is a momentous and traumatic event for the complainant, whose life, in many instances, is effectively on hold and their psychological recovery is on hold too. The bill is intended to ensure that the full account of complainant evidence is taken as soon as possible, and that then has the effect of removing the complainant from the trial process itself. The child complainant is removed from all the things that occur as part of the trial process and the immediate matters leading up to it because their evidence has been taken in full.

There are provisions in the bill to allow a person to be recalled. Such provisions exist in various statutes. They apply, for example, when an adult complainant has prerecorded their evidence-in-chief; they can be recalled in certain circumstances, such as a retrial. That does occur and I am sure it will occur if the bill is passed, but the bill is intended to minimise that occurrence. It is ideal that people are not recalled because, in matters of trauma, one can well imagine the shock and re-traumatisation that occurs when complainants finally pluck up the courage to make a complaint, go through the process with the police and then go through the process of examination and cross-examination and think it is finally over, but then they are recalled. The bill is intended to ensure that that will occur only when it is in the interests of justice to do so. The third way in which the bill is intended to reduce trauma of child complainants is by changing a particular aspect of the trial process. That involves the appointment of a witness intermediary. Quite importantly—although it is buried in the detail of the bill—the witness intermediary will generally prepare a report for the court and that report will detail the communication needs of the child.

Having appeared at the Downing Centre in one of these matters a few years ago, I am familiar with a process known as the ground rules hearing when a report of the witness intermediary, having been provided to the parties, is provided to the court. Then the court makes orders that the court is empowered to make under the Evidence Act. There is no doubt the court has the power to control questioning and, importantly, to ensure that people are questioned in a way that is not confusing and in a way that they can understand. Certain types of orders are made at ground rules hearings. In the matter I appeared in, a pretty standard type of order was made that there would not be so-called leading or tag questions. The child complainant in that matter was to be cross-examined through open questions. I can certainly say that that particular aspect of the matter caused some concern and consternation in the criminal law community because, as anyone who has ever cross-examined anybody would know—this is true of courts and true of things that happen during committee hearings of this Parliament too—the ability to ask closed questions is much prized and seen as giving a lot of forensic advantage to the questioner.

But, funnily enough, in the matter I appeared in, I do not think it made any difference at all. In fact, the asking of open questions of the child still allowed the accused to have their case put. Certainly, it allowed the child to understand the questions and give answers in a free and clear way. Under the bill, the witness intermediary effectively will have the power to act as an interpreter, which means that on occasion in these matters there will be somewhat of a disruption to the normal flow of questioning because the witness intermediary will flag a concern that in their view the question is confusing, or in their view the child has not understood the question. Then there will be an opportunity for the intermediary to speak to the child and effectively interpret the question. That occurred in the matter in which I was involved. One of the things that a cross-examiner really prizes is the ability to control the pace and cadence of questioning. However, in the matter in which I was involved, it did not seem to make any difference. It certainly did not cause unfair prejudice, but most importantly it ensured that the child was able to understand the questions being asked.

It is certainly my view that anything that aids understanding will work to the advantage of both parties because it is a key part of defending the accused to ensure that they can put their case in the proper manner. They cannot do that to the satisfaction of the tribunal of fact—for example, the jury in indictable matters—unless everyone in the room understands and the person understands the question they are being asked. One can throw a bombardment of questions, but if everyone understands that the questions are not being understood, then the answers will not be considered to be particularly probative. The Act has various provisions to, for example, allow different judges to preside over the initial hearing and then the trial proper. There is no impediment to that.

The other advantage of this bill, and the advantage of the pilot program that will be rolled out, is that it actually assists everyone in the preparation of really complex matters. It is in the nature of sexual offence proceedings that very often the complainant is the only witness or the main witness, certainly in terms of the substance of the evidence. If examination and cross-examination has been undertaken well in advance of the trial proper, that process of opening and closing to the jury and doing all things to prepare for the trial can be prepared well in advance. I suggest that will advantage the administration of criminal justice in many ways. For those reasons, I support the bill.

The Hon. ANTHONY D'ADAM (15:49): On behalf of the Hon. Daniel Mookhey: In reply: I thank Ms Abigail Boyd, the Hon. Susan Carter and the Hon. Stephen Lawrence for their contributions to this debate.

The Criminal Procedure Amendment (Child Sexual Offence Evidence) Bill 2023 will expand the availability of prerecorded evidence hearings and witness intermediaries to child complainants and prosecution witnesses in all sexual offence matters across New South Wales. It also makes amendments to enhance the operation of those special measures and to ensure that they are available across the State. The bill and its expansion of the child sexual offence evidence program across the State is a significant and meaningful step towards improving complainant experiences and supporting child complainants and witnesses in child sexual offence proceedings.

I thank members for their recognition of the experience of victim-survivors of child sexual abuse and the challenges they face in participating in the criminal justice system. In the debate, the Hon. Susan Carter raised a question about the ongoing funding of the program, and I can provide some information about that. I am advised that \$64.3 million has been allocated over four years to enable the expansion and that has been confirmed by the Attorney General in the other place.

I am also advised that participant agencies in the Child Sexual Offence Evidence Program have already been preparing for a statewide rollout, including through staff training and the recruitment of additional witness intermediaries. Since 1 July 2023 witness intermediaries have been available in all police districts to assist child complainants and witnesses in sexual offence cases with their communication needs during the police interview. That aspect of the program is not governed by legislation and was able to be rolled out statewide without the need for legislative amendments.

Prerecorded evidence hearings and witness intermediaries will be available in all District Court locations following the commencement of the Act, which is to occur by proclamation. That will provide agencies with time to implement the measures across the State. The Government will work with agencies and the District Court of New South Wales to settle on a commencement date and to ensure that the impact of the reforms will be formally monitored and reviewed under schedule 1 [2] to the bill, which will insert new section 294S into the Criminal Procedure Act 1986. New section 294S will provide that a review must be undertaken three years after commencement.

It includes the general provisions that a review must consider whether the policy objectives of the provisions remain valid and whether the terms of the provisions remain appropriate for securing those objectives. The review provides an opportunity to gauge the impact of the expansion of prerecorded evidence hearings and witness intermediaries to all District Court locations in New South Wales. It will also enable a comprehensive review of the legislative provisions governing prerecorded evidence hearings and the use of witness intermediaries in court.

Ahead of the statutory review, the department will also seek ongoing feedback about the progress and the impact of the statewide rollout from the participant agencies in the Child Sexual Offence Evidence Program. Those processes will ensure that the Government will take an active and engaged approach to monitoring the reforms. The Department of Communities and Justice is experienced in conducting reviews of that type and has the resources and the skills to undertake a review of that nature. The department is best placed to conduct the three-year statutory review on behalf of the Minister because it maintains ongoing forums by which it is able to track the operation of the reforms, particularly as they intersect with other work relating to criminal justice responses to sexual violence and victim-survivor supports.

The bill reflects the importance that the Government places on improving complainant experiences and reducing trauma for children who provide evidence in child sexual offence matters. It will ensure that prerecorded evidence hearings and witness intermediaries are available for child complainants and prosecution witnesses in all sexual offence cases in New South Wales, wherever the District Court is sitting. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Dr Sarah Kaine): The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. ANTHONY D'ADAM: On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a third time.

Motion agreed to.

WORK HEALTH AND SAFETY AMENDMENT BILL 2023

Second Reading Speech

The Hon. MARK BUTTIGIEG (15:55): On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

The Minns Labor Government is pleased to introduce the Work Health and Safety Amendment Bill 2023. The bill seeks to amend the Work Health and Safety Act 2011 to implement some of the outstanding recommendations of the 2018 review of the model work health and safety laws, the Boland review; to make miscellaneous amendments to address ambiguity, clarify intent and remove superseded or obsolete requirements; to set up the framework to allow the Government to deliver on one of its key election commitments in relation to silica, which is to establish a silica worker register in the future to monitor the health of workers exposed to silica dust; and to ensure that there are sufficient regulation-making powers under the Work Health and Safety Act.

Since July 2008 New South Wales has been a signatory to the nationally harmonised work health and safety framework, as committed to under the Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety—the IGA. All Australian jurisdictions except Victoria have adopted the model work health and safety laws. While the existing Act and model laws create a strong framework for managing risks to health and safety in New South Wales, preliminary data shows that there have been 39 workplace fatalities this year up until 10 July 2023. There were 48 in the previous year. Serious injury and illness claims for 2021-22 in New South Wales stand at over 51,000. There is clearly a lot more work to be done.

I acknowledge Premier Minns, and I am pleased that he has established a dedicated Minister for Work Health and Safety. The former Government did not do that. It is a credit to the Premier that he took the leadership to ensure that there is a dedicated ministry for work health and safety. The 2018 review of the model laws was commissioned by Safe Work Australia, the national statutory body in charge of developing the model work health and safety laws. Extensive consultation was undertaken across the country by Ms Marie Boland, the independent consultant engaged to undertake the review. Members may recall that New South Wales expedited the implementation of a number of those recommendations in 2020. The bill implements further recommendations, some of which were published by Safe Work Australia only in July this year, to ensure that New South Wales aligns with the model work health and safety laws. Once again, New South Wales is one of the first jurisdictions to do so.

New South Wales remains committed to the national harmonisation of the work health and safety laws. I acknowledge that harmonisation has shown great benefits for businesses in New South Wales. The Government strongly believes every worker who goes to work in this State should come home safe at the end of the day. We want workers to have healthy, safe and productive working lives. The bill seeks to ensure that we continue to protect workers and create safer working environments through commonsense reforms.

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

Leave granted.

I now turn to the substance of the bill and the amendments that align with the Model Work Health and Safety Act. In 2020 New South Wales expedited the implementation of 12 recommendations from the 2018 Boland review of the model work health and safety laws. Those amendments came into effect in New South Wales in June 2020, before the model law amendments were published. The amendments introduced by New South Wales in 2020 reflect the intent of the model amendments. As we know, they were introduced by the previous Government. In July this year Safe Work Australia published further amendments to the model work health laws, reflecting some of the remaining recommendations from the 2018 review of the model work health and safety law. The latest amendments were in relation to a minor technical change to section 31, clarifying that an officer may commit a category 1 offence; an increase in work health and safety penalties; and section 244 to 244D regarding attribution and aggregation of conduct for a body corporate person conducting a business or undertaking [PCBU].

The Work Health and Safety Amendment Bill 2023 makes the following amendments to the Work Health and Safety Act. Firstly, clause 3 of schedule 1 amends section 31 (1) (b) of the Work Health and Safety Act to clarify that an officer may commit a category 1 gross negligence or reckless conduct offence. Section 31 of the Act is the most serious work health and safety offence. That offence is committed when a person who owes a work health and safety duty behaves recklessly or is grossly negligent, exposing a person to risk of death or serious injury or illness. That is a technical amendment to address the ambiguity between the current officer's duty under section 27 and the offence under section 31. It is designed to provide clarity that is currently lacking in the existing legislation.

It is important to note that the penalties for a breach of section 31 have always included a penalty for a breach of the duty by an officer of a PCBU. That amendment removes the ambiguity and makes it clear that an officer may commit a category 1 offence. The second amendment is the proposed increase in penalties under the Act and regulations. Items [4] to [15], [17], [28], [32] and [37] of schedule 1 and items [2] to [4] of schedule 2 to the bill increase the maximum penalties in line with the equivalent increases in the model Act and regulations to achieve consistency among the jurisdictions that have adopted the model work health and safety laws. I note that since June 22 penalties in the Work Health and Safety Act have increased in line with the consumer price index, but New South Wales is still behind the model Act and regulations. New South Wales will be among the first jurisdictions to implement the increase in penalties in accordance with the model Act and regulations.

The key change in the case of a category 1 offence committed by an individual as a PCBU or as an officer of a PCBU is an increase in the maximum penalty from \$798,383 to \$2,168,029 and an increase in the maximum imprisonment time from five years to 10 years. In the case of a category 1 offence committed by body corporates, the maximum penalty will increase from \$3,992,492 to \$10,424,983. For a category 1 offence committed by an individual, the maximum penalty will increase from \$399,479 to \$1,041,992. That amendment sends a clear message to people who place workers' lives at risk that they will be held to account. Penalties are one of the key tools used to deter unlawful behaviour, particularly unlawful behaviours at work that expose workers and others to risk of death or serious injury or illness. It is essential that penalty amounts stipulated in the Act and regulation provide sufficient deterrence to discourage unlawful behaviour.

Furthermore, the amendment will clarify that New South Wales will continue to maintain the penalty unit and indexing regime rather than introducing the model tiers and categories. That approach achieves an outcome consistent with the intent of the model amendments.

Thirdly, in relation to the aggregation of conduct by a PCBU, schedule 1 [31] amends section 244 by inserting a new section 244 and new sections 244A, 244B, 244C and 244D. These amendments will allow for aggregation of conduct in relation to relevant offences by body corporate PCBU. These are model Act provisions that have been adapted to be consistent with New South Wales law. Currently, section 244 imputes the conduct of an individual employee, agent or officer to the body corporate, thereby attributing that conduct to impose corporate culpability. The existing provisions within the Work Health and Safety Act allows for attribution of conduct in particular circumstances. However, it does not currently allow for imputation.

The concept of imputation enables the conduct of a company's officers, agents or employees to be considered as a whole in determining whether the company has committed an offence, where intention, knowledge or recklessness is the required state of mind. Imputing conduct is not permissible at common law, so if a company is to be held criminally responsible for a work health and safety breach by imputation in addition to attribution, the legislation must specifically provide for it. Providing for imputation in the Work Health and Safety Act will help to address expectations that exist in the wider community that companies should be held accountable for meeting their work health and safety duties, and prosecuted for failure to uphold their work health and safety duties in the same way that individuals are. Schedule 1 [32] seeks to amend section 272A of the Act to align with the model provisions to make void an insurance contract term that purports to indemnify or insure against liability for a monetary penalty under the Work Health and Safety Act, and clarify that the evidential burden of showing a reasonable excuse is on the accused. This aligns with recommendation 26 of the Boland review.

The bill will also introduce a power enabling the work health and safety regulator to direct the removal of illegally installed asbestos. Schedule 1 [18] creates new division 2A in part 10 of the Act, with consequential amendments made to both the Act and the regulation to bring this division into effect. These amendments will enable the work health and safety regulator to ensure that prohibited asbestos, also referred to as illegally installed asbestos, is removed permanently from workplaces. On 31 December 2003, nearly 20 years ago, an Australia-wide ban on the manufacture, use and importation of asbestos came into effect. This is clear evidence that further work is needed. Australia is one of the few countries in the Asia-Pacific region that has a comprehensive prohibition in place on the importation and use of asbestos or asbestos-containing material. It is illegal to import or use asbestos in Australian workplaces. It is proposed that the Work Health and Safety Act be amended to provide the work health and safety regulator in New South Wales with a power to direct the removal of illegally installed asbestos.

Despite the ban, asbestos has been manufactured, fixed or installed since 31 December 2003 and is still being found in Australian workplaces, unfortunately. We know of one recent example where a company unknowingly imported fibre sheeting from overseas that contained asbestos. The company installed the fibre sheeting during the construction of portable buildings and switch rooms. Existing provisions for improvement notices and prohibition notices already cover many cases where prohibited asbestos is identified. However, there is uncertainty that the conditions for those notices meant some cases could only be addressed through a prosecution. Therefore, schedule 1 [18] inserts a new provision, "Division 2A: Prohibited asbestos notices".

This new division will provide compliance powers allowing the work health and safety regulator to issue a prohibited asbestos notice, directing a relevant person to take certain measures in relation to asbestos at the workplace. This amendment aligns with the model work health and safety legislation and ensures that work health and safety regulators have the appropriate powers to deal with prohibited asbestos. It means that a notice must be issued in all cases where prohibited asbestos is found to ensure the risks it poses are promptly addressed. It puts beyond doubt that the PCBU who is issued the notice must remove the prohibited asbestos. It is important to note that this provision only relates to asbestos or asbestos-containing material that has been installed illegally after 31 December 2003, making it prohibited asbestos, when the total ban was introduced across Australia.

I now address those miscellaneous amendments to the Act that will clarify existing laws, remove onerous/outdated requirements, improve efficiency and enhance enforcement powers. However, their importance should not be underestimated, particularly regarding amendments aimed at improving safety outcomes for delivery riders working for online platforms. Schedule 1 [16] clarifies that section 162 of the Work Health and Safety Act does not permit an inspector to be directed to exercise compliance powers on a matter unless the inspector has the reasonable belief or reasonable suspicion or is satisfied on the issue of the matter. This amendment seeks to implement recommendation 5 of the Ombudsman's Investigation into actions taken by SafeWork NSW Inspectors in relation to Blue Mountains City Council workplaces to clarify the operation of section 162 in relation to directions given to inspectors.

This amendment is a clarification that where the Work Health and Safety Act requires that SafeWork inspectors must hold a reasonable belief before exercising their compliance power, they cannot be directed by their superiors to take any action unless the inspector holds a reasonable belief that there has been a breach of the law. For clarification, this formed one of 11 recommendations of the Ombudsman's August 2020 final report. SafeWork NSW has accepted and implemented all the other recommendations, including training for the inspectorate on this issue. The final recommendation was for the Parliament to resolve. This amendment to section 162 will remove any doubt as to its meaning. For clarity, I note that the regulator currently has an appeals mechanism for compliance notices issued by inspectors to ensure that notices have been issued correctly.

Schedule 1 [30] amends section 243 of the Act to enable New South Wales police officers to enforce compliance by issuing penalty notices to delivery riders in accordance with clause 184U of the Work Health and Safety Regulation. Clause 184U provides that a food delivery rider must receive mandatory safety training and must produce a record of that training if requested by an authorised person. Clause 184U (2) of the regulation provides that:

A food delivery rider must, while delivering food or drink, use or wear high-vis personal protective equipment.

These parts of the regulation are designed to protect food delivery riders, who are particularly vulnerable members of our community. I know that members in this place have been saddened, particularly over the past couple of years, to see the number of food delivery riders die on the job. Most of them are from overseas with a non-English speaking background and students. There has been a lot of advocacy around protecting those workers—we call them gig workers. For many of those men and women, it is probably the third or fourth platform they are involved with. We took to the election a comprehensive program to better their wages and conditions as well as the workers compensation system, which we are currently working on in New South Wales. We are also working with our Federal counterparts.

Strong advocacy and pressure was obviously put on the former Government to do some things, but New South Wales is way behind. I extend our sincere condolences to the families, friends and colleagues of those who have died through no fault of their own. We need to do better to ensure a safe workplace for all workers. We all know that work is changing. We need to adapt to those changes and protect workers such as gig workers.

As I said earlier, because of the high number of fatalities in 2020 and the pressure that was placed on the former Government, the multi-agency Food Delivery Rider Safety task force was established. The role of the task force was to identify the factors that can lead to deaths and injuries to riders, and to engage with food delivery platforms, food outlets, unions and advocacy groups to address the issues that put riders at risk. The task force has since delivered an industry action plan and guide to managing work health and safety in the food delivery sector and a final report. The guide, among other matters, recommended an increased focus on compliance by both SafeWork NSW and New South Wales police in relation to food delivery drivers.

We are resolute in ensuring that tragedies like those do not affect more families. In the past few months there have been a number of fatalities. That pains me. It is just so devastating that those people are doing their jobs in providing a service and they get killed. This is not about politics. Members from all parties are one on this issue. We need to have zero tolerance and stronger compliance. We are pushing very hard on that. In no circumstances should families lose a loved one at work. New South Wales police and the Department of Communities and Justice have requested that change. Police have identified that their ability to protect food delivery drivers, by ensuring that those drivers wear high-vis clothing, is hampered by their inability to enforce the existing requirement under work health and safety regulations.

The Minns Government strongly supports any change that protects delivery drivers, including increasing compliance measures. It is a fundamental part of the Work Health and Safety Act that the duty to provide a safe workplace applies to all parts of the workplace. That includes not only the obligation on a PCBU to provide a safe workplace but also a duty incumbent upon each worker at a PCBU. It includes a requirement for an individual food delivery rider to wear their high-vis clothing. I am informed by SafeWork NSW that, if one particular platform's riders consistently fail to wear personal protective equipment [PPE], then SafeWork will take compliance action against the provider. That occurred as recently as 24 August 2023. SafeWork NSW issued five provisional improvement notices against a delivery platform in Sydney as its riders were consistently not wearing high-vis clothing, as required by the regulation, and had not undergone mandatory training.

I call on the platform providers to do their jobs and to follow the regulation. We are asking them to ensure that they provide the PPE, that their delivery riders wear the high-vis clothing, and that they follow the training regulation. It is not that much. The obligation falls on them. We will come down hard on them and they know that. I have put them on notice, and we are putting them on notice again today. They have to follow the rules. We issued those five provisional notices to that platform only six weeks ago. That is not on. We are in 2023 and people should not be losing their lives. They are on notice. The next time it happens I will name and shame them.

I am informed that currently there is a 93 per cent compliance rate with respect to our food delivery riders and workers. That is really good. In my electorate, for example, a lot of my constituents work as delivery riders around Campsie and Lakemba in south-west Sydney. I see them and chat to them mainly at night when they are doing their work. They are wearing their high-vis. The majority are doing the right thing. We want to see 100 per cent compliance. We want to make sure that all our delivery riders across New South Wales are wearing the high-vis clothing that is provided by their platform operators and that they are doing their mandatory safety training. We are at 93 per cent; let us get to 100 per cent. Let us get them wearing their high-vis clothing. I note that the shadow Minister for Fair Trading, Work Health and Safety and Building is in the Chamber. All members take this very seriously. It is about improving safety. We should all support that.

There are currently 348 SafeWork field inspectors in New South Wales. Those inspectors are the only authorised officers capable of enforcing compliance with clause 184U offences. Considering the scale of the food delivery industry in our major metropolitan centres and comparing the personnel available to SafeWork and the NSW Police Force, it is common sense to authorise police to enforce compliance and issue penalty notices under that clause. Police play an important role in regulating traffic offences such as a rider not wearing a helmet while riding a motorbike or pushbike. Therefore, it makes sense to extend the food delivery penalty notice powers to New South Wales police as the riders predominantly use the road network to make their deliveries.

Through that amendment, New South Wales police will ensure that riders are abiding by work health and safety regulations designed to ensure that workers have the necessary training and they are taking the correct safety precautions such as wearing their required high-vis clothing before getting on the road. The amendment clarifies the policy intention of the changes made to the Work Health and Safety Regulation in 2022, enabling police officers to have the authority to enforce compliance and issue penalty notices under clauses 184U (1) and (2). The amendment to section 243 ensures that an "authorised officer" includes a police officer. A consequential amendment has been made to the Work Health and Safety Regulation in item [5] of schedule 2 to the draft bill, which specifies that for clause 184U of the Work Health and Safety Regulation a police officer is an authorised officer for an offence under that clause. We owe it to the memory of the food delivery riders who have tragically lost their lives to ensure that work health and safety laws in New South Wales are fit for purpose and protect workers.

Item [35] of schedule 1 to the bill also introduces necessary reform to streamline the requirements for tripartite consultation with governments, unions and employers under section 274 of the Act when making minor amendments to New South Wales codes of practice. That will enable New South Wales codes of practice to be updated in a timely and cost-effective manner. The Work Health and Safety Act requires the approval, variation and revocation of codes of practice by the work health and safety Minister. Codes of practice are a crucial element in the work health and safety framework. A code of practice is a practical guide on how to comply with the legal duties under the Work Health and Safety Act and regulations. They enable PCBU's and workers to have detailed information to ensure that they can achieve key standards required under the Act and regulations. They provide expert advice showing duty holders how to safely manage risks and achieve compliance.

The Act also outlines how the codes of practice can be used in court proceedings. An approved code of practice is automatically admissible as evidence in court proceedings under the Work Health and Safety Act and regulations. Courts may have regard to a code as evidence of what is known about a hazard, risk or control, and may rely on the code in determining what is reasonably practicable in the circumstances to which the code relates. Presently, any minor technical or grammatical amendment, such as a spelling mistake, requires tripartite consultation to be undertaken before the Minister can approve the code. Tripartite consultation means consultation with the Commonwealth, States, Territories and employer and employee representatives. This can be very time-consuming and costly and can lead to consultation fatigue with key stakeholders.

The amendment will mean that SafeWork NSW will not need to undertake this level of consultation when amending codes of practice where only minor editorial edits are required, such as relabelling a table or diagram, fixing typographical errors or changing the name or reference to a particular document. Consultation on such changes to codes of practice is onerous and resource-intensive given they are only minor. Any changes not considered minor will continue to adhere to the existing comprehensive tripartite consultation requirements, and this amendment will not affect the tripartite consultation undertaken when developing, reviewing or revoking codes of practice.

The bill will also remove the obsolete requirement to publish a notice in a newspaper circulating throughout the State as soon as practicable after a code of practice has been amended, varied or revoked, as per item [36] of schedule 1 to the bill. All variations, revocations or updates to a code of practice would continue to be notified in the gazette. The Government is focused on taking further action to address the scourge of silicosis in the workplace. As part of the election commitment the Government took to the people of New South Wales in March, we have sought to implement further reforms to tackle this risk. Since 2017 silicosis cases have been on the rise in New South Wales. This rise in cases has been linked to work on engineered stone, a popular product with a high silica content used for kitchen benchtops, and poor work practices leading to silica dust—respirable crystalline silica—being breathed in by workers. This dust causes irreparable damage to an exposed worker's lungs, with potentially fatal consequences.

Silicosis is a long-latency disease. The latent period from exposure to development of the disease ranges from one to 10 years. However, some cases of accelerated silicosis can develop over a period as short as three to five years. Since 2017 silicosis has been a high priority for WHS regulators, and their work has focused on four key health and safety components: education, compliance, research and regulatory and policy review. Silica continues to be a high priority for the Government and for SafeWork NSW, and its activities are guided by the Australian Work Health and Safety Strategy 2023-33 and the SafeWork NSW Regulatory Priorities 2023. These strategies ensure a coordinated approach to reduce work-related respiratory diseases, including silicosis, and to reduce worker exposure to dangerous substances, including silica. The Government has committed to a suite of policy proposals to tackle silicosis, both standalone and as part of a national process. The bill will action a component of the Government's election commitments: health screening and tracking of at-risk workers.

Schedule 1 [34] inserts new sections 273A and 273B into part 14, division 1A. Firstly, section 273A will enable SafeWork NSW to establish a silica work register and require PCBU's to act in accordance with the regulations. The second component of this new division, at section 273B, will ensure that the register is not publicly available but will enable the information contained in the register to be shared with SafeWork NSW, icare and any other government sector agency, as prescribed in the regulations. These amendments ensure there are sufficient regulation-making powers in the Work Health and Safety Act to establish a register, with further work and consultation with unions, employers, industry and other stakeholders, including all members of this place, to be undertaken when developing work health and safety regulations in future.

This amendment to the Act creates the framework required to implement that important election commitment. It is envisaged that the register will inform health screening; enable epidemiological research and research on the incidence, distribution and control of the disease; and track engineered stone workers who are exposed to respirable crystalline silica and workers in other high-risk industries. This framework will enable the appropriate government agency to track and trace these workers to ensure they are able to access appropriate health screening and to enable monitoring of their condition over time. As members would be aware, in February this year the national work health and safety Ministers approved the drafting of a further decision regulation impact statement or report by Safe Work Australia to explore what options are available to governments in relation to the future of engineered stone. The report will be considered at a national meeting of work health and safety Ministers in October.

Silica dust also occurs in quarrying, concrete, mining and tunnelling industries. These industries were not part of the terms of reference. As a result, the outcome of the report may affect the design of the register. The Government does not intend to proceed with implementing the register until after the October meeting. This important amendment will further protect workers from the dangers posed by silicosis by removing ambiguities and clarifying regulation-making powers. Members on this side of the House have done a lot of work, as have members of the upper House Standing Committee on Law and Justice. I acknowledge my colleague the Treasurer, the Hon. Daniel Mookhey, as well as the Hon. Greg Donnelly, the Hon. Mark Buttigieg and the Hon. Anthony D'Adam for their work on these issues over a number of years.

Labor pushed the former Government very hard to make tougher laws. I acknowledge the former Government made minor changes to dry cutting, but we have a long way to go as we do not have a register of workplaces. A number of stonemasons gave evidence at one of the committee hearings. It was devastating to hear two men speak about their experience of being unable to breathe. They were stonemasons in their 40s, with families, who are living a terrible life because they contracted silicosis. Prior to 2017 there were very few cases. This will be asbestos 2.0. Finally, the bill puts forward amendments to the Act to remove ambiguities and clarify regulation-making powers to support the legislative framework for public registers, approval or authorisation of training providers and courses, and associated fees.

Through the bill the Government seeks to ensure that our work health and safety legislation continues to be fit for purpose in ensuring our workers are protected from the risks associated with a modern workplace. The Government wants to ensure that penalties for noncompliance are appropriate and in step with community expectation, and that they are as consistent as possible with the workplace health and safety national framework. In bringing the bill forward, the Government is addressing some of the final issues identified in the national process and amending other areas to address ambiguities and provide clarity, ensuring that work health and safety regulators can conduct their regulatory functions and contribute to the management of risks to workers' health and safety.

I thank the unions, industry, employers, stakeholders and community members who took part in consultation on the bill. I acknowledge my staff and SafeWork representatives. I acknowledge also the Australian Industry Group, Business NSW, Unions NSW and the Unions NSW WHS committee, the Transport Workers' Union, the NSW Nurses and Midwives' Association, the Master Builders Association, the Australian Chamber of Commerce and Industry, the Australian Council of Trade Unions and the Construction, Forestry, Maritime, Mining and Energy Union. As the Minister for Work Health and Safety, it is my priority to ensure that work health and safety in New South Wales is truly a tripartite process. I commend the bill to the House.

Second Reading Debate

The Hon. SCOTT FARLOW (15:59): I lead for the Opposition in debate on the Work Health and Safety Amendment Bill 2023 and state that the Coalition will support the bill. The Coalition left a robust regulatory framework for enhancing health and safety in New South Wales workplaces. The consistent downward trajectory in work deaths and injuries demonstrates that New South Wales is on the right path. We must strive to continue that progress. Everyone has the right to be safe at work and to come home at the end of the day. The goal should always be to reach zero deaths and injuries in the workplace. New South Wales wasted no time under the Coalition and was well ahead of other jurisdictions in implementing many of the Boland review recommendations for reform of the model law. Uniformity of law throughout Australia is an extremely desirable outcome. The Coalition also supports commonsense improvements to enhance worker safety in the gig economy and to deal with the challenges of growing cases of silicosis in the workforce. The bill inserts into the Work Health and Safety Act 2011 amendments made to the national model work health and safety law as well as several unrelated miscellaneous amendments.

Firstly, I turn to the proposed silicosis worker register. There has been a significant increase in silicosis cases in recent years and many are linked to the manufactured stone industry. The Coalition's acknowledgement of the silicosis issue and the need to manage the emerging cases and prevent the risk of new exposures led it to make reforms when in government. It is clear that working with engineered stone may expose workers to the risk of silicosis and other silica-related diseases. In 2020 the Coalition Government released the NSW Dust Strategy to respond to that deadly threat, and it was a high priority for SafeWork. The Coalition established a register of diagnosed silicosis cases through the Dust Disease Register and made silicosis a notifiable disease. Further, the Coalition introduced a ban on uncontrolled dry cutting of manufactured stone and put a strong focus on compliance operations and boosting education and awareness to the threat of silicosis. Hopefully, there will soon be more detail on how the register will be designed, its scope and how it will operate in practice. It has all been left to regulation.

New section 273B requires that the information on the register must not be publicly available and only released to SafeWork, icare or others as determined by regulation. The Government is doing a lot of work via regulation since its election. The threshold of exposure required to be captured by the register and the industries that will be included are unclear. Whilst the intention of the register is to protect health, it must avoid mission creep, and ensure that privacy is protected and that access to information is strictly confined to the required health purposes only.

Secondly, the Liberal-Nationals Coalition has long recognised the need to improve safety for workers in the gig economy. In the many years since the gig economy took off, several delivery workers have died in road accidents and too many more have been injured. The aim must be zero. When in government, the Opposition established the food delivery rider industry taskforce, which charted a clear plan and path forward to improve safety in the food delivery industry. The Coalition introduced the regulation that required mandatory induction training for food delivery drivers and the wearing of high-vis protective equipment.

The Opposition will support the reasonable amendment put forward by the Government in the bill, which is in keeping with the original intention of our reform and which enhances the capacity to enforce it. The amendment to the regulation clarifies that a police officer is an authorised officer for offences under the clause. The regulation already requires a delivery rider to make their training verification record available on request by an inspector or police officer. The amendment gives the power for a police officer to issue a penalty notice if the record is not made available or the rider does not use or wear the mandatory high-vis personal protective equipment. Police are better placed than SafeWork inspectors to enforce that on the ground. That will provide better outcomes and enhance rider safety. Opposition members agree that it is not about politics. We are united on the need for zero tolerance and strong compliance action. The impact on the families and friends of those who have died is traumatic, and further tragedies must be prevented.

I now turn briefly to the national model law amendments. The Liberals and The Nationals are committed to the process to harmonise work health and safety laws nationally. When in government, the Opposition adopted the national model law in 2011 and expedited the legislating of many of the Boland review's recommendations for reform in 2020. National harmony of law in this area allows New South Wales construction, engineering and other companies to have seamless operational policies between States and Territories, which is not possible when the laws are different throughout the Commonwealth. The bill implements a few of the outstanding amendments

to the model law, including some that were only recently released, and ensures alignment between the model law and the New South Wales Act.

The shadow Minister for Work Health and Safety, the member for Willoughby, Tim James, has asked me to thank the stakeholders who were consulted in relation to the bill and acknowledges the extensive consultation that has occurred at the national level on the national model law changes. The Coalition will support the sensible amendments put forward by the Government to improve our work health and safety laws found under the bill. I commend it to the House.

The Hon. JEREMY BUCKINGHAM (16:04): I support the Work Health and Safety Amendment Bill 2023 and pay particular attention to the excellent provisions in the bill that relate to the creation of a register to track at-risk workers from silicosis. I commend the work of the new Minister, the Hon. Sophie Cotsis—a very competent and diligent Minister working in this area. It is good to have a Labor Minister in charge of workplace health and safety in this State. As a former stonemason, I take a particular interest in this, because I am going to be on that register. I am at risk of death from silicosis because I worked as a stonemason for 15 years and, before that, I worked in construction and concreting. It is something that I and too many other labourers, stonemasons, tunnellers and quarry workers are going to have to deal with. Registering those workers is a good first step down that pathway. Again, I commend the Minister for beginning the work that is happening in New South Wales and federally.

Silicosis is an incurable and suffocating disease that has devastated dozens of workers across the State and has killed men who have barely reached middle age. I am pleased that the Government is going to track at-risk workers. It is important to do more for those already impacted and to act quickly in preventing more exposures. Silicosis can ravage the lungs of workers after they have inhaled tiny particles of crystalline silica while they cut and grind stone that contains the mineral. The disease dates back centuries, but the boom in countertops made of engineered stone, which has much higher concentrations of silica than many kinds of natural stone, has driven a new epidemic. Limestone and marble contain little or no silica. Granite can contain up to 50 per cent silica. Engineered stone countertops may contain over 90 per cent silica.

As the dangerous stuff builds up and scars the lungs, the disease can leave workers short of breath, weakened and, ultimately, suffering from lung failure. Acute silicosis can develop after a short exposure, within a few weeks or years, to very high levels of silica dust. Accelerated silicosis can develop after exposures of three to 10 years to moderate to high levels of silica dust. Chronic silicosis can develop after long-term exposures to lower levels of silica dust.

Instead of cropping up in people in their 60s or 70s, after decades of exposure, it is now afflicting people in their 20s, 30s and 40s—the young—who, essentially, have a terminal diagnosis. Workplace safety regulations such as water spraying systems, ventilation, vacuum systems to clear the dust and protective respirators for workers are critically important. But safeguards alone will not effectively protect workers grinding material so high in silica. Health screenings by WorkCover Queensland found that almost one in five stonemasons in Queensland have a potentially deadly lung disease. In New South Wales, between July 2022 and June 2023, a total of 65 silicosis cases and nine silicosis deaths were notified to NSW Health by icare. All were male, 47 of them had worked with engineered stone and 14 had worked in construction.

On 16 August 2023 Safe Work Australia provided a report making recommendations to Commonwealth, State and Territory work health and safety Ministers on options to prohibit the use of engineered stone. That report will be considered at a national meeting of work health and safety Ministers in October. I appreciate the briefing I received from the Minister's staff yesterday. I hope that as a result of that meeting comprehensive steps will be taken nationally to ensure that workers and the community will not be further impacted by this clearly unsafe material. In its 2023 submission, the Australian Institute of Occupational Hygienists wrote:

... the argument for a 40% cut-off for crystalline silica content in products is flawed. This is because the dust from engineered stone, which often contains a high percentage of crystalline silica, has different properties than dust from natural stone.

As a stonemason I experienced that firsthand. When I cut granite, the dust was coarse and heavy and did not float through the air. It did not smell, and it was very easy to manage. The engineered stone material acted almost like a smoke or a vapour. I could see that the very fine particulate dust, even if it was wet, would coalesce in an area. As soon as it was dry, the tiniest amount of wind or movement would send it airborne again. It did not operate in the same way as granite, which is the main material that is an alternative to engineered stone. I do not believe that there is a safe level of silica from this product because of the way that it is made. It is clear that the Australian Institute of Occupational Hygienists agrees with me. The submission continues:

While a cut-off of 10% crystalline silica ... can be expected to keep *average* exposures ... below the Workplace Exposure Standard ... there are also other products in engineered stone that can cause health issues. Amorphous silica from recycled glass can also be present which is also harmful when inhaled. Therefore a precautionary approach is warranted.

The submission also reads:

The aim of the National Dust Disease Taskforce and the government is to eliminate silicosis, so selecting an "acceptable" percentage of crystalline silica would be inconsistent with this goal. ... Natural stone also varies in its silica content and cases of silicosis occur in workers who process natural stone and minerals with silica content well below 40%. The risk of silicosis is not acceptable for workers in either natural stone or engineered stone.

Should people be dying for a beautiful countertop? My answer to that is an unequivocal no. The submission continues:

Even when using methods like wet-cutting and ventilation, it's hard to control the amount of silica dust in the air to below regulatory limits.

Even when wet-cutting, material is collected in the area, dries up and moves around. The submission continues:

Recent studies have shown that even with these methods, workers are still exposed to too much silica dust. This means that workers need to routinely wear respiratory protection to protect themselves. There are compliance issues with safety practices in the stone industry, and therefore a cautious approach is needed.

My experience was that there were a lot of people in the industry from non-English-speaking backgrounds. There were a lot of people who were not reading the workplace safety data sheets and who were not told of the risks. I worked with a lot of Vietnamese fellows in Caringbah and Cronulla in the late 1990s. They had no idea. Those guys were sucking on a fag and getting the dust up in their face. I am sure that some of them are facing a very bleak future with various types of silicosis. The Australian Institute of Occupational Hygienists concluded that it is:

... supportive of a prohibition on the use of engineered stone, including a prohibition on the use of all engineered stone irrespective of its crystalline silica content.

Despite the rise of the silicosis, home owners shopping for countertops usually know little about the threat it could pose. Do-it-yourself home renovators will be breaking up benchtops without respirators for years to come. Engineered stone is a hazard and we should stop importing it. There are many alternatives such as natural stone or timber. As you and I have discussed, Mr Deputy President, there should be a range of measures from the national task force, including education in the community—I think that is a good first step. If governments decide to keep these materials in the marketplace, even at lower silica levels, licensing for manufacturing and installation should extend to removal. We will need to remove these products from workplaces and houses for generations to come.

Honourable members need only look at their own sinks. Those lovely white benchtops and sinks that were just recently installed in our offices are Caesarstone: a deadly material. Someone has died or may well die for those pretty white benchtops. Some of the hotels and office blocks in this area have thousands of various vanities, countertops, floors and cladding all made out of that material. It is a legacy issue that we will be dealing with for a long time. There certainly needs to be education about the issue, and regulation so that we do not have young men and women working to remove the material who are not licensed. A key factor with those materials is that while you can break them up, a lot of the time you still have to dry-cut them on a site during both installation and removal. The epoxy glue used to bind the material to a wall or to a countertop means that it has to be cut to be removed. I have done that scores of times. That will probably continue to be the case for generations to come.

I am pleased that the Government has begun work in this area. As I said, I received a briefing from the Minister on what is happening nationally. I believe that a ban on the material is the least that we can do. In the coming months and years, we will see scores of young men and women who have worked in this industry die unnecessarily from a dangerous product. This is the beginning of reform in this area. There is more to do. As I said, licensing and education will be key. This is a good bill. It is a good start and I commend the bill to the House.

The Hon. Dr SARAH KAINE (16:17): I speak in support of the Work Health and Safety Amendment Bill 2023. I commend the Minister for Work Health and Safety for bringing the bill to the House. I note that the Minister has been in the gallery for much of the debate and recognise her long-term commitment to improving health and safety outcomes for workers. I thank the Minister for that. I support the bill for its commonsense and important reforms that enhance protections for workers and clarify existing provisions. This Government, under the leadership of Premier Minns, will strive to make sure the workers of our State can return home safely to their families every night. That has been one of the core goals of the labour movement and of the Australian Labor Party. Today we continue in the tradition of past generations of Labor parliamentarians and union members who advocated to protect workers from the dangers of the workplace.

One area where the bill enhances protections at work relates to delivery riders working for online platforms. That is an area in which I undertook research when I was an academic. I acknowledge the reforms instituted following the establishment of the Food Delivery Riders Safety Taskforce in 2020. The taskforce, co-led by

SafeWork NSW and the Department of Transport, working with the NSW Police Force, unions, industry and other stakeholders, developed a series of recommendations that led to the development of the Work, Health and Safety Amendment (Food Delivery Riders) Regulation 2022. The food delivery rider regulation commenced effect on 1 January 2023 this year. The amended regulation included measures to ensure riders are provided with compulsory work health and safety induction training and essential high-vis personal protective equipment [PPE] by the platforms they have signed up to. It also established the necessary record-keeping requirements to support and verify these measures have taken place.

When that regulation was made by the former Government last year, it was intended to reflect the policy position, arising out of the joint taskforce on food delivery rider safety, that police and SafeWork NSW inspectors would play a compliance role in ensuring the safety of food delivery riders. That compliance role included giving police the ability to issue notices to riders for not wearing hi-vis PPE while on the road if it had been provided to them by their platform. Due to poor drafting of the original regulation, that policy position was not achieved, and we are now seeking to rectify this error.

Currently approximately 348 SafeWork NSW inspectors cover the State of New South Wales. They are the only authorised officers capable of enforcing compliance with clause 184U offences. Considering the scale of the food delivery industry in our metropolitan centres, it makes sense to extend the definition of "authorised officer", in these circumstances only, to police officers. As police officers are already responsible for traffic-related regulations, they are best placed to assist SafeWork NSW in ensuring delivery riders abide by the existing safety regulations. Penalties are one of the key tools used to deter unsafe behaviour, especially unsafe behaviours at work that expose workers and others to risk of death or serious injury. It is essential that provisions in the Act and regulation provide sufficient deterrent to discourage unsafe behaviour and to encourage safe behaviour, which in this case includes encouraging food delivery riders to wear hi-vis when they are undertaking their dangerous work.

We know that if a platform's riders consistently fail to wear PPE then SafeWork NSW will take compliance action against that provider. That occurred as recently as 24 August 2023, when SafeWork NSW issued five provisional improvement notices against a delivery platform in Sydney whose riders were consistently not wearing hi-vis as required by the regulation and had not undergone mandatory safety training. As the McKell Institute noted in April this year, delivery riders working for online platforms continue to face dangers, and we have seen tragic fatalities over the past few years. Over one-third of transport gig workers surveyed as part of the study reported being injured during their work. Anyone who has visited one of our major dining and entertainment precincts, such as King Street or Enmore Road in Newtown, would be aware of the large number of delivery riders working on any given day. At present, there is a 93 per cent rate of compliance amongst food delivery riders with the requirement to wear hi-vis. We need to get compliance as close as possible to 100 per cent, given the obvious dangers and incidence of fatalities in the sector.

Amending section 243 of the Act enables New South Wales police to act as authorised officers regarding breaches of clauses 184U (1) and 184U (2) of the Work Health and Safety Regulation, which will better protect food delivery riders. This small change will allow for stronger and more effective safety compliance measures, ensuring food delivery riders are safer at work. That amendment is not controversial and is not about punishing food delivery riders, as evidenced by compliance actions taken against platform providers who are not doing the right thing. It is about ensuring the safety of food delivery riders when they are on the road undertaking what has become one of the most dangerous occupations in the modern labour market. The safety of food delivery drivers is a matter this House should take seriously, and we should not stand in the way of improving safety measures. Indeed, we should actively support them. I commend the bill to the House.

Ms ABIGAIL BOYD (16:23): I contribute to debate on the Work Health and Safety Amendment Bill 2023 as the work health and safety spokesperson for The Greens. The Greens support the bill. The bill introduces a number of amendments to the Work Health and Safety Act 2011 [WHS Act] as well as the Work Health and Safety Regulation 2017. The majority of amendments to the WHS Act incorporate amendments to the national Model Work Health and Safety Act, a national model law that does not by itself have any legal effect and thus requires legislation at a State level to provide a harmonised national work health and safety system. Those amendments relate to penalty amounts, prohibited asbestos notices, the powers and responsibilities of inspectors and the liability of corporations for the actions of officers, employees and agents. Additional amendments include the establishment of a silica worker register, clarification of ambiguities regarding the power of the Minister to direct inspectors, and provision for a register of workers exposed to silica dust.

The bill also seeks to enable New South Wales police officers to issue penalty notices in relation to food delivery requirements. Since July 2008, New South Wales has been a signatory to the harmonised WHS framework. The 2018 review of the model laws was commissioned by Safe Work Australia, and New South Wales was one of the first States to move by implementing 12 recommendations from that review in 2020. Further

amendments to the model law have since been published earlier this year by Safe Work Australia, reflecting some of the remaining recommendations from the 2018 review. Those amendments are reflected in this bill.

The majority of amendments relate to increases in penalties for breaches of the WHS Act and provide for the concept of imputation to apply in relation to the conduct of a company in breach of the WHS Act. The bill also introduces a power to enable the WHS regulator to direct the removal of illegally installed asbestos. Further, the bill fulfils a recommendation of the New South Wales Ombudsman's *Investigation into actions taken by SafeWork NSW Inspectors in relation to Blue Mountains City Council workplaces* to clarify that section 162 of the WHS Act does not permit an inspector to be directed to exercise compliance powers on a matter unless the inspector has a reasonable belief or reasonable suspicion or is satisfied on the issue of the matter. I understand this is a recommendation arising from the Ombudsman's report. I appreciate the desirability of the proposed amendment, all things being equal. It is appropriate for the safe work regulator to be independent of the whims of government, and it should not be deployed for political purposes. However, unfortunately, all things are not currently equal.

The current workplace regulator is woefully inadequate, rife with cultural dysfunction, shockingly negligent in its oversight and enforcement, far too business friendly, and too slow to do a site visit and protect the interests of workers. I admit to being more than a little anxious about the prospects of removing the ability for the Minister's office to make the urgent interventions necessary to actually compel SafeWork NSW to crack down on unsafe workplaces. There is currently a review underway into the culture at SafeWork NSW, and hopefully the outcomes of that review will address some of those concerns. On that basis, The Greens are willing to support this amendment, which is coming from the right place but is perhaps a little early for our liking.

Item [34] of schedule 1 to the bill inserts new sections 273A and 273B into part 14, division 1A of the Act. Section 273A will enable SafeWork NSW to establish a silica worker register and require a person conducting a business or undertaking to act in accordance with the regulations. Section 273B ensures the register is not publicly available but will enable the information contained in the register to be shared with SafeWork NSW, icare and any other government sector agency, as prescribed in the regulations. The silica worker register provides a framework for identifying high-risk occupations where workers are exposed to crystalline silica. The framework leaves open the possibility of tunnelling and quarrying to be included in these high-risk workplaces, as well as engineered stone workers.

The register is intended to enable longer term surveillance screening of affected workers to ensure they are able to access care if they contract silicosis. The results of the Victorian silicosis screening program were recently published, confirming that one in every four engineered stone workers in Victoria had a silica-related disease. The same prevalence was reported by the silicosis screening program in Queensland. The Victorian screening program confirmed that relying on symptoms or screening with spirometry or chest X-ray will miss many cases of silicosis. Unfortunately, those exact same methods are used by the majority of workers screened in New South Wales.

The current reported prevalence of stoneworkers with silicosis in New South Wales is one in every 12, or around 7 per cent. That prevalence represents approximately 25 per cent of that reported by adjoining States for the same period. This low reported prevalence in New South Wales is more likely to reflect differences in respiratory surveillance methods between New South Wales and its neighbouring States rather than a difference in silicosis statistics and health protection. That is important because if the prevalence in New South Wales is truly closer to that reported in Queensland and Victoria—between 22 per cent and 28 per cent—then more than 400 cases of silica-related diseases are expected, based on the number of workers screened by icare. That would represent a shortfall of over 200 undiagnosed workers in New South Wales who may not be receiving essential care and support.

It seems likely that the number of cases in New South Wales is being severely underestimated. Given that only 18.8 per cent of stonemasons working in the engineered stone sector in New South Wales had a CT scan, the question that is therefore raised is how the Government plans to update the existing systems for discovery and reporting of silicosis cases in engineered stone workers. Importantly, in the context of the bill, on what basis of surveillance will the silica workers' register be established? It is all well and good to have a register of workers who may have been exposed, but to operationalise that information we need to provide the highest and most appropriate level of medical screening, both during and after work, so we can identify silicosis early enough to provide adequate and life-saving care.

Concerns around transparency and credibility persist. In the 2019 review of the Dust Diseases scheme, representatives from SafeWork NSW reported that three-quarters of stonemasonry businesses were undertaking regular air monitoring. However, information from within SafeWork demonstrated that its inspectors knew that only 5 per cent of businesses in engineered stone had conducted air monitoring during the same period. The 2019 review recommended that all engineered-stone fabrication sites and employers conduct regular air monitoring and provide the results. SafeWork rejected that recommendation on the grounds that regulations

already existed and that the implementation of a code of practice and continued scheduled visits were appropriate methods to address the issue of poor levels of compliance with air monitoring.

The 2021 review of the Dust Diseases scheme again made recommendations to improve air monitoring. SafeWork claimed that it was already undertaking compliance actions. During the period from 2020 and 2021, SafeWork issued 126 notices, only one of which was a notice relating to air monitoring for engineered stone. Further, an inspectors' guide was uncovered via a call for papers which informed SafeWork inspectors that they should expect that not many small- to medium-sized businesses would have conducted air monitoring and that it was recommended not to issue notices to those businesses.

We know that silica dust is invisible and the only way to know how much workers are being exposed to it is through air monitoring. The Minns Government has claimed to require businesses to undertake regular air monitoring and to report those results to SafeWork NSW. However, considering the evidence that was previously uncovered by this Parliament relating to SafeWork's requirement to comply with air monitoring, questions were reasonably raised about the accuracy of the data coming from that agency, given the information found and the other scandals surrounding the as yet unreformed SafeWork NSW. That is before we consider the inclusion of tunnelling and quarrying workers.

Whilst the creation of a framework to create a silica workers' register is important and will assist the Government in caring for affected workers, this reform alone will do nothing for the safety of workers. We vitally need a ban on engineered stone, improved surveillance of possible exposures and an interventionist and capable workplace safety regulator. We are pleased to see a Minister who is prepared to tackle what will be an enormous task of reforming the work health and safety schemes in this State, particularly when it comes to SafeWork NSW, icare and eventually, under a different Minister, the State Insurance Regulatory Authority. We support the bill. We have one amendment that relates to the powers being given to police officers, which I will address in the Committee of the Whole.

The Hon. CAMERON MURPHY (16:32): I speak in support of the Work Health and Safety Amendment Bill 2023. I commend Minister Cotsis for her great work generally, her longstanding commitment to workers' rights and safety, and for the particular amendments proposed in the bill. It marks another great forward step in protecting one of the State's most important assets: our workers. I will confine my remarks to the amendment of section 274 of the Act, which will streamline consultations regarding slight amendments to codes of practice in the work health and safety [WHS] sphere.

As the Minister noted, codes of practice are an essential element of the WHS regulatory system in New South Wales and form a key part of the WHS legislation used in Australia. Currently 48 codes of practice are in use by SafeWork NSW. Rather than overly detailed prescriptive legislation, codes of practice, voluntary standards and non-statutory guidance material are used to promote safe workplace environments. Codes provide expert advice, showing duty holders how to keep their workers safe and achieve compliance. Codes also need to be updated regularly in consultation with key stakeholders, such as industry and trade unions, as technology changes and expert WHS knowledge grows and shifts.

However, the current legislation stipulates that tripartite consultation between jurisdictions, industry and unions needs to occur for even minor administrative and grammatical changes to the codes of practice. This scenario is onerous, time-consuming and resource-intensive, requiring the deployment of the SafeWork NSW staff from other critical work to achieve the minor changes sought. The amendment will enable a more efficient, timely and effective administrative process for rectifying minor typographical or grammatical changes. It proposes to do away with the requirement for consultation only around minor adjustments to a code of practice. The amendment will not remove the overriding requirement that the Minister may only approve, vary or revoke a code of practice if the code was developed by a process that involved consultation between the governments of the Commonwealth and each State and Territory, unions and other employer organisations.

Furthermore section 274, as per clause 36 of schedule 1 to the bill, will be amended to remove the requirement that when a code is amended, varied or revoked the Minister is then required, as soon as practicable, to publish a notice in a newspaper circulating throughout the State. That change reflects that we are now in a digital age. SafeWork NSW has expressed concern that this requirement is both onerous and imposes significant recurrent costs on New South Wales and has negligible benefits for workers and industry in the State.

As the Minister noted, SafeWork NSW's usual practice is to publish any updated code of practice on its website and social media channels. This information is then republished in a plethora of online journals and publications about safety, industry and the law. The SafeWork NSW website and an electronic newsletter, as well as updates on social media, are platforms for sharing information about codes of practice that are more effective and far less costly than print newspaper advertisements. They will also reach many more people. However, it

should be noted that this amendment removes only the requirement to advertise in newspapers. All variations, revocations or updates to a code of practice would continue to be notified in the gazette.

These simple, common-sense amendments will provide savings to the Government purse and remove the onerous requirements that inhibit SafeWork NSW's operations. As a former practitioner in WHS law, I know the importance of these amendments for workers' safety. We need to do a lot more to enhance workers' safety, but I am pleased by the attitude and work ethic of the new Minister, who is setting about ensuring that we put workers' safety first. For those reasons, I commend the bill to the House.

The Hon. MARK BUTTIGIEG (16:39): On behalf of the Hon. Daniel Mookhey: In reply: I thank the Hon. Scott Farlow, the Hon. Jeremy Buckingham, the Hon. Dr Sarah Kaine, Ms Abigail Boyd and the Hon. Cameron Murphy for their contributions. As honourable members have heard, the Government is committed to ensuring that workers in New South Wales have healthy, safe and productive working lives. There is no priority more important for this Government than the safety of workers at work. The reforms in the Work Health and Safety Amendment Bill 2023 will contribute to that priority by addressing critical issues in our work health and safety [WHS] laws that were identified at a national level through the 2018 review of the model work health and safety laws.

As we have heard, the bill seeks to amend the Work Health and Safety Act 2011 to, one, implement some of the outstanding recommendations of the 2018 Boland review of the model work health and safety laws; two, increase penalties for breaches of the Work Health and Safety Act; three, make miscellaneous amendments to address ambiguities, clarify intent and remove superseded or obsolete requirements; four, set up the framework to allow the Government to deliver on one of its key election commitments for silica by establishing a silica worker register in the future to monitor the health of workers exposed to silica dust; and, five, ensure that there are sufficient regulation-making powers under the Work Health and Safety Act. It is vital that these reforms take effect in New South Wales workplaces as soon as possible to prevent workers from being exposed to dangerous and unacceptable risks to their health and safety.

The proposed amendments will provide strong incentives for persons conducting a business or undertaking [PCBUs] and workers to comply with the law, specifically by strengthening the deterrent power of the WHS Act by clarifying that an officer may commit a category 1 offence under section 31; increasing the penalties within the WHS legislation, including a significant increase to the category 1 offence; providing the WHS regulator with the power to issue a notice to a PCBU, where prohibited asbestos is found in a workplace, to manage and remove that prohibited asbestos; allowing for the imputation of liability of bodies corporate for the conduct of officers and agents; prohibiting a person from taking out insurance for penalties imposed under the WHS Act; and ensuring that food delivery riders are as safe as possible when they are on the road.

In bringing forward this bill, the Government is addressing some of the final issues identified by the national process. The bill amends other areas to address ambiguities and provide clarity, ensuring that WHS regulators can conduct their regulatory functions and contribute to the management of risks to workers' health and safety. Through the bill, the Government seeks to ensure that its WHS legislation continues to be fit for purpose in ensuring that workers are protected from the risks associated with the modern workplace, that the penalties for noncompliance are appropriate and in step with community expectation and that it is as consistent as possible with the WHS national framework that we sit under.

I comment on issues that were raised during the debate. The Hon. Jeremy Buckingham and Ms Abigail Boyd raised issues pertaining to the silica register. I appreciate the points raised by the honourable members about the silica crisis that currently exists in the engineered stone industry. Some estimates have suggested that as much as 23 per cent of workers in the engineered stone benchtop industry are living with silicosis. That needs to end. As members would be aware, in February this year the national WHS Ministers approved the drafting of a further decision regulation impact statement or report by Safe Work Australia to explore what options are available to government in relation to the future of engineered stone. The report will be considered at a national meeting of WHS Ministers in October. Subject to agreement by the national WHS Ministers, the model WHS laws and regulations may be changed as a result of the statement.

The report as it concerns the future of the use of engineered stone in Australia will consider, among other issues, what a future licensing scheme for engineered stone will look like. The Minns Government is committed to taking strong action to address the scourge of silicosis in the workplace. As part of its election commitments taken to the people of New South Wales in March this year, the Government has sought to implement further reforms to tackle this risk. The bill will action a component of one of those election commitments—that of health screening and the tracking of at-risk workers. It is a commitment the Government can move on without impacting on the current national process in relation to the future of engineered stone.

It is important that there is a national approach to address the risk of silica exposure, and it is pleasing that progress is being made at a national level. However, as the Minister has made clear, if national action fails, the New South Wales Government reserves the right to work with other jurisdictions or move alone. It is also important to note, as canvassed in the bill and in my second reading speech, that the exact design of the silica register will be made through subsequent regulation. Stakeholder consultation is critical to ensuring that the new register will work for all stakeholders, and its design should be informed by their contributions, which includes workers and their unions but also businesses that employ workers who work with silica dust.

I turn to the issue raised by Ms Abigail Boyd about food delivery riders. I agree with Ms Abigail Boyd that protecting our food delivery riders, who work in the most vulnerable part of the gig economy, is of critical importance. The Government, however, believes that the changes in the bill relating to food delivery riders are both proportionate and necessary. As detailed in the Minister's second reading speech, the existing food delivery regulation came into effect on 1 January 2023. When that regulation was made by the former Government, it was intended to reflect the policy position arising out of the food delivery rider joint taskforce that police and SafeWork NSW inspectors would play a compliance role in ensuring the safety of food delivery riders. That compliance role included giving police the ability to issue notices to riders for not wearing high-vis protective personal equipment. Due to the poor drafting of the original regulation, that policy position was not achieved, and the Government is now seeking to rectify the error.

There are currently 348 SafeWork NSW field inspectors and approximately 16,000 police in New South Wales. The 348 SafeWork NSW inspectors are the only authorised officers capable of enforcing compliance with clause 184U, such as the requirement to wear high-vis. Considering the scale of the food delivery industry in major metropolitan centres and comparing the personnel available to SafeWork NSW and the NSW Police Force, it is common sense to authorise police to enforce compliance and issue penalty notices under this clause. Allowing police to issue penalties to food delivery riders for not wearing PPE is akin to allowing police to issue penalties to food delivery riders for not wearing a bike helmet or to taxi drivers for not wearing a seatbelt. It is about safety. It is not a controversial amendment, and it is not about punishing food delivery riders. It is about ensuring the safety of food delivery riders when they are on the road undertaking what has become one of the most dangerous occupations in the modern workplace.

Penalties are one of the key tools used to deter unsafe behaviour, especially unsafe behaviours at work that expose workers and others to the risk of death or serious injury or illness. It is essential that deterrents stipulated in the Act and regulations are sufficient to discourage unsafe behaviour. If one platform's riders consistently failed to wear PPE, then SafeWork would take compliance action against that provider and not the individual food delivery riders. That occurred on 24 August 2023 when SafeWork issued five provisional improvement notices against a delivery platform in Sydney because its riders were consistently not wearing high-vis as required by the regulations and had not undergone mandatory safety training. The safety of food delivery drivers is a matter that this Government takes extremely seriously, and this part of the bill is aimed at improving safety, nothing else. All members should support it.

As foreshadowed in the election campaign, this Government has a big agenda to further the rights of workers in the gig economy, and the Minister will have much more to say about that very soon. As I said, I thank the following members for their contribution to the debate: the Hon. Scott Farlow, the Hon. Jeremy Buckingham, the Hon. Dr Sarah Kaine, Ms Abigail Boyd and the Hon. Cameron Murphy. In relation to Ms Abigail Boyd's concerns with the proposed amendment to section 162 of the Act as well as SafeWork's current performance as a regulator, that is the reason the Government pushed so hard for the McDougall review, which is due to hand down its findings on 29 November 2023. The Government wants SafeWork to be a regulator that all stakeholders can have confidence in.

The bill will strengthen our work health and safety regulators' efforts to reduce workplace fatalities and injuries and embed a health and safety landscape in New South Wales workplaces. I know that all members of this House agree that that issue is of critical importance. The Government thanks all stakeholders who were consulted about the bill, in particular unions and business. I acknowledge the presence of Minister Cotsis, who is always in the gallery to steward these bills through. She has put a lot of work in on the bill. I commend it to the House.

The DEPUTY PRESIDENT (The Hon. Dr Sarah Kaine): The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The CHAIR (The Hon. Rod Roberts): There being no objection, the Committee will deal with the bill as a whole. I have one sheet of amendments, The Greens amendment No. 1 on sheet c2023-087B.

Ms ABIGAIL BOYD (16:53): I move:

No. 1 **Food delivery riders**

Page 13, Schedule 2[5], lines 40–43. Omit all words on the lines.

The amendment seeks to remove one of the proposed amendments in the bill to the Work Health and Safety Regulation 2017. If nothing else, the provision does not make grammatical sense. I say that with much love for people who draft legislation. I have been a lawyer for 30 years. I pride myself on attention to detail, and I still get stuff wrong all the time. We all do. The provision says:

For the Act, section 243 a police officer is an authorised officer for an offence under this clause.

It is very clear that "section 243" has been inserted in the wrong place. It does not make grammatical sense, and it is not in line with the way that provisions are drafted in other parts of the regulations. It is unfortunate that we could not have at least clarified that.

Putting that to one side, the provision is simply a reflection of where we are with this cohort of vulnerable workers. The oversight of workers does not equate to the protection of workers, and enforcing rules is not the same as keeping workers safe. It never has been, unfortunately. If it were that simple, it would be great. The impact of the provisions depends on the context in which they are imposed. The context here is a cohort of predominantly young, migrant workers or people of colour for whom the gig economy is a place of last resort to make money to make ends meet. A huge percentage of those workers are earning below the minimum wage. They are some of the most underpaid and impoverished workers in this State.

Food delivery workers currently have no paid sick leave. They have no automatic superannuation contributions and no guaranteed access to workers comp. They face significant financial disadvantage if they need to take any time off due to illness or injury. They do not choose to ride dangerously or without PPE, as we saw in all the investigations, whether it was the inquests into the very sad deaths of food delivery riders or the evidence we heard during the upper House's Future of Work inquiry. The riders do not choose to drive dangerously or without PPE because they want to risk their lives; they do it because they feel they have no choice. As far as the evidence shows us, they ride unsafely on busy Sydney streets because they have no other way to earn money to pay their rent, feed their family, buy medicine or pay their bills. In that context we are responding by imposing higher financial penalties on the drivers and calling it keeping them safe.

Safety measures at work and PPE are absolutely crucial. We are incredibly supportive of the regulations more broadly that set out the responsibility for big food delivery companies to provide the PPE equipment in the first place and take responsibility for the training of the riders. There is already a provision that allows a police officer to pull over a rider to inspect their training record. If the intent is simply to warn the riders, they could give them a warning at that time. My understanding is that there is a loophole used by police to impose a penalty anyway if they want to, but I am assured by the Minister that that is not the intention here. The intention is not to fine the riders; in most cases it is simply to give them warnings. That can already be done.

There is no evidence on which we can conclude that more policing will make food delivery drivers any safer. Based on all the evidence we heard, it is far more likely to increase the stress and pressure on those drivers and, if they are fined, to lead them to drive even more dangerously to make ends meet, because they cannot withstand the impact of that fine. One of the more grievous aspects of the provision is that it does not provide a defence for when the company has not provided PPE. Although there is an obligation for the company to provide all their workers with PPE, if they do not and the delivery driver gets caught, technically the driver can be fined under the provision. The Greens think it is unfortunate. We have spoken with the Minister's office about taking the provision out for now. It does not have to be forever. It could be taken out now, then put into the regulation at any time. We could seek to disallow that, but that would be all. It would not have to be brought back to the House. Take it out for now, then bring it back when it is made clear.

The provision is clunky and, because it is drafted differently to the rest of the provisions, is a little unclear as to whether police officers are authorised officers in addition to safe work inspectors, or whether they are the only authorised officers. Fundamentally it does not include things like a defence if someone has not been provided with PPE. It is not a good provision. In the context of everything that has gone on in the industry, and with all the other recommendations that are yet to be implemented, I do not think it is a big ask to take the provision out for now and seek to have it brought back in a more reasonable format. I commend the amendment to the House.

The Hon. MARK BUTTIGIEG (17:00): I address the amendment proposed by The Greens. It seeks to take out the provision for New South Wales police officers to be able to enforce the wearing of high-vis gear by delivery riders, which has been identified as a key risk factor. The Government will not be supporting the amendment. The part of the bill that The Greens are seeking to amend arose out of a joint taskforce that was established in 2020 to examine and make recommendations about improving safety at work for food delivery riders. The taskforce's recommendations included:

Recommendation 4

The NSW Better Regulation Division to consider options for any potential improvements to current WHS legislation to assist the regulator (SafeWork NSW) to have the necessary regulatory tools to drive compliance within this industry sector.

...

Recommendation 7

NSW Police conduct ongoing enforcement activities targeting food delivery riders to ensure compliance with NSW Road Rules.

As a result of the work undertaken by the taskforce, the Work Health And Safety Amendment (Food Delivery Riders) Regulation 2022 was drafted. It commenced on 1 July 2022, except for the provisions relating to penalty notices, which commenced on 1 January 2023. The penalty notice offences included penalties for platforms failing to provide high-vis personal protective equipment under clause 184Q, failing to ensure food delivery riders are provided with induction training under clause 184R, directing or allowing a food delivery rider to deliver food or drink without training under clause 184S, failing to keep records regarding food delivery induction training under clause 184 (1), failing to keep records of the provision of high-vis personal protective equipment to food delivery riders under clause 184T (2), failing to keep the records for five years under clause 184T (3) or failing to provide those records to SafeWork NSW upon request under clause 184T (4).

The penalties are significant. There is an on-the-spot fine of \$3,600 for a person conducting a business or undertaking [PCBU] trading as a corporation or \$720 for a PCBU trading as an individual. The clauses were drafted with the intent that they would be administered solely by SafeWork NSW in accordance with the responsibility for ensuring that PCBUs are providing a safe working environment and the necessary training, information and personal protective equipment. There are a limited number of platforms working in the industry, so regulating the platforms is under the remit solely of SafeWork NSW.

Clause 184U of the regulation, which provides for penalty notices to be issued to the individual food delivery riders themselves, was drafted with the intent that it would be jointly administered by both SafeWork NSW and the NSW Police Force. It was recognised at the time that when food delivery riders are working delivering food or drink they are operating under both the Work Health and Safety Regulation 2017, which is under the jurisdiction of SafeWork NSW, and the Road Rules 2014, which is under the jurisdiction of the NSW Police Force. Both pieces of legislation are intended to ensure people's safety when operating or working on a road.

The observations made by the joint taskforce clearly identified food delivery riders riding with inadequate high-visibility clothing, on footpaths, across pedestrian crossings, on noncompliant e-bikes, wearing hats under their helmets, in unsafe footwear such as sandals and sliders, on bikes not fitted with the required lights or reflectors, across light rail tracks, while using handheld mobile phones, and on the left side of buses and heavy vehicles. The bill proposes to grant New South Wales police officers the authority to issue penalty notices for two specific offences related to food delivery under clause 184U of the Work Health and Safety Regulation. The two offences are: one, not making training verification records available for inspection and, two, failing to use or wear high-vis personal protective equipment. The bill seeks to address operational challenges faced by the NSW Police Force. Section 243 currently allows authorised officers, defined as staff members of the regulator, authorised in writing, to issue penalty notices if they believe a person has committed a penalty notice offence.

The bill, if successful, will mean that an authorised officer will include a person prescribed by the Work Health And Safety Regulation. Schedule 2 to the bill amends the regulation to prescribe that a police officer is an authorised officer for the purposes of clause 184U. Currently New South Wales police officers are authorised to check compliance with the requirements of section 184U. However, they are not recognised as authorised officers for the purposes of section 243 and are unable to issue penalties for failing to comply with the requirements of section 184U. Extending food delivery penalty notice powers to New South Wales police officers is logical, because officers often regulate traffic offences involving delivery riders using the road network. That aligns with the original intent of the 2022 amendments to the regulation that granted New South Wales police officers the authority to issue penalty notices for food delivery-related offences. All other Work Health and Safety Act penalty notices can be issued only by SafeWork NSW inspectors.

The bill further clarifies the policy intent behind the 2022 Work Health and Safety Regulation changes and empowers New South Wales police officers to enforce compliance and issue penalty notices under clause 184U.

The Department of Communities and Justice supports the amendment to solve operational issues and enable police officers to issue penalty notices for those specific provisions. The Government's commitment is driven by a desire to honour the memory of food delivery riders who lost their lives by ensuring that work health and safety laws in New South Wales effectively protect workers in the sector. It is not about punishing food delivery riders; it is about ensuring that they are as safe as possible while they are on the road.

It is not controversial. If everyone can agree that food delivery riders should wear high-vis gear, then it follows that there should exist a penalty for not wearing such gear. Such a penalty provides a deterrent to enforce compliance and protect food delivery riders. I refer back to the statistics I alluded to in the second reading speech. There are 348 SafeWork officers, as opposed to 16,000 police officers, who are used to enforcing road and regulatory requirements. They are out there in the community every day and they know how to do it. We should not make the assumption that police are going to be overbearing or unnecessarily heavy-handed. Given it is a practical reform, we oppose the amendment.

The Hon. SCOTT FARLOW (17:09): The Coalition does not support the amendment for the very eloquent reasons that have been stated by the Parliamentary Secretary in his contribution to debate. The Coalition believes that the involvement of the police in this area will increase safety standards and that that also is in keeping with the 2022 reforms.

Ms ABIGAIL BOYD (17:09): I briefly thank members for their contributions to debate on the amendment. It is no-one's fault, but it is unfortunate in these situations that the Parliamentary Secretary was reading out notes that had been prepared previously and did not really respond to the points I had made. Nevertheless, I appreciate it. I thank the Minister and her team because they allowed me to speak at length and in detail about the issues. We could not get to the point of agreeing to an amendment, and I understand that the amendment will fail. But this is a good discussion to have had because, at the end of the day, we are all on the same page. We all want to keep these workers safe; we just have a different idea about how to do that in practice.

Under the previous conservative Government, the go-to position was often to use the police as a measure of enforcing rules and expecting that that would produce the anticipated results. It is no reflection on the police. It is no reflection on the good intent of the legislators. I just think we need to get a bit more clever when we are making laws, by looking at what the actual impact is in the context in which those laws are made. In this particular context I can only conclude that this is likely to have a detrimental rather than a helpful impact on the safety of workers. I encourage the Minister to continue her great work in this area. I particularly look forward to far more significant reforms coming through that will really provide that financial security for gig workers, which is the number one thing that will keep them safer on the roads.

The CHAIR (The Hon. Rod Roberts): Ms Abigail Boyd has moved The Greens amendment No. 1 on sheet c2023-087B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The question is that the bill to the House as read be agreed to.

Motion agreed to.

The Hon. MARK BUTTIGIEG: I move:

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

Adoption of Report

The Hon. MARK BUTTIGIEG: On behalf of the Hon. Daniel Mookhey: I move:

That the report be now adopted.

Motion agreed to.

Third Reading

The Hon. MARK BUTTIGIEG: On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a third time.

Motion agreed to.

STATE INSURANCE AND CARE GOVERNANCE AMENDMENT (ICNSW GOVERNANCE) BILL 2023

Second Reading Speech

The Hon. MARK BUTTIGIEG (17:14): On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

The intent of the State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023 is to provide improved governance for Insurance and Care NSW, also known as icare. The Minns Labor Government made a commitment to the people of New South Wales that we would reform icare. The Government has already acted to strengthen the icare board. The Government legislated to ensure that there are two directors nominated by employer and union representative organisations. The bill aims to complement that reform. The bill establishes clear objectives for icare and the icare board. Those objectives will provide guidance for the board members when they are exercising their functions as directors. The new objectives will help the board members focus on what needs to be achieved when they are setting icare's business strategy and plans and overseeing its performance. The objectives will provide a point of reference that every decision of the icare board must have regard to.

Icare should be, at its heart, a service provider organisation. It was established to consolidate service provision for the State's multiple insurance and care schemes—to be a centre of excellence for those schemes and provide an improved focus on return-to-work and quality-of-life outcomes. The bill will help icare focus on its original goals. The State Insurance and Care Governance Act 2015—that is, the SICG Act—sets out broad functions for icare as a service provider. Those functions describe the activities that icare is legally authorised to perform to fulfil its role. However, the Act currently provides no statement of objectives or overarching principles to guide the icare board and executive on what needs to be achieved when exercising those functions.

The proposed objectives will address a gap or imbalance in the current Act, which sets out principal objectives for the State Insurance Regulatory Authority [SIRA] but does not do the same for icare. The icare board is responsible for overseeing a very complex organisation that has objectives and functions spread out over multiple different insurance and care schemes, and pieces of legislation. Providing workers compensation is a key role for icare, but it is nonetheless only one of icare's many roles. Icare acts for the workers compensation Nominal Insurer, established under the Workers Compensation Act 1987. The Nominal Insurer provides workers compensation for private sector employers who do not hold a self-insurer licence or who are not covered by various industry insurance schemes. More than 330,000 employers are insured by the Nominal Insurer, providing cover for over three million employees.

In line with the Workers Compensation Act 1987, the Nominal Insurer is responsible for managing the Workers Compensation Insurance Fund, held on behalf of employers and workers. The Nominal Insurer held around \$20.4 billion in assets as of 30 June 2023. Workers compensation for dust diseases is regulated separately to other workers compensation. Icare has responsibility for administering this compensation on behalf of the Workers Compensation (Dust Diseases) Authority. Icare also provides workers compensation self-insurance for New South Wales government agencies and their employees through the Treasury Managed Fund.

In the financial year 2022-23, icare received more than 68,000 new claims for workers compensation on behalf of the Nominal Insurer. The Treasury Managed Fund received over 21,000 new workers compensation claims and paid over \$1.1 billion in benefits to sick and injured workers. Workers compensation insurance is, however, only one of the multiple services that icare provides. Icare also provides care and support for people who are seriously injured in motor vehicle accidents or sporting injuries. Over 1,800 people living with long-term injuries from road accidents are supported by the Lifetime Care and Support Authority administered by icare. People who are building their home are also protected by icare. Home owners have access to home building compensation insurance for incomplete work and unsatisfied statutory warranties in the event that their builder dies, disappears or is insolvent, or has their licence suspended for failure to comply with a money order made by a court or tribunal in favour of the home owner.

Icare provides self-insurance for the New South Wales Government through the NSW Self Insurance Corporation. New South Wales government agencies and government-related business are covered for a broad range of insurable risks. That includes claims for medical negligence, property and vehicle damage, natural disasters and other general liabilities. Icare also arranges insurance for New South Wales government construction projects, providing comprehensive cover for the agencies that commission projects and the contractors who undertake the construction.

Managing those multiple functions is a complex task. The bill sets out objectives, which are stated at high level, to help the icare board and executives navigate overlapping statutory functions and provide a clear direction. I also make it clear and stress the point that all of the objectives in the bill are intended to be of equal significance, with no objective taking precedence over another. Further, the proposed objectives do not negate or otherwise detract from the objectives of the different schemes that icare is responsible for or the statutory functions that icare has under the legislation establishing those schemes. Icare will continue to be responsible for achieving the statutory objectives of the workers compensation system, set out in the Workplace Injury Management and Workers Compensation Act 1998. Icare will also continue to be responsible for achieving outcomes for all the other insurance and care schemes that it administers on behalf of our community.

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

Leave granted.

The first objective confirms that icare must maintain the affordability of insurance and the efficiency and viability of all those schemes it administers. These schemes must be financially viable for the long term. Premiums, levies and other contributions to these schemes, as well as investment income, must be sufficient to meet its liabilities over time. Employers, workers, motorists and home owners must be confident that the extensive funds that icare holds on behalf of the community are managed efficiently and will continue to be sufficient to protect the community. The cost of these insurance and care schemes to the community must be affordable. The levies and contributions that fund these schemes must be based on the efficient delivery of services while also ensuring that statutory benefits are available and accessible. The treatment and care services provided must be high quality and help restore people financially and socially.

The second objective focuses, in particular, on the treatment and care services funded by icare through its personal injury insurance and care schemes. This objective emphasises that icare should focus on funding access to treatment and care that helps injured persons get back to work and to other activities in the community. It stresses the importance of ensuring that injured people have the best opportunity to participate in their community. The workers compensation system has clear objectives, which are set out in section 3 of the Workplace Injury Management and Workers Compensation Act 1998. The Act makes it clear that the workers compensation system should provide prompt treatment for injured workers; that workers should be getting effective and timely management for their injuries; rehabilitation should be available when it is needed; and the goal should be getting people back to work as soon as possible. That is key. That is critical. That is the Government's goal; that is icare's goal now. It is all of our goals, both employers and unions. It is about getting people back to work.

Section 1.3 of the Motor Accidents Injuries Act 2017 sets out objects for that Act. These include encouraging early and appropriate treatment and rehabilitation to maximise recovery from injuries. The proposed objective for icare reinforces the system-wide objectives for workers compensation and the statutory objects for motor accident compensation, along with icare's other personal injury insurance and care schemes. Establishing the proposed objectives for icare in legislation makes it clear that icare should be focused on achieving those system-wide objectives through its business operations. At the same time, it does not detract from or dilute icare's statutory responsibilities for those other schemes, such as the Home Building Compensation Fund, which it also supports.

The third objective in the bill for icare is to promote efficiency, transparency and accountability in the conduct of its operations. That objective reflects what is expected of a public financial corporation providing mandatory insurance across our community. Icare has unique functions and governance arrangements, which means it is appropriate to reinforce that expectation. Icare manages insurance and care schemes with billions of dollars in assets that are held in trust for our community. As of 30 June 2023, that included around \$20.4 billion for the Nominal Insurer and around \$9.2 billion for the Lifetime Care and Support authority fund.

Those schemes provide vital protections for the community, supporting people with injuries through challenging life events and providing a backstop to protect people who are building or renovating their homes. The community needs assurance that icare is conducting its operations as efficiently as possible to avoid putting upward pressure on premiums, levies and other contributions, and that the assets that icare holds in trust for the community will continue to deliver protection in the long term. The third objective confirms that icare needs to be accountable for how it undertakes functions, achieves its objectives and meets community expectations.

I now turn to the other provisions in the bill. Section 7 of the State Insurance and Care Governance Act 2015 provides that the responsible Minister can give written directions to the icare board if the Minister is satisfied that it is necessary in the public interest. The power is a necessary safeguard that ensures that I—or any future Minister—can intervene if necessary. The power can be exercised only in the public interest. The Act also requires the responsible Minister to consult the board before issuing a direction. That is sensible and appropriate. However, the Act currently provides that the Minister must seek advice from the board on whether, in its opinion, complying with the direction would not be in the best interests of icare. Instead, the bill provides that the icare board will be asked to advise on how a ministerial direction would impact on the board's ability to achieve its principal objectives—the objectives that the bill establishes.

The change is in line with His Honour Mr McDougall's finding that it is essential that I, as Minister—or any future Minister—have advice that can help refine the direction if that is necessary in the particular circumstances before a direction is made. The bill also inserts new section 12A, which establishes a power for the Treasurer to require that icare provide specified information when so directed. The bill provides that that authority can be delegated to the Secretary of NSW Treasury. The new provision is intended as a transparency measure and makes clear that the Treasurer and, by implication, the Treasury have a clear interest in icare and its operations. It provides a clear signal and gives legislative expression to the concept that the Treasurer and Treasury have an enduring role in the financial governance and oversight of icare. As such, the Treasurer and Treasury bring both an economic and fiscal lens to icare and its operations.

Workers compensation is a direct cost to business and has some relationship to the level of business activity across the State and, therefore, upon economic growth. Similar considerations apply with respect to home building compensation insurance and its impact on housing activity. As the Government's social insurer, icare holds significant assets in trust for the wider community through its different scheme funds. And for government, through the Treasury Managed Fund, the Treasurer has a clear role under the NSW Self Insurance Corporation Act 2004 and Insurance for NSW to oversee the management of those funds, which, along with its liabilities, also form part of the State accounts. As such, the bill makes explicit the authority available to the Treasurer to require that icare provide information about its operations and that this same authority may be delegated to the Treasury secretary when deemed necessary.

The bill is another step in the reform journey. It responds, in part, to a recommendation of the Hon. Robert McDougall that icare's roles and responsibilities, along with those of SIRA and SafeWork NSW, be clarified. Clearly, a number of Mr McDougall's recommendations relating to SIRA's role and responsibilities remain unresolved. They are under active consideration by the Government. Further, an independent review of SafeWork NSW is currently underway, also being led by Mr McDougall. I anticipate that further legislation may be required as a result to progress further reforms.

I have many people and activists to thank but, before I do that, I assure the House that the Minns Labor Government is working very hard. We have inherited this mess. Change will not happen overnight, but we are working diligently and in a considered and methodical way. We are going through a very rigorous process. I take this area of my portfolio responsibility seriously, because in my 12 years in opposition I saw the destruction and dismantling of our workers compensation system and what the former Government did with respect to icare and what it allowed icare to do. We have worked diligently. I acknowledge the work of the Treasurer, who worked diligently in exposing what happened to icare over the many years under the former Government.

We are repairing and reinvesting. It will take a long time to regain trust and respect from business and injured workers. I am working very hard. Icare knows my expectations, the Government's expectations and the community's expectations. We were elected on a mandate. I want to see people return to work. There are three million workers under the Nominal Insurer. I want to see SafeWork and icare working together in a coordinated way to make sure that there is prevention; that, in cases where there are breaches with respect to safety at work, there are heavy penalties; and that, when people are injured at work, they are looked after immediately, and are triaged, case-managed and not treated terribly or spoken to terribly. That has to change. The agents are on notice.

I acknowledge that I have met a number of our icare caseworkers from the lifetime care scheme in Newcastle and Wollongong. I acknowledge those workers on the front line. I spent some time with them. I thank them and express my appreciation for their work in dealing with injured workers diligently. The bill is the next part of our reform process. As I said, it will take a long time to fix the former Government's mess. It never listened; it just hid and did not acknowledge that there were problems. I acknowledge the Injured Workers Campaign Network, Unions NSW and our business community, which has been calling for icare to have clear statutory objectives.

The new Minns Labor Government is delivering on its commitment to reform icare to make it better for injured workers. I reassure our business community that we are working hard. One of the first things that I did as Minister was intervene in a proposed 22 per cent premium increase, which members opposite left for us. It is still very tough for small business, but I reassure the business community, the mum-and-dad small business operators, that we are working hard. I have instructed icare to build better relationships with our small businesses, to outreach and build relationships with our chambers of commerce and to provide information and support for our small businesses. I reassure our injured workers that we are doing everything humanly possible to fix this system. It will not happen overnight, but we are working in partnership. I reassure them that today is the start of a new beginning, and the Minns Labor Government is delivering on that need. I commend the bill to the House.

Second Reading Debate

The Hon. DAMIEN TUDEHOPE (17:21): The State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023 is not nearly as substantial as the previous bill. I congratulate the Minister on the previous bill; I think it was good legislation, and obviously the Opposition supported it. This bill is probably not as meaty as the previous bill. When that point was made in the other place, the Minister took umbrage at the suggestion that the ongoing process of reform of icare NSW [ICNSW] would ever be characterised as not necessarily substantive legislative work by the Government. I get that argument, but we previously had another icare bill that related to membership of icare's board.

This one does some important things, but it could have been dealt with in the one piece of legislation. We received a one-page bill relating to the board, and this is a one-page bill relating to the objects of icare and giving certain directions regarding the Treasury. But, at the end of the day, it is not substantive reform of the sort that I anticipate this Minister will embrace when further work is done by Robert McDougall going forward. I am not detracting from the bona fides of the Minister; I think that she is absolutely committed to the work that she is doing. I just took the view that she was just trying to protect herself from budget estimates by not giving us many questions to ask. That is okay; I am working on some.

The Hon. Wes Fang: I've got plenty.

The Hon. DAMIEN TUDEHOPE: The Hon. Wes Fang has plenty. At any rate, I am sure she is well able to handle the likes of me. The bill does three things. First, it alters the nature of the advice from the icare NSW board to be sought by a Minister about a proposed direction to the board, from advice on whether complying with the direction "would not be in the best interests of ICNSW" to advice on whether complying with the direction "would not promote the objectives of ICNSW". Secondly, the bill would insert three principal objectives, which I have alluded to. Thirdly, the bill inserts a provision to clarify that the Treasurer or, under delegation, the Secretary to the Treasury may give icare NSW a written direction requiring it to provide specified information within a specified period relating to the activities of icare NSW.

Commenting first on that provision, I simply note that there is no apparent history, in my experience, of icare ever refusing to supply either the Treasurer or the Treasury secretary with relevant information. The Minister may have other information available to her, but it certainly was not my experience that that ever occurred. The other measures in the bill were included in a previous bill that I brought to this place. Some members here might recall that bill, and it was stalled in this place because the then Labor Opposition sought to amend the bill to inappropriately impose the Government's procurement rules, including social policy provisions, on the Nominal Insurer. As the Parliamentary Secretary gave us a dissertation on, the Nominal Insurer holds funds derived from premiums paid by businesses for workers compensation.

The feigned urgency from Labor about that issue in 2022 is no longer in evidence now, because there is no sign of that sort of provision in the bill. If it was such an urgent and absolutely high-priority provision that it held

up exactly this sort of legislation when I brought it to the House, why is it not here now? The previous Liberal-Nationals Government was driving reform based on the McDougall review's recommendations. Some of its legislation to give effect to those recommendations was blocked by Labor, which insisted that no reform could take place unless it included subjecting the Nominal Insurer to the full suite of government procurement policies.

The Minister for Finance, and Minister for Domestic Manufacturing and Government Procurement—who has been responsible under one or the other of those portfolios for the procurement policy framework—has not introduced any legislation to give effect to that Labor policy. The Minister appears likely to vote for the bill without seeking to have it amended to give effect to that policy regarding the Nominal Insurer. The bill also makes none of the comparable changes to ministerial directions to the State Insurance Regulatory Authority [SIRA] that were recommended by the McDougall review.

That may well be because of the Premier's error of judgement in assigning responsibility for SIRA to the Minister for Finance from 5 April 2023 to 28 September 2023, despite the clearly unworkable conflict of interest that effectively froze any policy or legislative work on SIRA and other insurance matters from progressing. Hopefully, now that this matter has finally and tardily been resolved, we will see the MacDougall review recommendations relating to SIRA and other insurance-related reforms progress, presumably without any participation in related decision-making by the Minister for Finance. Minimal as it is—it is legislation that we previously sought to pass through the House—the Opposition nonetheless supports the bill.

The Hon. ROD ROBERTS (17:28): I make a brief contribution to debate on the State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023, and I too acknowledge the presence of the Minister in the gallery. Every time a bill of hers comes before this Chamber, she always makes the effort to be here. That is appreciated and acknowledged. I also place on the record my appreciation to the Minister for giving me and my staff a briefing some time ago, not about this particular bill but about the Minister's vision going forward for how she wants to see icare administered and the changes she wants to see in the work health and safety space. I appreciate that. I think she did that because she is aware that I have a great interest in that space as well. Work health and safety is not the domain of just the Labor Party; it is also the domain of others, and I acknowledge and thank the Minister for her work so far.

I note that the Leader of the Opposition said he was disappointed in the content of what the Minister has brought forward so far, but this is the third or fourth bill that she has introduced to this House, and I am aware that there will be more. I can see that icare is ultimately responsible for overseeing a highly complex organisation that involves a number of different elements involving insurance and scare schemes. I will try that again. It is not scare schemes. It is care schemes. It was scary at times, but, hopefully, it will not be as scary under the new Minister.

The Hon. Greg Donnelly: "Iscare".

The Hon. ROD ROBERTS: Yes, "iscare". Well, it was when we looked into it through the Standing Committee on Law and Justice. First and foremost, my concern is ensuring that we have an icare fund that remains affordable for end users—that is, businesses in the community. In particular, my interest is in small businesses that suffer severely when it comes time for premium increases. So we need to make sure that it remains affordable. At the same time, we need to make sure that it is an efficiently run operation. Of course, the bill contains a number of objectives to work towards that. I will touch on a few of those. Obviously, the scheme must be financially viable for the long term. Premiums, levies and other contributions to the schemes, as well as investment income, must be sufficient to ensure that its liabilities are covered.

My good friend the Hon. Greg Donnelly and I looked at icare in our work on the Standing Committee on Law and Justice, and I know that we are about to hold a hearing very shortly. I am sure we both share concerns about the financial situation of icare. There are questions still to be asked, and I am sure we are about to ask them. That is very concerning. People in the public and the end users, both workers and businesses, must have confidence that the large amount of money that icare holds on their behalf is managed efficiently and will continue to provide sufficient protection to workers. It is a shame that we have to mention that, but we do. And I am now going to wheel out the old chestnut: the imaginarium. I know the Leader of the Opposition will chide me for bringing up the imaginarium again.

The Hon. Damien Tudehope: It hardly relates to the subject matter of the bill.

The Hon. ROD ROBERTS: Wide latitude is given during a second reading debate. But we are not talking about my imaginarium or my imagination. We are talking about fact. We saw icare management allow millions of dollars to be spent on a room called the imaginarium while workers were short-changed and not paid their proper wages. The scheme was allowed to start nosediving towards the red extremely quickly. In order to be accessible, these schemes need to remain affordable. In order to remain affordable, they need to remain efficient.

It is a shame that we have to remind the icare board and management of what its objectives are. The levies and contributions that fund these schemes must be efficient while ensuring that benefits are available and accessible. That is the definition of a well-functioning scheme, and that is what we should all be trying to achieve. I am sure that is what the objectives spelt out in the bill are aiming for.

A further objective is in relation to the treatment and care services funded by icare through its personal injury and care schemes. Obviously, that is crucial in terms of ensuring workers receive immediate and appropriate medical services so they are able to return to the workforce as soon as possible, and, if for some reason they are unable to return to the workforce, they receive adequate compensation in the meantime to allow them to continue to live life at a reasonable standard. The bill is also about ensuring funding remains accessible so that injured workers can get back to work and be functioning and participating members of the community.

The Workplace Injury Management and Workers Compensation Act makes it clear that workers compensation should provide prompt and efficient treatment and rehabilitation for injured workers. As I said, the goal is getting people back to work as soon as possible and living their lives as close to normal as they can. That is the key. I know I share that goal with the Minister. It is one that I take great pleasure working with her to achieve. It is a shame that these sorts of bills have to come before this Parliament, but they are obviously necessary to rectify the terrible mess that icare was. We will ensure, through rigorous oversight on the law and justice committee, under the chairmanship of the Hon. Greg Donnelly, that it does not return to the state we found it in some years ago. I support the bill.

Ms ABIGAIL BOYD (17:35): On behalf of The Greens, as both the work health and safety spokesperson and Treasury and finance spokesperson, I support the State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023 introduced by Minister Cotsis. If I am being criticised for the way I am say something rather than the content of what I am saying, I always think that I have done pretty well. The Minister should give herself a pat on the back if the only criticism that people can muster is that this is a one-page bill. I have some sympathy with being hungry to see reform and being disappointed with not enough legislation. But, after being out of government for 12 years, with something as complex as the workers compensation system in this State, which has been so opaque and muddy and broken for so long, I would prefer to see bit-by-bit, carefully thought-out reforms. I understand that modest improvements go some way towards getting us to where we need to be, but I fully expect that we will see far more substantial and significant reform once the Minister is entirely on top of her brief and, with all the reviews and reports, is fully able to make informed decisions.

Since we are all going a little bit off-topic, the contribution from the Hon. Rod Roberts was interesting because, as a crossbencher, particular Ministers will take the time to properly engage with you. It happened in the former Government with certain Ministers who were standouts in terms of their commitment to their portfolio areas and their desire to get it right. Even if they did not agree with you, they viewed you as not just somebody they were trying to get onside for a vote to get their legislation through, but as an actual source of information and somebody who had a different perspective that might be useful when coming up with their own views on how to move forward. I see Minister Cotsis in that light, and I hope that continues.

Schedule 1 [1] to the bill is a wise amendment that removes a negative and changes the focus of the legislation to meeting objectives rather than the interests of icare. Those were interests which we know, historically, translated to maximising bonuses for icare executives. The creation of principal objectives for icare is also prudent. They give that vital organisation clear guidance on what is expected of it. We know how bad things can go when the State insurer is left to its own devices and its objectives become self-serving.

We have seen, time and again, that it is the injured people in this State who pay the price, so it is worthy to create those principal objectives. Schedule 1 [4] inserts new section 12A, which follows section 12—investment strategies for scheme funds—which requires a report to the Minister, but there is no power of the Minister to give it direction to provide information. As we know, to date icare has operated as if it were a private corporation and not a government entity, which is clearly untenable, and The Greens are glad to see the State insurer being brought back in house in some small way. With those very brief comments on the actual content of the bill, The Greens support the bill.

The Hon. DANIEL MOOKHEY (Treasurer) (17:39): I speak on the State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023, which obviously has to do with icare. It is fair to say that I have had some involvement in developing the case for the reform of icare over the previous term of Parliament. The intent of the bill is to provide for improved governance of icare so that it is best positioned to serve its sole stakeholder, the people of New South Wales. I take this opportunity to place on record my appreciation for the efforts of the Minister and the Parliamentary Secretary in bringing the bill before Parliament. I understand that this is the second bill that this Government will seek to pass to begin the process of reforming icare. That reform is absolutely necessary.

By way of context, it was a surprise to all Government members, upon our election in March, to be told that the icare finances at that time required a 22 per cent premium increase to be imposed on 306,000-plus small, medium and large businesses across New South Wales. I was informed of that as the acting Minister in the first short ministry formed after the March election. At that point it became clear that the work of reforming icare had to continue and that it had to recommence forthwith. A series of changes would be required in order to really correct the failures that had taken place over the eight years since icare was first formed.

I know that the House has spent a lot of time over the past few years canvassing icare and the features of its design that made it novel. Under the previous Government, icare was put beyond the ability of any institution to really hold it to account. It is important for us to have context about how exceptional icare's arrangements were under the previous Government, compared to a variety of like entities. Unlike State-owned corporations—organisations such as Sydney Water, Essential Energy, Hunter Water, the Port Authority and the Forestry Corporation—icare was unique because it was not necessarily answerable to any institution whatsoever. It had no regulator that could impose a licence condition on its Nominal Insurer. Unlike State-owned corporations, Treasury did not have powers of direction or step-in over icare. It did not even have the ability to access the most basic information that is routinely supplied to Treasury by State-owned corporations—that was not being supplied.

Icare is one of two "public financial corporations" which have a particularly novel structure. The other one is TCorp. Even TCorp has to be able to provide information. Icare was given such privilege from a governance perspective on the basis that, with such privilege, it would be able to deliver reform faster. I point out that that was the intention of the previous Government. Instead of those special privileges being used to support the cause of reform in the workers compensation system, under the previous Government and the previous board they were used, in effect, to protect icare from scrutiny when things went wrong.

Each of those prerogatives, be it the ability to refuse information to Treasury and regulators or the ability to contest decisions by regulators and advice from Treasury, was exercised by the previous icare leadership and management when matters went wrong. That happened, frankly, with the connivance of the previous Government and the two Ministers who were responsible for icare at the time. In fact, it was disappointing that for years, rather than having reform, we had Ministers covering up for their agencies and not the other way around. Ordinarily we are criticised because of agencies covering up for Ministers, but it was the other way around when it came to icare.

That was systematically exposed by this House and by the Law and Justice Committee. It is a credit to this House that we have effectively created the reform conditions that have allowed this bill to come before us. It has taken a change in government to achieve a change in approach. I stood here a year or two ago with my colleagues from both Houses. In fact, this House had already passed a bill akin to the one before us, but, under the previous Government, it was not debated or voted on in the other House. That bill would have allowed for step-in powers for Treasury and other institutions so we could at least return them to the same governance—

The Hon. Damien Tudehope: Why wasn't it passed?

The Hon. DANIEL MOOKHEY: The shadow Treasurer has asked me why it was not passed. It was not passed because his party chose to filibuster in the lower House. The bill passed through the upper House. I remember it because it was the first bill that I got through this House. I got it through and we sent it down to the lower House. I recall sitting in the gallery in the other place and watching member after member of the former Government filibuster that bill rather than enact it or bring their own alternative. When the previous Government eventually brought its own bill, which passed that House—

The Hon. Damien Tudehope: It was the procurement policy, mate. Where is the procurement policy in this bill?

The PRESIDENT: Order! The Leader of the Opposition will come to order.

The Hon. DANIEL MOOKHEY: It came to this place—I think the Leader of the Opposition is asking some interesting questions.

The Hon. Damien Tudehope: Where is the procurement policy in this bill? Where is it?

The Hon. DANIEL MOOKHEY: I am asked, "Where is the procurement policy?" The Leader of the Opposition was the Minister who passed the bill through—

The PRESIDENT: Order! The fact that the Leader of the Opposition is asking interesting questions does not make such interjections parliamentary. The Treasurer has the call.

The Hon. Wes Fang: He's catching up on question time!

The Hon. DANIEL MOOKHEY: I will take questions from the shadow Treasurer whenever he asks them of me; it does not need to be in question time.

The Hon. Damien Tudehope: I've got an opportunity in a few weeks' time.

The Hon. DANIEL MOOKHEY: Take your time.

The Hon. Damien Tudehope: I will.

The Hon. DANIEL MOOKHEY: You will get there.

The Hon. Damien Tudehope: We can talk about debt then.

The Hon. DANIEL MOOKHEY: As I was saying, when that bill came from the previous Government, this House had the audacity to improve it by suggesting that we should reform remuneration practices and board structures and provide the step-in powers.

The Hon. Damien Tudehope: Where are they?

The Hon. DANIEL MOOKHEY: When that happened—when we were seeking to amend the bill—we never got the chance to vote.

The Hon. Damien Tudehope: So where are they?

The PRESIDENT: Order!

The Hon. DANIEL MOOKHEY: Now the current Minister is bringing a decent reform agenda.

The Hon. Damien Tudehope: Where is the procurement policy?

The Hon. DANIEL MOOKHEY: It is systematic, piece-by-piece, step-by-step reform, which is what is required when it comes to an institution like this one. Again, we should be up-front about the fact that we have a lot of work to do to fix icare.

The Hon. Damien Tudehope: Up-front that there's no procurement policy in the bill—you've got no credibility on this issue.

The Hon. DANIEL MOOKHEY: I accept the interjection that I have no credibility on icare—that is some claim! The question of who has credibility on icare is all relative. I was not the Minister who presided over icare's collapse. I was not the Minister who presided over the worst return to work rates it had experienced. I was not the Minister who allowed icare to fund Republican operatives in the then Treasurer's office. I assure the House that icare is funding no-one in my office. There is no Republican operative working in my office and being funded by icare. I also assure the House that many of the other features of the icare scandal are not being repeated under this Government. We are not using icare to sponsor visas for people—that is not happening under our watch. I also inform the House that we are not rushing tenders for \$500 million IT projects in five days. That is not happening under this Government either. When it comes to procurement, which I am being repeatedly asked about by the Leader of the Opposition—

The Hon. Damien Tudehope: Yes, where is it? Where is it for the Nominal Insurer?

The Hon. DANIEL MOOKHEY: "Where is the procurement reform?" The procurement reform comes from the common sense that is being applied by the Minister and by the organisation. We are not, for example—

The Hon. Damien Tudehope: Okay, so your amendment was—

The PRESIDENT: Order! I remind the Hon. Damien Tudehope that he is on one call to order.

The Hon. DANIEL MOOKHEY: I respect the audacity of the Leader of the Opposition. This is the hill on which he wishes to make a stand. That is fair enough. Who are we to question his judgement? To return to the bill, the important part is the clarification of its objectives. The bill will give the Treasurer the ability to seek information. That is required because, in truth, a lot of the contracts around the claims management system were let by the previous Government. Our job will be to make sure that it is going as intended. The ability of Treasury to request information and actually compel its production is crucially important for our ability to understand whether or not the claims model is working as designed.

The claims model was designed under the watch of the previous Government and the tenders were let by the previous Minister. They are 10-year contracts. Those contracts will likely be in place well beyond the tenure of the Leader of the Opposition—although it is possible that he may be Leader of the Opposition for 10 years. They probably will not extend beyond my tenure as Treasurer. That contract framework has to work, not just for the sake of the State but also for its businesses and injured workers. It is crucially important that we are able to hold icare to account for the design of the contract framework rolled out by the previous Minister and the previous Government. That is why it is important that Treasury gets those powers and, hopefully, with Parliament's consent, they will be applied forthwith.

We must be up-front about the fact that turning around icare is not going to be done easily or quickly. There is no need to take my word for it; take the word of the former secretary of the then Department of Finance, Services and Innovation who, in an email we discovered through an order for papers under SO 52, made the point that when you lose control of a personal injury scheme like this it takes years to turn it around. It is disappointing that the reform task did not commence back in 2020, when the Labor Party exposed what was going wrong. We have lost two years of potential reform. That delay equates to billions of dollars gone in value in this scheme, because those opposite thought it was more important to protect the reputation of their former leader than to deliver a better, reformed system.

Those two years were a lost opportunity to start the turnaround. We are starting the turnaround now, but we are being up-front with the people, the businesses and the injured workers of New South Wales that it is going to take a lot of hard work. Among groups like Business NSW and Unions NSW there is a strong consensus that these governance changes should have happened years ago, and it should not have taken as much angst and effort to get these basic reforms in place. I would have much preferred for these reforms to have started years ago because in the intervening period since the icare scandal came to light more than 200,000 injured workers have had to interact with icare. It would have been much better to have had this system in place. Those injured workers would have had much better treatment.

Equally, it would have been better for employers to have had access to a system they could trust and to have had trust in its governance. That was not provided by the previous Government. This Government has a mandate to fix the mess, to make sure that what the Liberal-Nationals Government did to icare never happens again and that we have a workers compensation system which does its most fundamental task, which is to return people to their health, return people to their work and to make sure that employers can afford to employ people in New South Wales. This bill will not solve every problem, but it is meaningful progress. That is why I am pleased it is being debated.

The Hon. MARK BUTTIGIEG (17:52): On behalf of the Hon. Daniel Mookhey: In reply: I thank the Hon. Damien Tudehope, the Hon. Rod Roberts, Ms Abigail Boyd and the Hon. Daniel Mookhey for their contributions to debate on the State Insurance and Care Governance Amendment (ICNSW Governance) Bill 2023. Since Labor has been in Government, I have been privy to some of the correspondence coming out of icare. I have read about the terrible user-end experiences of the people icare was supposed to serve. They had some terrible experiences under the previous administration. I acknowledge the Treasurer's heavy involvement in bringing this bill to the Parliament. It is heartening that the Labor Party is now in a position where we can actually do something about the mismanagement of the scheme and bring about its reform. Of the litany of disasters left to us by those opposite, this one would have to be one of the highest-order priorities for the Government. We are moving on it and I congratulate the Minister for her hard work.

The bill amends the State Insurance and Care Governance Act 2015 [the SCIG Act], the legislation that establishes icare. The SCIG Act sets out broad functions for icare which describe the activities that it is legally authorised to perform, but the legislation says nothing about the objectives that icare should achieve. The bill addresses this oversight. It provides clear objectives for icare, which will help the board and the icare executive focus the organisation on its original purpose. Providing services for injured workers is a core function for icare. The bill confirms this important role and makes it clear that icare should promote early and appropriate treatment for people with injuries. The treatment and care should optimise the opportunities that injured people have to return to work and other activities in the community.

But it is important to remember that icare does more than administer workers compensation insurance; icare provides support for people with serious injuries from motor vehicle accidents and it provides services for injured people on behalf of the Lifetime Care and Support Authority. More than 1,700 people are receiving treatment and long-term care under the Lifetime Care and Support Scheme. The bill makes it clear that the objective of icare is to provide appropriate treatment and care for these people. The board of icare should have this objective in mind when it is determining icare policies and overseeing the work of the icare executive. The services provided by icare are, to a large extent, funded by insurance levies on employers and motorists. These funds are used to provide important protections for the community, but they are a cost that we all have to meet. It is important that these costs are kept at a level which reflects the real cost of providing support and returning people to work and their community.

The bill confirms that icare has the objective of maintaining affordable insurance and making sure that the schemes administered by icare are efficient and viable. The icare board and executive have a responsibility to manage workers compensation so that levies on employers remain affordable. They also have a responsibility to ensure that scheme assets are sufficient and are managed effectively over the longer term to provide employees with access to their full range of statutory benefits.

The Hon. Damien Tudehope: Point of order: I am loath to take a point of order but generally the purpose of a reply is to respond to issues raised in the course of the debate, not to give another second reading speech. I am not being critical. The Hon. Mark Buttigieg has been provided with a speech which is supposedly in reply, but it is a second reading speech.

The PRESIDENT: I was thinking the same thing. Some members might remember that the Hon. Trevor Khan was particularly vigilant on this issue, and appropriately so. I also have significant sympathy with the Hon. Mark Buttigieg, who is at the lectern at the moment. I ask him to take it into consideration, as much as is possible, for this particular contribution. I also ask all members to bear in mind in the future the point that the Leader of the Opposition has appropriately just made. The member has the call.

The Hon. MARK BUTTIGIEG: Thank you, Mr President. I will cut to the chase and address some of the concerns that were raised by contributors to the debate. The Hon. Damien Tudehope said that the bill is not "meaty" enough. The bill gives icare statutory objectives for the first time—something that icare has never had before.

The Hon. Damien Tudehope: It could have—

The Hon. MARK BUTTIGIEG: You wanted me to be relevant; I am. It also improves the ministerial direction power under the Act and gives Treasury more oversight over icare. This bill is rectifying mistakes that were embedded into the Act when icare was created, in 2015. This is the same old story that we have seen since March of this year—Labor fixing up the Liberals' mistakes. The Hon. Rod Roberts shared similar concerns to the Government about the reform of icare. The Minister shares the member's concerns that icare needs to run viable schemes so that it works for its stakeholders, particularly injured workers. The Minister has directed icare to increase its outreach to both injured workers and small business. I am pleased to inform the House that in the next few weeks icare will be holding a clinic with small businesses in Blacktown. All members can attend if they would like to. We agree with Ms Abigail Boyd's comments about this being just the start. More will be done in relation to icare.

I acknowledge the work of the Standing Committee on Law and Justice, which was previously chaired by the Hon. Christopher Rath, and particularly the work that my colleague the Hon. Greg Donnelly has done in this area on that committee. I acknowledge also the Injured Workers Campaign Network at Unions NSW and our business community and thank them for all their support for the bill. The conversations the Minister and I and others have been having with the network are crucial because we hear firsthand about the fallout from the mismanagement of this organisation. That has been a crucial input into the development of this bill. It is an important group.

On behalf of the Minister, I inform the House that the imaginarium, which the Hon. Rod Roberts mentioned in his contribution, is now a dust diseases clinic. Members are welcome to attend that clinic for a tour. People from icare will be attending Parliament for a drop-in session in the next couple of weeks. Finally, I acknowledge the great contribution the Hon. Rod Roberts has made to this debate and the development of this policy. I commend the bill to the House.

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

Motion agreed to.

Third Reading

The Hon. MARK BUTTIGIEG (18:01): I move:

That this bill be now read a third time.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. TARA MORIARTY: I move:

That this House do now adjourn.

HOUSING SUPPLY

The Hon. TANIA MIHAILUK (18:01): Our State is in the midst of a housing crisis, which members of the new Government have been keen to highlight both in their election campaign and now on their incoming agenda. New South Wales must build 314,000 new homes over the next five years to keep up with demand. This is the figure, we are told, the new Government received in its incoming briefs. Yet we are told that supply is

trending below 40,000 new dwellings per year, well short of the 63,000 per year required to meet the five-year target. Chris Minns' inability to stand up to his Greens coalition partners and the inner-city MPs in his own caucus will scuttle any chance of getting more urban density where we need it most, despite his recent announcement of reform. Instead, it will be a slap in the face to the traditional Labor strongholds in south-western Sydney, whose loyalty he takes for granted and who will continue to be made to bear the brunt of our growing population.

The new Premier has told us to get comfortable with vertical housing and has signalled a move towards planning regulations that allow for higher density. But beneath the rhetoric of a honeymoon government calling for action and reform looms a thinly veiled hypocrisy. We must ask not just how the shortfall of housing supply is to be met but where we can reasonably accommodate the required level of growth. For decades, the de facto approach has been to continually expand the fringes of western and south-western Sydney and to continue to build more dwellings in these areas, but this approach has taken its toll. As anyone who has spent time in south-western Sydney will know, resources are stretched to breaking point. Infrastructure, services and community facilities cannot keep up with an endless cycle of overdevelopment. From the new residents of the greenfield developments, the message is clear: The new homes have gone in, but the services needed to sustain a thriving community are simply not there.

But when we turn our gaze closer to the city, we see whole areas ripe for development—places with abundant services and infrastructure but relatively low density. These places, including Stanmore, Alexandria, Redfern, Enmore, Darlinghurst and Potts Point, feature prominently in the disclosed interests of many progressive parliamentary colleagues. These are all areas where building upwards can and should be happening to infill housing in communities that have infrastructure already in place to support that level of growth.

The Urban Living Index gives its highest liveability scores to suburbs in the inner west. Marrickville is rated 83; Annandale-Leichhardt, 82. But in Canterbury-Bankstown we find suburbs with some of the lowest scores: Yagoona-Birrong gets a rating of 47. This disparity reflects the obvious differences of amenities servicing these areas and is a reflection of the plethora of public transport options on offer to the inner west. The T2, T3 and T4 lines service no fewer than 12 stations in the area. It is furthermore serviced by 19 separate bus routes. That is not to mention the ferry services that are available to the suburbs by the water. And residents have at their disposal a dozen light rail stops, which provide yet another way to commute to the city and surrounds.

To anyone serious about fixing the housing crisis, the obvious solution is to build upwards in the areas where liveability is high, access to the city is easy and development is trailing behind. The opposing attitude is no better summed up than by the words of the newly elected Greens member for Balmain, who said in addressing a community meeting about a proposal of 435 units on Parramatta Road, "Make sure you're not going to end up with something that is going to be damaging to the character of the area or is not going to provide the amenity that you need when they're talking about bringing more people into the area." The statement may be surprising when one considers how concerned The Greens claim to be about the housing crisis—not to mention diversity and inclusion.

I recall a meeting of the shadow Cabinet in 2015, where the fresh-faced MP for Kogarah, Chris Minns, entered into a discussion about the lack of high-rise development in the city and the importance of the inner city having the development it can support. I recall that I agreed with him. Eight years later Chris Minns finds himself Premier and now has the power to reshape the planning landscape of our cities and suburbs. He may be hoping that his recently announced policy to allow 30 per cent more density will be seen as being in line with his original statements in 2015. But it is important that the Premier actually act on something he started with his words eight years ago and understand that development should not be about dumping more units into south-western and Western Sydney, where there is no infrastructure to support that level of development. He should actually take on The Greens and his left-wing party members in the inner city, including Anthony Albanese, and ensure that the development goes into the inner city, where it is needed most.

RETIREMENT AGE

The Hon. ANTHONY D'ADAM (18:06): From the start of July this year, Australians must wait until they are 67 years of age, instead of 65, to retire on their pensions. This change gives Australia one of the highest retirement ages in the world. Despite this, some have called for the age of retirement to go as high as 70. Increasing the retirement age is a regressive policy that unfairly affects low-paid and blue-collar workers. The average retirement age is nowhere near 67, especially for blue-collar workers. In most industries, it is closer to 60 or lower. Many workers are forced to retire early for a variety of reasons, such as losing their jobs later in life due to injury or illness or discrimination due to their age. The only option for those under 67 is to burn through what little superannuation savings they have or go onto Jobseeker.

Raising the age of retirement disproportionately affects some of the most vulnerable in our society. Indigenous men have life expectancies nearly nine years lower and Indigenous women nearly eight years lower

than non-Indigenous Australians. The change also pushed a substantial number of people over 65 onto the much lower and un-liveable Jobseeker payment. Between 2017, when the pension age began to incrementally rise, and May this year, the number of people over 65 and receiving JobSeeker went from zero to over 40,000. The change in July will no doubt see this increase even more.

It is easy for politicians, economists and those who work office jobs to dismissively suggest that a retirement age of 67 or even higher is feasible and reasonable. For workers in more physically demanding jobs, the reality is very different. This change has a far more substantial impact. As Darren Greenfield, the New South Wales secretary of the Construction, Forestry, Maritime, Mining and Energy Union, has pointed out, workers who spend their working lives on construction sites are already struggling. He says:

A lot of their bodies burn out by 50 to 55. By the time they get to 60 it is a nightmare for them not to be able to retire.

It is not only tradespeople who struggle as they get older. Because of the high-stress environment, our healthcare workers, such as paramedics and cleaners, suffer from physical and psychological injuries over the years. Health Services Union Secretary Gerard Hayes describes having to work those jobs even longer as "brutal". Forcing workers with demanding manual jobs to work a further two years is cruel and unsustainable. Australia is already facing critical shortages of tradespeople and healthcare workers. This change will force more and more people to leave their trades earlier, or perhaps even reconsider ever entering more physically demanding industries. This is bad for our people and for our economy.

The average superannuation balance for workers between 60 to 64 is only \$359,000 for men and under \$300,000 for women. Few workers retire with a massive superannuation balance that they can live off for the rest of their life. They depend on the pension, especially when their body gives out and they can no longer work. Too often it is working people who are asked to bear the brunt of tough economic conditions or strained public finances. If the Federal Government is struggling to afford pensions, then it should focus on measures such as corporate profit taxes, rather than shouldering working people with this extra burden, as they already are being forced to carry the burden of inflation, interest rates and calls for wage restraint. We should be reducing working hours, not extending them even further. We should be returning the retirement age back to 65.

ARTSAKH REFUGEES

The Hon. SUSAN CARTER (18:10): Two weeks ago I was travelling in Armenia with a parliamentary delegation at the invitation of the Armenian National Committee of Australia. What I saw there will stay with me forever. Armenia is a peaceful country, but the borders of its neighbouring ethnic Armenian republic of Artsakh have been under constant attack for some years, and I saw the dreadful outcome of this constant tension as the Azerbaijanis rolled into Artsakh and its people fled. Its people are still fleeing, too scared to remain in their own homes. At least 100,000 ethnic Armenians have arrived in the border town of Goris. By way of scale, that is more than five times the total population of Goris, and the exodus has not stopped.

I met grandmothers who had escaped with a small bag—nothing else of their former life—who had not eaten for days and did not know if their sons or grandsons were alive. I met a woman whose husband and son were dead and who had fled her lifelong home in fear of her life. Car after car came rolling in, with washing machines, carpets, teddy bears and children's bikes strapped to their roofs. But not all cars could finish the journey. We saw a huge number broken down. Petrol is so scarce because of the blockade that those fleeing were resorting to using methylated spirits in their cars. They knew it would destroy the engine; they just hoped it would get them across the border. I heard of one car, with petrol, that towed four others to safety.

Then there were the children, not just hungry but also often very ill. There has been no medicine allowed into Artsakh for quite some time, and no heating oil for the winter. Children are arriving with pneumonia, high fevers and other diseases. I heard of at least one woman who gave birth in the car on her way to safety in Armenia. This was not a story about a woman giving birth, caught short with her husband on her way to hospital. She gave birth in the car surrounded by her entire surviving family and all of their worldly possessions, the car unable to stop to give her the peace to labour, because there was not peace and they needed to keep moving. Why are the people fleeing? Eyewitness reports and social media videos make it clear that those who remain, particularly old men and boys, are being tortured before they are killed. This torture is being filmed and shared on social media, as if it is something to be proud of and bragged about. The women I spoke to were terrified of what may happen to them if they remained.

Of course, sadly this is not new. We have seen this before and we are seeing some of it at the moment in other places. We recognise it for what it is: violence and terror directed towards a people simply because of who they are, not because of anything they have done. The world has said never again. But here we are, again. We all know that this situation should never have been allowed to occur. Certainly, Artsakh is disputed territory. Azerbaijan claims it, as do, or rather did, the local ethnic Armenians, who had established a democratic republic there, separate from Azerbaijan and bordering Armenia. There will always be territorial disputes, and I make no

claims as to the rights or wrongs of this particular dispute. However, just as we are now seeing in Israel, no amount of historical pain can justify or excuse actions which result in a terrified people's displacement.

That simple word, "displacement", covers so much pain. It is people losing their homes, their communities, their jobs, their sense of place in the world and their security. As one man said to me in Goris, "I have left the graves of my ancestors." It is more than the emptying of territory; it is the destruction of lives. Driving into Yerevan, the Armenian capital, you are greeted by a wonderful display of flags waving brightly on a hillside. After a long trip it lifts your heart, until you realise that each of the hundreds, if not thousands of flags, flutters over the grave of a soldier who has died in the recent conflicts. Let there be no more flags.

IMMIGRATION POLICY AND HOUSING AFFORDABILITY

The Hon. ROD ROBERTS (18:15): I regret to inform the House that this weekend will be a comfortable 27 degrees, with clear blue skies, a slight breeze and perfect warm spring temperatures. This is, of course, a climate emergency. The emergency being, how much pool time can you fit in before the warm break is over? Much breathless shouting has been done over the above-average temperatures in New South Wales lately. The Greens spent hours of taxpayers' time telling us that the world is on fire because it is T-shirt weather in September and October. The media spilled gallons of ink scaring the life out of poor Sydney Morning Herald readers, who in turn quickly rushed to switch their coffee order from latte to iced latte. Ladies and gentlemen, this is a climate emergency. Act accordingly. The truth of the matter is that having the occasional above-average temperature is how average temperatures work. Sometimes there are low temperatures, sometimes there are high temperatures, then it is averaged out. We are doing okay. In fact, we have shifted only about half a degree Celsius in a century.

If this is a catastrophe, this has to be the most boring catastrophe the world has ever seen. I am old enough to remember when catastrophes actually meant something other than lovely weather. Juxtaposed against this snail's paced minor shift in temperatures is the loudest, most apocalyptic doomsaying we have ever seen. That in turn has led to the most radical overhauling of an energy system we have ever seen, and the cost to the taxpayer is extraordinary. The real emergency will soon be figuring out how we are going to pay for all of this nonsense. I am no climate denier. I acknowledge that climate exists and that, like everything else in the world, it changes. But I really worry about the collective mental health of our State when a warm day sends us into a blind panic.

What worries me even more is that, at the same time, a real emergency, a real crisis is happening now and nobody wants to talk about it. How sad it is that while the causes of climate change are studied incessantly the causes of the current housing crisis go conveniently undiscussed. In his Budget Speech, Treasurer Daniel Mookhey said:

New South Wales is in the midst of a fierce housing crisis. Rents are rising. Interest rates are climbing. Home ownership rates are falling. Demand for social housing is increasing. Homelessness is worsening. And the next generation fears permanent eviction from safe and secure housing.

I agree with him. What a tragedy, then, that the Government is committed to making every one of those issues worse—because just a day later Premier Chris Minns told the media:

We're supportive of the commonwealth government's decision to lift immigration into New South Wales ...

...

We desperately need people in the service industry and construction in particular, and the lack of them in the NSW economy's adding to inflation and ironically enough, adding to the housing pressures.

Is the Premier really suggesting that the solution to the housing crisis in New South Wales is to bring in more people? Bringing in people to build homes for even more people is the very definition of a Ponzi scheme. Not only does this defy reason, but it also defies reality. A 2019 Australian Bureau of Statistics study shows that, of the top 15 occupations for migrants and temporary residents entering Australia, construction workers ranked at fourteenth, making up just 1 per cent of the jobs worked by newly arrived migrants. Not only that, Australia already has one of the highest numbers of construction workers per capita in the OECD and one of the highest rates of housing construction in the developed world. Clearly, it is not a supply issue as far as the labour force is concerned. We have the workers. We are building the homes. We simply cannot build enough homes to keep up with the current population growth. There is no other way around it.

This is not a dog whistle. It is not xenophobic. It is not about migrants; it is about migration. It is about solving a serious housing crisis that is destroying the lives of Australians right here, right now. They are the cold, hard facts backed by economists, supported by the experts and centred on reality. The political climate is turning against Australia's mass migration Ponzi scheme. If the Government cannot see that, then they must be the climate deniers.

THE WESTERN WEEKENDER

The Hon. BOB NANVA (18:20): I recognise the achievements of my local newspaper, *The Western Weekender*, and, in particular, its editor, Troy Dodds, who was recently named Editor of the Year at the Mumbrella Publish Awards. In an era when consumers of news are online and ever connected, and when information comes at us more quickly and more often than ever before, many of us paradoxically seem to be less connected to news from our local communities. Not so in the Nepean. Penrith City and its surrounds are well served by a local outfit that sends journalists from its independent newsroom to council events, community initiatives, sports matches and everything in between. In doing so, it has curated an engaged audience, with a print circulation of 30,000 and an additional 85,000 readers online.

Since its founding in 1991, *The Western Weekender* has sought to show that people have an appetite for getting news not just on the wider world but on what is happening in their own backyard. Its continued success and the award for Mr Dodds are a testament to that mission. Despite the regrettable decline of local print media elsewhere, the Weekender has adapted and managed to capture the minds of the digitally native generation and older readers alike. Its two largest digital audiences are the 25 to 34 and 35 to 44 age groups, showing that community engagement can be nurtured in younger newsreaders by local news outlets that put in the hard work.

The Western Weekender also provides an additional service worth mentioning. It does not just keep its readers informed; it also plays a vital role in curating a sense of community. By having the Weekender and other local outlets like *Nepean News* circulating in Penrith, readers get to know their local residents, their representatives, their local athletes—both junior and professional—and a great share of other stakeholders. It gives small business owners a chance to showcase their services to the very people most likely to use them and gives community organisations an opportunity to have their achievements platformed, when a larger outlet might turn them away.

There is a sense of togetherness that can be fostered in a community by reporting the facts from the ground and not from an hour's drive away. The City of Penrith has a sense of pride that is unique even amongst the other thriving communities of Western Sydney. It is a pride in their city, their institutions, their businesses and their team—pride in being able to look at their city and know it well. Residents would not feel so connected to the Penrith Panthers if it were not for local outlets breaking the news from the sheds first. They also would not know that the park they might have been advocating for just got funded by council if a Weekender journalist was not at the meeting. That is why I take this opportunity to expand on that sentiment to extoll the virtues of local media more broadly.

With many people now residing in entirely different information ecosystems from one another, it can be easy to miss what is happening just outside your front door. The mateship that Australians possess does not just self-renew. Our sense of community as a country and as a State is nurtured at the grassroots. That means feeling connected to your town first of all. When people do not feel like they have a place in their village, how are they meant to feel like they have a place in their country? A New South Wales in which people have access to local media, whether it is in our suburbs or in the regions, is a stronger one. A media landscape where local media thrives is one where we get better journalists and more of them, journos who have worked in environments where they can cut their teeth and hone their craft so that we get the quality of truth-telling that we all deserve as consumers of current affairs.

I am glad that the work of local media is being recognised for the contributions it makes to journalism. I am equally pleased to see that it is thriving where I live, as I am reminded of every week when I see the front page of my new edition of the Weekender.

TRIBUTE TO MAY DOON, OAM

The Hon. WES FANG (18:24): I speak about somebody whom I have spoken about in this Chamber before, but sadly this will likely be my last contribution about that person. I got to know May Doon, OAM, not long after I was elected. May was from Tumut. If she was five foot, I reckon she would have been standing on some telephone books when they made the measurements. But she was an absolute powerhouse of a lady. She represented the very best of what Australia means. She was Chinese in ethnicity but born here. As a fellow Australian-born Chinese person, we were immediately drawn to each other. She embodied what it meant to embrace multiculturalism in Australia. She lived in Tumut for the majority of her life, having moved there and met her husband.

She gave her all to her community. She was Tumut's Citizen of the Year in 1991. She participated in Lions club events and she was the president of the Tumut Lions Club. She was also involved with her church and aged care. It was that work that saw her awarded a Medal of the Order of Australia in 2004. Every time I went to Tumut, May would likely be there because she was involved in that many community associations and would always be

at events. She was always an absolute joy. When I found out that she had passed away, I texted some of the other local members. We all immediately acknowledged her passing on our social media, because she was that infectious to all of us.

I have spoken about May in this Chamber previously. There was some debate about the relevance of people who received OAMs and how they were not necessarily representative of what it meant to be the best Australian. Those people were professors, academics or people who had achieved lofty positions in life, but they did not really represent Australians. May was the quintessential Australian. She was awarded the OAM as an acknowledgment that you can be an exemplary leader in your community even if you are not known across Australia. The difference you can make in people's lives is extraordinary, and anybody who met May felt her extraordinary heart, her contribution to her community and the love that she had for her community.

I was fortunate to go to Tumut every Australia Day for the citizenship ceremony and, as I said, May was at every event. For the past three years—COVID had some impact on my attendance at Australia Day ceremonies—May and I would always get a photo. We would often chat. The Australia Day before last, she knew I was coming and she brought a bag of her self-made pickles, labelled "Made by May". It was wonderful. We would always say, "We'll get our photo next year." When I found out last week that she had passed away, my thoughts turned to that and the fact that we will never be able to get another photo. But I treasure the ones that we did get. For everything—vale, May Doon, OAM.

GLENWOOD HIGH SCHOOL

The Hon. PETER PRIMROSE (18:29): I comment on the new facilities that have been provided to Glenwood High School in the Winston Hills electorate. At the beginning of term 4 earlier this week, Glenwood High School students and staff welcomed the opening of a brand-new performing arts centre, along with three specialist science labs and four additional modern classrooms. The new performing arts centre is a creative learning hub that provides contemporary spaces for performing arts, workshops and rehearsals. A multipurpose facility for health, physical education, dance, drama and music, the centre can be used after school hours for rehearsals and shared with the wider community. The major upgrade of more facilities is due to be opened in early 2024. The upgrade will deliver a new three-storey building with over 40 technology-rich classrooms for the school's 1,455 students to learn and thrive in.

The DEPUTY PRESIDENT (The Hon. Emma Hurst): The time for debate has expired. The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 18:30 until Tuesday 17 October 2023 at 12:30.