



**New South Wales**

# **Legislative Council**

## **PARLIAMENTARY DEBATES (HANSARD)**

**Fifty-Eighth Parliament  
First Session**

**Thursday 19 October 2023**

Authorised by the Parliament of New South Wales



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# LEGISLATIVE COUNCIL

**Thursday 19 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.

*Governor*

## ADMINISTRATION OF THE GOVERNMENT

**The PRESIDENT:** I report receipt of a message regarding the administration of the Government.

*Committees*

## REGULATION COMMITTEE

### Establishment

**The Hon. NATASHA MACLAREN-JONES (10:02):** I move:

- (1) That this House notes that on 21 September 2022, the Regulation Committee tabled its report entitled *Options for reform of the management of delegated legislation in New South Wales*, which recommended:
  - (a) that the Legislative Council amend the resolution establishing the Regulation Committee to expand the committee's functions to include inquiring into and reporting on instruments of a legislative nature that are subject to disallowance against the scrutiny principles set out in section 9 (1) (b) of the Legislation Review Act 1987 (recommendation 7);
  - (b) that the Regulation Committee's secretariat be increased to support the additional work that will be required as a result of the committee's technical scrutiny function (recommendation 8); and
  - (c) that a dedicated legal adviser be appointed to support the Regulation Committee in the performance of its technical scrutiny function (recommendation 9).
- (2) That this House further notes:
  - (a) the committee's conclusion that the function of scrutinising delegated legislation against accountability criteria aligns with the constitutional role of the upper House in maintaining democratic oversight to support responsible and accountable government; and
  - (b) the Government's response to the report dated 12 December 2022, which noted that recommendations 7 to 9 were not directed to the Government.
- (3) That, in accordance with the Regulation Committee's recommendations 7 to 9, the resolution of the House of 10 May 2023 appointing the Regulation Committee be amended as follows:
  - (1) Insert after paragraph (2):
    - (3) The committee, from the first sitting day in 2024:
      - (a) is to consider all instruments of a legislative nature that are subject to disallowance while they are so subject, against the scrutiny principles set out in section 9 (1) (b) of the Legislation Review Act 1987;
      - (b) may report on such instruments as it thinks necessary, including setting out its opinion that an instrument or portion of an instrument ought to be disallowed and the grounds on which it has formed that opinion; and
      - (c) may consider and report on an instrument after it has ceased to be subject to disallowance if the committee resolves to do so while the instrument is subject to disallowance.
  - (2) Insert at the beginning of paragraph (3) "In exercising its function under paragraph (2)".
  - (3) Insert at the beginning of paragraph (14) "In exercising its function under paragraph (2)".
  - (4) Insert after paragraph (14):
    - (15) In relation to its functions under paragraph (3):
      - (a) the committee may appoint a legal advisor to support it in the performance of these functions; and
      - (b) Standing Order 240 relating to government responses does not apply.
- (4) That the Regulation Committee table an evaluation of the arrangements under paragraph (3) of the amended resolution of the House appointing the Regulation Committee by the conclusion of the first sitting week in 2025.

- (5) That following the tabling of the evaluation, the House consider further whether to continue the Regulation Committee's function of considering and reporting on instruments of a legislative nature that are subject to disallowance against the scrutiny principles set out in section 9 (1) (b) of the Legislation Review Act 1987.

**Motion agreed to.**

*Motions*

**FIJI INDEPENDENCE DAY**

**The Hon. JACQUI MUNRO (10:02):** I move:

- (1) That this House recognises that:
  - (a) 10 October 2023 marked the fifty-third Fiji Independence Day;
  - (b) the Fiji Day Sydney Festival 2023 was held on 7 October at Cathy Freeman Park, Sydney Olympic Park, and was attended by thousands of Fijians, Pacific Islander people and Australian guests;
  - (c) New South Wales is home for the largest population of Fijians in Australia, with over 37,370 people recorded in the 2021 census;
  - (d) according to the Fiji Bureau of Statistics, 345,149 Australians visited Fiji in 2022, making up the largest cohort of international tourists; and
  - (e) the value of trade between Fiji and Australia is increasing, with exports to Fiji totalling \$336 million in 2021, and imports totalling \$154 million in 2021.
- (2) That this House congratulates His Excellency Mr Ajay Bhai Amrit on his recent appointment as Fiji's High Commissioner to Australia.
- (3) That this House notes the attendance at the Fiji Day Sydney Festival 2023 of:
  - (a) His Excellency Mr Ajay Bhai Amrit, High Commissioner to Australia;
  - (b) the Hon. Jacqui Munro, MLC;
  - (c) Donna Davis, MP, member for Parramatta;
  - (d) Dr Patricia Prociv, Deputy Mayor of Parramatta Council;
  - (e) Daniel Stow, Trade Commissioner in the Fiji Consulate General and Trade Commission; and
  - (f) Reverend Vini Ravetali, Chair of the Uniting Church Multicultural Communities.
- (4) That this House congratulates the Fiji Rugby Union team, the Flying Fijians, for matching their best Rugby World Cup performance by reaching the quarter finals.

**Motion agreed to.**

**SWADISHT 2023**

**The Hon. MARK BUTTIGIEG (10:03):** I move:

- (1) That this House notes that:
  - (a) on 23 September 2023, Alkalizer in Campbelltown held Swadisht, and the Hon. Mark Buttigieg, MLC, was honoured to attend and make a speech representing the Minister for Multiculturalism, the Hon. Stephen Kamper, MP;
  - (b) the food showcased at the event was absolutely "swadisht", which translates to delicious in Sanskrit, Hindi, Urdu, Bangla, Nepalese, Sinhala and Tamil languages, fusing modern and traditional ingredients and cooking techniques from around the Asian subcontinent;
  - (c) Swadisht also included great music by Jugalbandi and traditional jewellery, clothing and Henna stalls; and
  - (d) Ms Sandra Bartlett was master of ceremonies at the event, and the following community leaders also attended:
    - (i) Mr Greg Warren, MP, member for Campbelltown;
    - (ii) Mr Nathan Hagarty, MP, member for Leppington;
    - (iii) Councillor Dr George Greiss, Mayor of Campbelltown City Council;
    - (iv) Councillor Masud Khalil, Deputy Mayor of Campbelltown City Council;
    - (v) Councillor Masood Chowdhury, Campbelltown City Council;
    - (vi) Councillor Rey Manoto, Campbelltown City Council;
    - (vii) Councillor Riley Munro, Campbelltown City Council;
    - (viii) Councillor Usha Dommaraju, Camden Council;
    - (ix) Councillor Barbara Ward, Deputy Mayor Ku-ring-gai Council;

- (x) Mr Irfan Malik, New South Wales President of the Australia India Business Council; and
  - (xi) Mr Daks Vyas, Treasurer of the Campbelltown Chamber of Commerce.
- (2) That this House congratulates Ms Shefali Pall, the owner of Alkaliser, her team and the great artists participating in Swadish for creating such an enjoyable and important event celebrating food, music and art from many diverse cultures.

*Business of the House*

**POSTPONEMENT OF BUSINESS**

**The Hon. PENNY SHARPE:** I postpone Government business notices of motions Nos 4 and 5 until the next sitting day.

*Documents*

**TABLING OF PAPERS**

**The Hon. PENNY SHARPE:** I table the final report of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, volumes 1 to 12, and an executive summary, dated September 2023.

*Bills*

**24-HOUR ECONOMY LEGISLATION AMENDMENT (VIBRANCY REFORMS) BILL 2023**

**24-HOUR ECONOMY COMMISSIONER BILL 2023**

**First Reading**

**Bills introduced, read a first time and ordered to be published on motion by the Hon. John Graham.**

**The Hon. JOHN GRAHAM:** According to standing order, I table a statement of public interest for each of the bills.

**Statements of public interest tabled.**

**Second Reading Speech**

**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) (10:23):** I move:

That these bills be now read a second time.

The Government is pleased to introduce the omnibus 24-Hour Economy Legislation (Vibrancy Reforms) Amendment Bill 2023 and the 24-Hour Economy Commissioner Bill 2023. I recognise that those matters are of interest to all members. They have often been debated in this House and have received the support of members across parties. The value of a thriving and vibrant night-time economy and the associated music and cultural sector must not be underestimated. This Government has made it clear that it wants to bring the music back across New South Wales. The New South Wales creative sector contributes more than \$120 billion to our economy. In Greater Sydney alone our latest research shows that 12 per cent of the workforce is engaged in creative industries, but we are letting that potential go to waste.

Over the past 12 years New South Wales had forgotten what it was like to be a State with music on every corner and vibrancy spilling out onto the street and into public spaces. The philosophy of the changes is to support venues and festivals, make entertainment economically viable and give venues in particular an alternative to relying simply on income from poker machines and alcohol sales. Sydney's lockdown laws, as members know, have proved particularly problematic. In the end they became a global embarrassment. Some members may remember when Madonna was refused entry into her own after party when she arrived at 1.45 a.m.

Over decades we have lost three important pieces of the puzzle: live music spaces, creative workers, and walkability and venue-hopping. We have lost over half of our licensed music venues in New South Wales. We have lost our creative workers. Sydney is the only capital to see a decline in the number of working artists, musicians, writers and performers between 2011 and 2021. Other capitals are reported to have experienced growth of anywhere between 32 per cent to 96 per cent. Relaxed walkability and venue-hopping has become harder across the State. It is harder for people to move between restaurants, bars and shows on foot with that magic sense of not quite knowing what will happen later in the night, which is one of the keys to a great night out. This Government wants to bring that relaxed feeling of a New South Wales summer day by the beach or by the pool and extend it into the night.

Over the course of the journey there has been a response. Bringing life back to Sydney and our towns and suburbs has become a political issue. Citizens from all sides of politics argued the case about what we risk losing



and what we had lost. They mobilised, and tens of thousands of people rallied. Our music, hospitality and festival sectors in particular all argued the case to defend their industries and creativity across New South Wales. As a result the lockout laws have been lifted. I recognise the important committee work done by this Parliament to make that possible. In this post-COVID moment the hospitality sector has bounced back. The music and entertainment sectors are on the way. The city has rallied recently for bigger events and summer on the way. The Government believes it is the right time to drive this change. It has now become a bipartisan issue and all sides of politics recognise the need for a safe, vibrant night-life.

The demand is there; however, the availability of venues and trading commissioners to support live entertainment has not kept pace with that demand. Some parts of the State are desperately lacking access to a safe and vibrant night-life. Outside the Sydney CBD, just 23 per cent of respondents to a Department of Customer Service survey felt they had good-quality night-time entertainment options in their area. That figure was as low as 18 per cent when people were asked about good-quality arts and cultural events in their area outside the CBD after dark. It is clear that we need to change the rules.

The Government accepts that planning and liquor laws need to be changed to save the music and cultural venues we have and to make it easier to build more. Live music not only provides the lifeblood for our creative sector but also enriches the lives of residents. There is a broader change necessary but often the music sector is the canary in the coalmine of the night-time economy. It is what brings people to venues, increases the enjoyment of a night out and helps us feel connected to authentic local culture. We accept that we need to change the rules around outdoor and street activation so that music, culture and entertainment can extend outdoors. We especially need to change the rules for sound and noise complaints that allow a single neighbour to make serial complaints to close a long-running venue that they have just moved in next door to. With these bills, we will bring to an end the age of a single neighbour serial complaint closing down a venue.

The Government has developed a package of reforms and policy initiatives covering six themes to deliver for the people of New South Wales. They include sensible venue sound management and incentives for live entertainment; vibrant, coordinated precincts; an activated outdoors, including dining and street festivals; empowering the 24-hour Economy Commissioner to deliver a sustainable, thriving night-time economy; modern planning and liquor licensing with commonsense approaches to risk; and improving the night-time for workers. The two bills the Government introduces today form an important part of that package.

I turn first to the 24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2023. The bill seeks to amend the Gaming and Liquor Administration Act 2007, the Liquor Act 2007 and the Liquor Regulation 2018 and to make consequential amendments to other legislation to increase the vibrancy of the night-time economy, to reward the live performance sector and to allow the use of outdoor public spaces for recreation. It does that by encouraging venue operators to launch, grow, adapt and expand their businesses by modernising regulation and removing unnecessary and outdated regulation, streamlining approval processes and putting in place a commonsense approach to entertainment sound.

The first of the amendments seeks to streamline sound management and provide further incentives for live entertainment. Sound from licensed venues is regulated under multiple and duplicative legislative frameworks. They include development applications enforced by local councils, offensive noise provisions enforced by the Environment Protection Authority and the NSW Police Force and disturbance complaints enforced by Liquor and Gaming NSW. We have too many regulators and that system does not work for anyone—not the neighbour trying to get a good night's sleep, which they are entitled to, and not the venue trying to support musicians on stage and keep people in work.

The bill and its associated regulatory changes will designate Liquor and Gaming NSW as the primary regulator for formal noise complaints relating to the normal operations of a licensed venue. That streamlines processes and reflects the value of live performance. Notably, those reforms are aimed at formal complaints and not at those who respond to urgent complaints. They will be supported by changes to the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2021, which will provide a framework to allow the Liquor Act to prevail over conditions of development consent for noise and trading hours, and by amendments to the Local Government Act 1993.

Amendments to the Protection of the Environment Operations (General) Regulation 2022 will provide exemptions from offensive noise pollution provisions for liquor-licensed premises where the activity is carried out in accordance with the liquor licence for the premises or the Liquor Act 2007, as well as for premises in a special entertainment precinct where the venue is complying with the council's plan for noise in that precinct. The bill adds new section 79B to the Liquor Act 2007, which increases the thresholds for disturbance complaints to be considered, including raising the number of complainants from three to five and requiring complainants to attempt to resolve disputes before lodging complaints. That focus makes a real push for mediation. Everyone will have the right to ask for help and mediation, but the threshold for a formal complaint will rise.

The bill also adds new section 80A to the Liquor Act 2007, which strengthens the test for disturbance complaints where the order of occupancy is in favour of the licensed premises or the venue is within a special entertainment precinct. The order of occupancy will still be in favour of a venue if a longstanding licensed premises modifies its business plan to incorporate live music during certain hours of the day. That recognises the fact that live music should be considered an integral part of the offerings of licensed venues.

Section 75 of the Liquor Act 2007 will be amended to ensure that the police can continue to do their important work and issue directions to cease noise in urgent situations where they believe a venue is breaching the Act and where it cannot be addressed more appropriately through the formal disturbance complaint process under the Liquor Act 2007. The Government believes that Liquor and Gaming NSW is the most appropriate agency to take that work on as it already has the expertise and is uniquely positioned to balance the interests of venues and the concerns of local communities, as well as having a strong compliance and enforcement division. The bill makes ongoing measures for live music and performance venues to receive reduced annual liquor licensing fees and extra trading hours if they meet certain eligibility requirements. Those incentives aim to encourage more live music, performance and other arts and cultural events, as well as provide employment opportunities in venues across the State.

To help further encourage the creation of live music and performance venues, the bill expands and extends some of the incentives in the following ways. First, the bill amends section 12A of the Liquor Act to increase the current additional 60 minutes of extended trading for live music and performance venues to two hours. That extended trading incentive will be available only on nights when venues are hosting live music. Secondly, the 80 per cent fee discounts for live music and performance venues that were due to expire will continue permanently. Thirdly, the bill also amends section 13 of the Liquor Act 2007, which provides for extended trading for special events. The bill expands the eligible list of venues that can participate in special event extended trading and clarifies that that extended trading provision does not permit the use of gaming machines if they were not already able to be operated without the extended trading.

On the issue of precincts, when I think about the city I live in and the cities, suburbs and towns we want to become, Enmore Road is a wonderful example. Council and Government have declared that it is a place to go for a night out, and we are setting the rules to make that even easier. Since being established as our State's first and only special entertainment precinct, it has been voted one of the best going-out districts in the world. The current precincts framework that was put into law by this House can be improved, though. The framework is fragmented and does not support ready coordination between various levels of government and businesses. The bill will put new structures and incentives in place to build and protect vibrant special entertainment precinct destinations by improving frameworks and including additional incentives to improve operation and take-up.

The outcome will be the creation of more night-life precincts around the State. Importantly, those changes encourage councils, in consultation with their communities, to foster diverse environments that reflect the culture of their local areas. A special entertainment precinct on Enmore Road will look different to a potential precinct in Penrith, Parramatta, Wagga Wagga or Tamworth—where I believe they will be particularly effective in protecting the Tamworth Country Music Festival, for example. That is a pro-council change. Councils have the powers to designate the areas where the rules change as they are best positioned to balance the needs of their communities, businesses and night-time economies.

Section 202 of the Local Government Act will be amended to increase trading hours to become more consistent for eligible venues in special entertainment precincts that schedule live music or performances on short notice. New section 12A in the Liquor Act will extend incentives to special entertainment precincts to activate extended trading and fee discounts for venues in those precincts. New guidelines will also be issued under the Local Government Act to ensure that those precincts are established with strong foundations, and I will come to some of those measures shortly.

The bill will permanently relax certain rules for outdoor dining that were introduced during COVID and have proven very popular with both venues and the community. It is a great example of learning from some of the changes by the previous Government and now making those permanent. Those provisions improve slow and complex application processes, allowing venues to make the most of space outside their venues with a quicker, light-touch application process and providing New South Wales with access to enjoy outdoor spaces for social connection and cultural performances. The bill makes permanent the amendments to part 12 of the Liquor Act that allow councils to approve outdoor dining and performance on roads and footpaths without requiring approval from the Government.

Licensed venues in New South Wales, particularly live music venues, are struggling after years of complex and overlapping licensing and planning regulation. The bill takes steps to streamline that regulation. The most significant change is that the current community impact statement process that applicants must undertake for

certain licence applications will be replaced with a new streamlined approach that reduces duplication and makes consultation more meaningful both for the community and for decision-makers.

Currently, applicants must undertake consultation with stakeholders prior to lodging an application, at which point another round of consultation is undertaken—thoroughly confusing the community, in my experience. This is often in addition to consultation the applicant has undertaken in relation to their development application. Under changes to section 48 of the Liquor Act and the regulations, applicants must prepare a "statement of risk of harm and other potential impacts" as part of their liquor licence application, with all mandatory consultation now taking place after the application is lodged and is listed on a public New South Wales Government website for consultation. This will mean that the relevant decision-maker will be able to review all stakeholder submissions relating to the application directly.

The intention of this reform is to retain the community's ability to have its say on liquor licence applications where relevant but remove duplicative, confusing and unnecessary processes. There has been a big social and behavioural change in Kings Cross' night-time culture since the lockdown laws were introduced over 10 years ago. The bill proposes to remove precinct-based venue fees in the Kings Cross and Sydney CBD entertainment precincts so that venues in those areas will be subject to the same fees as the rest of New South Wales—in other words, so those areas are not artificially depressed. Similarly, the bill removes the requirement for ID scanners to be used for venues in prescribed precincts under the Liquor Act 2007. This reform recognises the improvements made in safety in those areas and the high cost and burden to businesses in mandatorily operating the ID scanners.

The bill also proposes to streamline trading hours in the legislation by adopting one standard trading period for liquor sales, with the exception of takeaway liquor, from 5.00 a.m. to midnight on all days of the week, meaning Sunday is not treated differently to the other six days; allowing small bars to start liquor trading at 10.00 a.m. rather than midday; and allowing hotels to apply for extended trading between midnight on Sunday and 5.00 a.m. on Monday morning like other venues and other nights of the week. However, it is important to note that these new trading hours will not override the existing liquor trading times on individual liquor licences. Any venue seeking to extend their liquor trading hours will need to apply to have their hours extended. The Independent Liquor and Gaming Authority will maintain powers to impose more restrictive trading times within the standard trading period—for example, if it is concerned about alcohol-related harm in a particular geographic area.

The bill also formalises a commonsense provision that allows restaurants and similar on-premises businesses to apply for an authorisation to sell takeaway liquor under certain circumstances, in small quantities, when purchased with a meal. This measure has been in place since 2020 and it is proposed to make it permanent. It was introduced during the COVID lockdowns and has remained since. No significant compliance- or alcohol-related harms have been reported as a result of this measure.

The bill is aimed towards encouraging a vibrant economy, particularly at night, but it does not do that at the expense of safety. None of us want to return to the days of alcohol-fuelled violence and deaths, but neither do we want to return to lockdown laws. The lives that we lost at that time have not been forgotten. We are removing blanket approaches to risk in favour of more targeted approaches towards licensed venues, including encouraging compliance rather than just penalising noncompliance. We want venues to succeed and to do so in a safe manner. The bill introduces new harm-minimisation and compliance tools which will allow police and Liquor and Gaming inspectors to make sure that is the case. With that in mind, I will detail some of those tools.

The bill updates the enforcement powers available under the Liquor Act by providing new "improvement notice" and "enforceable undertaking" frameworks. Improvement notices will give licensees the opportunity to rectify conduct where the liquor laws are breached. They require a licensee to fix compliance issues before escalated action is taken. Venues can continue trading during the period given to satisfy the improvement notice, thereby providing a cooperative and continuous-improvement approach to compliance. Enforceable undertakings are another alternative to taking disciplinary action, and disciplinary action may not be taken in relation to the breach or alleged breach while the enforceable undertaking is in force. However, a licensee's breach of an enforceable undertaking would be grounds for taking disciplinary action against the licensee.

Updating the enforcement powers available to Liquor and Gaming inspectors provides proportionate, consistent and reasonable ways to address misconduct. They are aimed at encouraging compliance with the law rather than just penalising noncompliance. Penalty notices can and will still be issued for breaches of the liquor laws, including for serious offences such as selling liquor to intoxicated people or minors. At present, minors can legally enter bottle shops in New South Wales without a responsible adult. The bill will change this by restricting minors in bottle shops or liquor sales areas of supermarkets without a responsible adult. The restriction will not capture situations where liquor is sold for takeaway or home delivery from a packaged liquor business that cannot do walk-up sales. It also will not capture situations where a minor is employed by the licensee but is not involved in the sale or supply of liquor, unless that has been approved by the Independent Liquor and Gaming Authority. We do not want kids locked out of the family-run pub they may live in.

Second, I turn to the 24-Hour Economy Commissioner Bill 2023. This bill seeks to establish the appointment of a 24-Hour Economy Commissioner under the Government Sector Employment Act 2013 to help revitalise the New South Wales entertainment, hospitality and cultural sectors and to support a vibrant 24-hour economy and music sector. The commissioner's great gains across government and with industry to make New South Wales night-life more vibrant, diverse, accessible and safe will be further bolstered by putting this role in legislation. The statutory appointment recognises the importance of the role and solidifies the night-time economy's standing within the Government. This is important because the commissioner needs to work with multiple and sizeable government departments to ensure reforms are considered and implementation is successful.

It also recognises the expansion of the program remit to include Newcastle, the Central Coast and Wollongong. The commissioner will continue to be responsible for ensuring that, as these reforms are implemented, vibrancy does not come at the expense of a safe night out. The bill seeks to ensure a single, coherent approach with an appropriate level of authority to resolve cross-government challenges. The bill will accomplish this by providing the commissioner with the authority to provide oversight, coordination and an evidence-based perspective on the function of the night-time economy across public and private agencies.

The bill provides that a 24-Hour Economy Commissioner must be appointed. While the commissioner will be employed under the provisions of the Government Sector Employment Act 2013, the commissioner is not subject to the control and direction of the Minister or any other person in relation to the contents of advice, a report or recommendations given to the Minister. This is important to ensure the commissioner can provide independent advice when required. The bill outlines the functions of the commissioner, which include advocacy for and promotion of the interests of the night-time economy in New South Wales, and for relevant improvements to its operation. The commissioner will also provide advice and recommendations to the Minister on matters relating to the night-time economy.

Cooperation across government, industry and councils has been at the heart of the commissioner's work. This function is included to make sure that continues to be the case. The 24-Hour Economy Advisory Group, comprising leaders from industry, creative sector, tourism, councils and government, provides valuable insights. Its ongoing role will be confirmed in the bill with the establishment of a 24-Hour Economy Advisory Council. As I have noted, cooperation is critical to solve the complex and sensitive challenges of our cities after dark. As with other commissioners who have advisory, advocacy and coordinating roles, the commissioner and other government agencies that provide or deal with services or issues affecting the night-time economy in the State will be required to work in cooperation in the exercise of their functions.

The Minister for Music and the Night-time Economy will be empowered to work with other Ministers for government agencies to share information. The commissioner may provide reports about the night-time economy for the Minister, and these may be provided to each House of the Parliament so members can consider the impacts of policy. The Minister may also direct the commissioner to conduct an inquiry into an issue affecting the night-time economy. I have spoken about our plan to build a network of vibrant going-out precincts across New South Wales, including special entertainment precincts. The commissioner's inquiry and reporting power will include a requirement to provide advice on how special entertainment precincts are operating, whether and where new precincts might be established, and any changes that might be needed to improve outcomes from existing precincts.

While the lockdown laws responded to tragic events and a situation where a concentration of venues was poorly managed, it was a blunt response. Vibrancy should never come at the expense of a safe night out, but we want to avoid being in a position in New South Wales where a heavy-handed option is considered the only option. By providing the commissioner with this strategic mix of collaboration and reporting powers, a holistic view of the night-time economy and the ability to work across government using a strong and comprehensive evidence base, the Government is committed to a night-life that is not only vibrant but also safe and sustainable. The first task for the commissioner will be the refresh of the 24-Hour Economy Strategy, including delivering on a much broader agenda to improve the night-time for workers in our cities, towns and suburbs. The bill strikes a balance between public safety and vibrant activity across the State. At its core is a mission to make it easier to bring people together and connect within our unique districts, our extraordinary creative community and the great outdoors.

The bill is aimed at building community. We want a State where people can gather and spread out in the streets, whether it is for a street festival in Surry Hills, live music in one of Parramatta's laneway bars, the Ramadan night markets in Lakemba or the Tamworth Country Music Festival. We want a State where music is front and centre and where we treat music as sound, not noise—where a person can no longer move in next to a venue and shut down its music. We want a State where creative spaces flourish and where we reverse the halving of live music venues. We want incentives and a streamlined regulatory system that helps get all venues back, and then some. This is a carefully considered package, which represents a first step in cutting the rules and regulations that hold back music and venues, and a commitment to improve the night for everyone across the State. Venues will

benefit from the package, which is why the Government has been up-front that it will ask venues to co-invest to make the reforms possible. It is an important signal to industry and the community that this is an issue that the Parliament backs and supports, and it hopes to implement this in time for summer.

I recognise the significant work that has gone on across the many agencies that have collaborated to make the bills possible. It has been a complex set of reforms to bring together. I recognise the Department of Enterprise, Investment and Trade, particularly the Office of the 24-hour Economy Commissioner, Sound NSW and Liquor and Gaming NSW; the Cabinet Office; the Department of Planning and Environment, including the Environment Protection Authority; the Office of Local Government; the NSW Police Force; NSW Health; Transport for NSW; the Department of Customer Service; and the Premier's Department. I also recognise my ministerial colleagues in each of those areas, who have contributed significantly to making this complex reform possible.

This work has included a long and thorough consultation process with industry bodies, health groups, councils and venues. I particularly mention the commissioner and Emily Crocker from the 24-hour economy office, along with Lucy Hartas from the Cabinet Office, who have been instrumental to these reforms. From my team, Angud Chawla and Lizzie Butterworth have been crucial to making this happen. I recognise the supporters of these reforms across the Chamber. This has been discussed over time. They are complex reforms, but I am very hopeful that they will get the support of the Parliament. The signal that will send as we head into summer, as we come out of COVID and as people's hopes rise about lifting these sectors, is particularly important. I commend the bills to the House.

**Debate adjourned.**

## **JURY 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. Daniel Mookhey.**

**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 (10:55):** On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Jury Amendment Bill 2023. The bill makes a number of amendments that will improve the efficiency of jury empanelment, provide enhanced support for jurors to perform their role and reduce the expenditure of resources on trials that are ultimately aborted or result in hung juries, where possible. The bill also implements the single recommendation of the statutory review of the amendments made to the Jury Act 1977 by the Jury Amendment (Verdicts) Act 2006, which introduced majority verdicts in criminal proceedings in New South Wales. The statutory review concluded that the policy objectives of the Jury Amendment (Verdicts) Act 2006 remain valid and that the terms of the amendments are largely appropriate for securing the policy objectives, with one exception.

The statutory review's single recommendation was that the minimum statutory period required for deliberation before a majority verdict can be returned should be reduced from eight hours. It recommends that a majority verdict should be permitted to be returned in criminal proceedings, if a unanimous verdict has not been reached, after jurors have deliberated for not less than four hours, rather than eight hours, where other statutory requirements are satisfied. The bill will implement that recommendation. The remaining amendments in the bill were identified through a review of indictable processes in the District Court and Supreme Court, led by the Chief Judge of the District Court, the Hon. Justice Derek Price. The review identified ways to streamline jury processes and ensure that juries in New South Wales operate and are managed in the most efficient and effective way. It also sought to ensure that jurors are provided with the best possible support to make their significant contribution to the justice system. This bill will implement recommendations made through this review.

Importantly, the Government has worked closely with experts to ensure that the proposed amendments achieve their intended aim. The Department of Communities and Justice consulted heads of jurisdiction and other members of the judiciary, as well as key government and legal stakeholders, during both the statutory review and the development of the amendments in the bill. Extensive consultation occurred with stakeholders responsible for overseeing and managing the selection and operation of juries, including the NSW Sheriff's Office, the District Court and the Supreme Court. The Local Court and the Coroners Court were also consulted. Targeted consultation was also undertaken with legal stakeholders, including Legal Aid NSW, the Law Society of New South Wales,

the New South Wales Bar Association, the Public Defenders, the Aboriginal Legal Service, the NSW Police Force and the Office of the Director of Public Prosecutions. The Judicial Commission of New South Wales, the Premier's Department, the Cabinet Office and NSW Treasury were also consulted. Further consultation was undertaken on the drafting and final form of the bill.

I turn to the substance of the bill. Item [1] of schedule 1 to the bill adds a note to section 14A (d) of the Jury Act to clarify what constitutes "good cause" for the purposes of seeking an exemption or excusal from jury service. The amendment clarifies that "good cause" includes any circumstances that could affect a person's ability to perform the functions of a juror, and extends to temporary disabilities or other physical or mental conditions. This is intended to support the breadth of discretion that the sheriff and courts have when considering applications for exemption or excusal. This will improve efficiency by ensuring that jurors who will not be able to properly perform the role of a juror are excused before they are empanelled to a jury. Removing these jurors early will reduce the risk of trials not being able to continue because a juror needs to be excused or discharged during the trial. This is intended to avoid unfairness or inefficiencies caused by jurors needing to be discharged during a trial in circumstances where it would have been appropriate for them to be exempted or excused from services as a juror.

**The PRESIDENT:** Order! According to sessional order, proceedings are now interrupted for questions. Before we commence question time, and noting that I will add on a couple of minutes at the end, I will draw attention to some guests in the gallery.

#### *Visitors*

#### **TWINNED PARLIAMENTS AND UNITED NATIONS DEVELOPMENT PROGRAM**

**The PRESIDENT:** I invite attention to the presence in the gallery of a delegation of members and staff from our twinned parliaments and the United Nations Development Program, led by the Hon. Therese Kaetavara, Deputy Speaker of the Bougainville House of Representatives, and the Hon. Commins Aston Mewa, Deputy Speaker of the National Parliament of Solomon Islands.

**The Hon. PENNY SHARPE:** By leave: I move:

That the Hon. Therese Kaetavara, Deputy Speaker of the Bougainville House of Representatives, and the Hon. Commins Aston Mewa, Deputy Speaker of the National Parliament of Solomon Islands, be invited to take a chair on the dais.

**Motion agreed to.**

#### *Questions Without Notice*

#### **AMANDA FAZIO COMMENTS**

**The Hon. DAMIEN TUDEHOPE (11:01):** Mr President, I join your welcome to the representatives from Bougainville and the Solomon Islands to this Parliament. I trust they will enjoy question time. Members on this side of the Chamber are very well behaved. I introduce the Hon. Wes Fang, who is on his best behaviour today. But I digress. My question is directed to the Leader of the Government. Yesterday this House passed a motion condemning antisemitism in all its forms. Last Thursday the House condemned former Labor member and former Labor President of this place, Amanda Fazio, for her antisemitic comments on social media and called for her removal from her role as a member of the rules committee of the New South Wales Labor Party and for her expulsion from the New South Wales Labor Party. Has Ms Fazio been expelled from the New South Wales Labor Party?

**The Hon. Daniel Mookhey:** Point of order: It is well and truly established that questions cannot be asked about party affairs; questions can only be asked about government affairs. Asking that question of a Minister, who has no responsibility whatsoever with respect to the matter, is outside the standing orders and the precedent should be upheld as it applies to all parties.

**The Hon. Damien Tudehope:** To the point of order: The question arises directly from a motion in relation to the expulsion of Ms Fazio from the Labor Party, which was passed unanimously by this House. Every member voted for that motion. If the Leader of the Government needs any assistance, I am sure she can speak to the Hon. Tara Moriarty, who can give her that assistance. The Leader of the Government can answer the question, if she wants to. If she elects not to, it speaks volumes.

**The Hon. Penny Sharpe:** To the point of order: The Leader of the Opposition said he would be well behaved, yet he is making debating points in relation to the point of order. It is correct that a substantive motion on the matter was passed in the House last week. However, the question is out of order as it is not within the remit of my role.

**The Hon. Daniel Mookhey:** Further to the point of order: Regarding the contention that because the House has passed a motion in respect to a matter a Minister can be asked a question about it, firstly, that has never been the case given the number and nature of motions that we pass. Secondly, the precedent was, in effect, upheld in the last Parliament when, frankly, there were neo-Nazis in the National Party that we were condemning as well.

**The Hon. Wes Fang:** Point of order—

**The PRESIDENT:** I do not need to hear further on the point of order. As I have mentioned on numerous occasions, debating points are not helpful. The Treasurer should know better. I call the Hon. Daniel Mookhey to order for the first time. I will now rule on the matter. Former President the Hon. Meredith Burgmann made a ruling, which was cited by former Presidents the Hon. Don Harwin and the Hon. John Ajaka. It states:

Questions relating to the affairs of a Minister's department or office are in order, however references in a question to the affairs of a political party are not in order.

Therefore, I rule the question out of order.

#### FLETCHER STREET COTTAGE

**The Hon. PETER PRIMROSE (11:04):** My question without notice is addressed to the Minister for Housing, and Minister for Homelessness. Fletcher Street Cottage in Byron Bay requires funding to meet the increasing need for homelessness services in the region. Will the Minister inform the House of what she is doing to assist the Fletcher Street Cottage?

**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) (11:05):** That is a great question. The Byron region is a part of New South Wales that you know very well, Mr President. Unfortunately, as you and the many members who love the area know—and I, as the member for the North Coast, also know—as beautiful as our North Coast and Northern Rivers regions are, a lot of people are really struggling there. Byron shire, unfortunately, is at the top of the list of areas experiencing rough sleepers in the most recent street count. On raw numbers, it is, in fact, higher than in the City of Sydney local government area, so we know that there is a real need for homelessness services in that part of New South Wales. Unfortunately, investment has not been made in that region, despite the fact that the housing crisis and housing crunch has really been felt there. As a government, we look at the data we receive, we see the street count showing the region really struggling and then we do something about it. That is exactly what I have done.

I am pleased to inform the House of two things I have done to respond to the housing needs of this particular region. The first is funding the Fletcher Street Cottage. It is a fantastic facility supported by the Byron Community Centre. It has never been government-funded but has always relied on the community and philanthropic donations. Unfortunately, that became unsustainable because of increasing demand for its services of laundry, meals and casework. So the Government has given \$125,000 to the Fletcher Street Cottage to allow it to keep its doors open. The facility, which has never been government-funded, was at risk of closing. We have ensured that its doors are kept open.

But it is not just about one facility in Byron Bay, important as that central hub is. We are expanding assertive outreach right across the North Coast and the Northern Rivers. Currently, it is only operating in Tweed. We will ensure, with \$11 million, that it is not just in Tweed but that it is in Byron shire, Ballina, Lismore, Clarence and Richmond Valley. Assertive outreach is a critical part of the response to homelessness. It is about meeting homeless people where they are and directly ensuring, through a multidisciplinary team, that we can connect them with housing, health support, drug and alcohol support and other mental health interventions. That multidisciplinary team will now be operating across the Byron shire, the Northern Rivers and the North Coast. It is not just about seeing problems and acknowledging them—we do a lot of that—it is about action. So I update the House that we are taking specific and direct action in relation to the homelessness issues on the North Coast and in the Byron shire in particular.

#### LOCAL SMALL COMMITMENTS ALLOCATION

**The Hon. SARAH MITCHELL (11:08):** My question is directed to the Special Minister of State. In relation to the 25 electorates the Labor candidates for which failed to nominate a single community project for funding under the Local Small Commitments Allocation, when was an election commitment made to provide \$400,000 in funding to local councils in those electorates for playground and park upgrade projects, and who made that commitment?

**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) (11:08):** I thank the member for her question. As I have indicated to the House, the allocation was equal across each area. Part of the

reason for doing that was to avoid the sorts of issues we had in the past where 96 per cent of one fund—the Stronger Communities Fund—went to Coalition electorates only. The goal with the Local Small commitments Allocation was an equal amount in every electorate. As a balancing measure to make sure that \$400,000 was allocated to each electorate, if any electorates did not have projects totalling \$400,000, additional funds in those electorates were allocated to councils for parks and playgrounds. That was the policy we took to the election. That was the policy submitted to the Parliamentary Budget Office, and costed and released before the election.

It ensures that there was exactly \$400,000 for each electorate. In addition, the formula means that the amount of funding received is in proportion to the number of citizens in each council area. The formula applies across the area to make sure that funds are spread in an even way across the State. Members opposite have been pretending that funds have been allocated in some unfair way. They have produced their own set of figures. Labor seats received 48 per cent of the funding. What proportion of the Legislative Assembly are Labor seats? It is 48 per cent. Liberal seats received 27 per cent of the funding. What proportion of the Legislative Assembly are Liberal seats? It is 27 per cent.

**The PRESIDENT:** Order! The Leader of the Opposition, the Deputy Leader of the Opposition, the Hon. Courtney Houssos and the Hon. Rose Jackson will cease interjecting.

**The Hon. JOHN GRAHAM:** National Party seats received 12 per cent of the funding—the same proportion as the number of seats it holds in the Legislative Assembly. Members opposite had their own numbers. They argued they were much higher. We would be in majority government—

**The Hon. Damien Tudehope:** Point of order: The question is specifically about who made the decision about the allocation of \$400,000, or the balance of that \$400,000, to local governments. Who made that decision?

**The PRESIDENT:** No, that was not the question. The question asked when the commitment was made and who made the decision. There were two parts to the question. The Minister is being directly relevant. The Minister has the call.

**The Hon. JOHN GRAHAM:** I will make it clear: The decision was made before the election. It was part of the policy we took to the election and was costed by the Parliamentary Budget Office.

**The PRESIDENT:** Order! I call the Hon. Mark Buttigieg to order for the first time.

**The Hon. SARAH MITCHELL (11:12):** I ask a supplementary question. Will the Minister elucidate that part of his answer where he said that Labor took this policy to the election. Will he firstly elucidate who made that public announcement and when? Will he also assure the House that the policy funding request to the Parliamentary Budget Office that he referenced in his answer referenced park and playground upgrades?

**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) (11:12):** The whole program was public.

**The PRESIDENT:** Order! The Minister will resume his seat while members come to order. The Minister has the call.

**The Hon. JOHN GRAHAM:** The program was public and received public commentary. The Parliamentary Budget Office received a request. My recollection is that it included those principles.

**The PRESIDENT:** Order! There are too many interjections in the Chamber. The Minister will be heard in silence.

**The Hon. JOHN GRAHAM:** I am happy to take on notice the specifics of whether they were in the Parliamentary Budget Office costing. My recollection is that they were. They were certainly decided before the election. It is an important principle to make sure that each electorate receives an equal amount. Not only that, but within in each electorate, each council would receive a proportionate amount. Those were the principles. Recall what was being attempted.

**The PRESIDENT:** I call the Hon. Natalie Ward to order for the first time.

**The Hon. JOHN GRAHAM:** The Labor Party, in opposition, was trying to respond to the sorts it had seen from members on the other side of the House. We can see them imagining how they might have dealt with a program like this. We are trying to do the opposite and run a program to a high standard, responding to what we had seen over time from the former Government. That is why it was designed to deliver an equal amount to everyone. It did not matter whether the candidate was elected; we would deliver our election commitments. [*Time expired.*]



**The PRESIDENT:** Before I call the Hon. Mark Banasiak, I note that today is the end of a long, two-week sitting period. I remind all members that we have some very esteemed guests from the Solomon Islands Parliament and the Bougainville Parliament with us today.

**The Hon. Wes Fang:** I am on my best behaviour.

**The PRESIDENT:** Order! I would be grateful if members could follow the lead of the Hon. Wes Fang and remain on their best behaviour. I am sure the Deputy Speakers of both parliaments would also be grateful to hear the answers to the questions that are asked.

#### **LIVESTOCK FODDER ASSISTANCE**

**The Hon. MARK BANASIAK (11:15):** My question is directed to the Minister for Agriculture, and Minister for Regional New South Wales. Regional farmers are still recovering from previous droughts, wildfires and floods. Given that we are heading into a long, hot and dry summer, our office is already receiving reports that some farmers, particularly on the mid North Coast, have seen their summer stockpiles of feed and fodder go up in flames. In previous years farmers would have sold their stock early in the lead-up to dry weather, but the price at saleyards is presently so low that that is not a viable option. Does the Minister's department have an emergency plan in place to assist regional farmers with this additional stockfeed? Given that farmers are already impacted, when will it be enacted?

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:16):** I thank the member for the question. I am well aware of the situation confronting farmers in parts of regional New South Wales at the moment, particularly with drier conditions in parts of the State. As I have said a number of times in this place and in the public domain, we have been communicating with farmers across the regions about having plans for drought and checking those plans. Most responsible landowners have them, but we are communicating with farmers about making sure that their plans are up to date and contain the relevant information necessary to make decisions in the current circumstances. I acknowledge the particular hardship of farmers who are preparing by selling livestock. A significant number of people are selling at this time, in order to make the correct preparations for the drier conditions they are facing. As a result, prices have reduced.

**The PRESIDENT:** Order! The Hon. Sam Faraway will cease interjecting.

**The Hon. TARA MORIARTY:** We have supports in place for people experiencing difficulty. There is a coordinated drought action response that delivers financial and outreach support. I have outlined some of the details of the outreach undertaken by my department to offer assistance to farmers and work out where they need help. I encourage people to use the support available, including the farm innovation fund and the Regional Drought Resilience Planning Program, and to reach out for assistance early. We want to work with people to make the correct preparations, as we are experiencing dry conditions in parts of the State—some drier than others. That situation is likely to expand over the summer. I urge farmers to pay attention to the up-to-date information available on the DroughtHub website. We will work with people impacted by those conditions as and when it is needed.

**The Hon. MARK BANASIAK (11:19):** I ask a supplementary question. I thank the Minister for her thorough answer, which focused largely on drought. She spoke about a drought assistance program. Given that farmers have been prepared for drought and have feed and fodder but that feed and fodder has been burnt by the fires, what emergency plans are in place to assist them with that part of the issue?

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:19):** I thank the member for his supplementary question. I acknowledge that part of the question. It has certainly been a particularly difficult early start to the dry season. Fire has destroyed significant amounts of fodder. There are also issues with the price of getting fodder in some parts of the State, because other restrictions are in place to protect New South Wales from fire ants. There will be people who are impacted by those issues but who have broader stock available and so do not necessarily need government assistance at this point. But I urge those people who are in need to reach out for that assistance. We want to work directly with people to get help to where it is needed when it is needed.

#### **ELECTRIC VEHICLES AND ROAD USER CHARGES**

**The Hon. GREG DONNELLY (11:20):** My question is addressed to the Treasurer. How will the New South Wales Government ensure that we can fund our roads and infrastructure if electric vehicles, which do not pay the petrol excise, continue to be taken up? Are there any recent developments that would limit or improve the opportunities for New South Wales to fund our roads?

**The Hon. DANIEL MOOKHEY (Treasurer) (11:20):** I thank the member for his excellent question. Yesterday the High Court delivered a judgement in the case of *Vanderstock v Victoria* [2023] HCA 30. It is perhaps one of the most impactful High Court decisions as it relates to Federal-State financial relations that we have seen since the 1990s. The court found section 7(1) of Victoria's Zero and Low Emission Vehicle Distance-based Charge Act 2021 to be invalid on the basis that it imposes a duty of excise within the meaning of section 90 of the Commonwealth Constitution. While that Act is not identical to the New South Wales Electric Vehicles (Revenue Arrangements) Act 2021 introduced by the previous Government, there are similarities between the two, which means that the New South Wales Government will have to carefully study the High Court's decision and determine whether the New South Wales legislation is constitutionally valid and, if not, whether it can be revised so that it falls within the scope of New South Wales' constitutional authority.

Only Victoria and New South Wales have implemented legislation like this, in the absence of any meaningful action from Commonwealth governments of either persuasion to ensure that future contributions towards road funding are made by all motorists. I point out that the Commonwealth Government became a party to the High Court proceedings yesterday. We would expect the Commonwealth Government to be a party to the solution now to ensure that all road users are making a contribution to road maintenance. That is of real importance to New South Wales—and, dare I say, to regional New South Wales in particular.

For a very long time, under a fuel excise scheme at the Commonwealth level, road users have made a contribution towards the cost and upkeep of roads. There is no doubt that the transition to net zero, which both sides of this House support, requires us to adapt all arrangements for a net zero future, including how we fund road maintenance. The transition to net zero will take place only if the rules are fair and are seen to be fair, regardless of people's choice of motor vehicle. It is a good thing that people are buying electric vehicles [EVs]. It is a good thing that we are transitioning to an EV future, but we must ensure that as more private fleets go towards EVs, we can still afford to maintain our roads in a country as vast as ours. We will be working with other States in our response, and we look forward to having conversations with the Commonwealth about the right way forward in the wake of the High Court's decision.

#### STATE BUDGET AND KOALA PROTECTION

**The Hon. ROBERT BORSAK (11:23):** My question is directed to the Treasurer. In September the New South Wales Government introduced a responsible budget aimed at budget repair in a sustainable way, aiming to rebuild New South Wales essential services and helping New South Wales cost of living. Given the numerous recent reports of endangered native animals being observed on game cameras in State forests and parks across New South Wales and Victoria affected by the 2019-20 bushfires, including long-footed potoroos in Bondi State Forest—a first in New South Wales—and, of course, our much-beloved koalas at numerous locations in New South Wales, will the Government consider funding further surveys to ensure that the \$48 million committed in the budget for saving koalas is indeed required and not just succumbing to another Greens doomsaying, timber industry job-destroying campaign to further their extreme environmental policies?

**The Hon. DANIEL MOOKHEY (Treasurer) (11:24):** I thank the member for his question. I think it is the first question that has been asked of me by a non-Government member in two or three weeks.

**The Hon. Robert Borsak:** I am happy to do more.

**The Hon. DANIEL MOOKHEY:** Please do—I am here to take questions.

**The Hon. Jeremy Buckingham:** I asked you one last week.

**The Hon. DANIEL MOOKHEY:** I know. I appreciate that very much. It is true that the Government handed down a responsible budget a few weeks ago that was aimed at strong fiscal repair. I plead guilty to the charge of responsible public finances, delivered in our first budget. It is true that, in the wake of multiple scientists, members of this Parliament and others making the point that koalas are at risk of becoming extinct in New South Wales unless we take action, we have allocated funding—as we promised to. The \$48 million that the member refers to is a component of our koala strategy that is being rolled out by Ministers across the Government. It is, of course, of great importance to the people of New South Wales that we get it right.

With respect to whether the Government will ensure that this money is being used appropriately and not for unnecessary surveys, it is obviously an operational matter as to whether those funds are deployed. But I will endeavour to take that part of the member's question on notice and come back to him with further detail to ensure that his concerns are being properly addressed by government agencies. The money we have put aside to ensure that koalas do not become extinct should be used properly and efficiently for that purpose, led through an evidence-based approach that is supported and informed by science, but equally informed by the standard questions that the Minister for Finance and I ask about value for money. I want to make sure the money is being used to support evidence, but I also want to make sure the money is being spent well.

**The Hon. ROBERT BORSAK (11:26):** I ask a supplementary question. I thank the Treasurer for his detailed answer. Once he has had a chance to do the review, will the Treasurer allocate further funds for additional surveys if part of the \$48 million allocated for koala protection is not available for other endangered species' assessment?

**The Hon. DANIEL MOOKHEY (Treasurer) (11:27):** I thank the member for his supplementary question. While I, of course, welcome any opportunity to hear funding proposals—be they in Expenditure Review Committee meetings, in newspapers, from the environment Minister, or in question time—I say that, certainly, we will examine any bid for funding on its merit to ensure that it is a valid use of public funds. Should anyone request additional funding in that respect, if the need is there then, of course, the Government will consider it, as we consider the many funding requests that are made of us.

**The PRESIDENT:** Before I call the next member from the Opposition, I welcome to the Parliament students from Riverstone High School who are participating in the Legal Studies and the Legislature Program conducted by the Parliamentary Education team. You are all very welcome today.

#### LOCAL SMALL COMMITMENTS ALLOCATION

**The Hon. NATALIE WARD (11:28):** My question is directed to the Special Minister of State. On 10 March 2023 the Labor candidate for Camden posted publicly on Facebook:

I am so excited to announce that a Minns Labor Government will deliver up to \$75,000 for the Camden Musical Society towards the staging costs of musicals right here in Camden!

Has the Minister approved a grant to the Camden Musical Society under the Local Small Commitments Allocation, and if not, will the Minister guarantee that he will approve such a grant?

**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. Natalie Ward for her question. I will have to take on notice the specifics of the grant to check whether it has been approved or not, but it sounds like the member is referring to the candidate at the time, now the member for Camden—I congratulate the member for Camden—who was making an election commitment, as is appropriate and as those opposite did on many occasions and as members on this side did on many occasions. That election commitment is appropriate.

As I indicated to the House yesterday, since we have come to government we have added an additional layer to work through this process. It is appropriate for me to be asked whether I have signed off on this project. I will need to take that on notice to check. If I have signed it off, I can indicate that the member can look at that approval paperwork because the Government has agreed to supply it to the House and the member will see the exact approval details. Let me contrast that with the approval paperwork that they shredded. That was denied by the Leader of the Opposition, who said that it did not exist.

**The Hon. Damien Tudehope:** Point of order—

**The Hon. JOHN GRAHAM:** In fact, his Government had shredded it.

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

**The Hon. Damien Tudehope:** Mr President, you previously ruled in relation to the manner in which this Minister—

**The PRESIDENT:** Order! The member will be heard in silence.

**The Hon. Damien Tudehope:** —continually tries to argue in this manner in relation to questions that he is asked. This is now the third time you have had to rule on the manner in which he seeks to answer questions, which are in fact not asked of him in an argumentative way. I ask you to call him to order.

**The PRESIDENT:** I made this point yesterday when it was raised by the Deputy Leader of the Opposition. Points of order are taken on specific questions and do not flow over to other questions. I have some sympathy for the Leader of the Opposition and the point he makes, but I am not in a position to call the Hon. John Graham to order. However, I uphold the point of order and direct the Minister to come back to the question that was asked.

**The Hon. JOHN GRAHAM:** I have indicated to the Hon. Natalie Ward that I am happy to take the question on notice and I will return to the House with an answer.

**The Hon. NATALIE WARD (11:31):** I ask a supplementary question. I thank the Minister for his response. I note that in his response he indicated that the election commitment is appropriate. Regarding that part of his response, will he elucidate how it is appropriate for the member for Camden to allocate funding to an organisation that she founded and that she was clearly closely connected to?

**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) (11:31):** I thank the member for her question. I indicate to the House the point I was making, which is that it is appropriate to make election commitments. Members on both sides might want to reflect on that. It is appropriate to make those commitments, as members on the other side have done and as we have done ahead of the election. We put those commitments to a democratic test and took them to the election, at which there is a winner and a loser.

**The Hon. ROBERT BORSAK (11:32):** I ask a second supplementary question. I am wondering whether the Minister will elucidate on his answer and inform the House whether this \$75,000 will be used for the upcoming production of *Oklahoma*!

**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) (11:32):** I thank the Hon. Robert Borsak for his question and his interest in the State's creative industries. I will not take that question on notice but, given his interest, I will make further inquiries.

### PATHOGEN DETECTION DOGS

**The Hon. CAMERON MURPHY (11:33):** My question is addressed to the Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage. Will the Minister inform the House about how detection dogs Alice and Echo are helping us to protect New South Wales native plants and animals?

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:33):** There is nothing that dogs cannot do. I thank the Hon. Cameron Murphy for the question and his interest in this issue. I am looking forward to telling the House about Alice and Echo, and how they have been trained to protect native plants and animals across New South Wales. First, I want to let the House know about the threat that they are fighting. In New South Wales we have a pathogen named phytophthora.

**The Hon. Sarah Mitchell:** Can you say that again?

**The Hon. PENNY SHARPE:** Phytophthora. It is a soil-borne pathogen that poses a threat to more than 50 threatened species and ecological communities. It causes disease in our native plants and this disease permanently damages ecosystems and destroys habitat for native wildlife, including the southern brown bandicoot and the smoky mouse. The pathogen is spread through plants at nurseries, and once it reaches our parks and reserves it cannot be eradicated. That is why detecting this pathogen is so important. The methods traditionally used to detect this pathogen are both challenging and expensive, and that is where the detection dogs are providing a solution. I was recently lucky enough to meet Alice, the springer spaniel, and Echo, a Brittany spaniel, and their handlers, Ryan Tate and Avery Keller. The two dogs have been expertly trained by their handlers to sniff out the disease that we are talking about. They are 10 months into their training, which is funded through the Saving Our Species program.

Alice and Echo can now confidently discriminate infected from non-infected plants in a laboratory environment and they are learning how to detect the pathogen when it is lying dormant in soil, or on vehicles, clothing and equipment. They have been practising on plants provided by the Northern Beaches Council, which is working to protect the critically endangered Caley's grevillea from infection. They have been training at the North Curl community garden and Manly Dam. Based on the success of the trial, the New South Wales Government is awarding a \$50,000 grant to fine-tune the dogs' skills. The grant will see them deployed to test soil in Barrington Tops National Park and Scheyville National Park, where phytophthora is posing a significant threat to several threatened plant species. They will also be used to protect threatened species in Garigal National Park and the Ku-ring-gai Chase National Park.

This is a collaborative project that will involve the NSW National Parks and Wildlife Service, the University of Sydney, the Botanic Garden of Sydney's PlantClinic, the Northern Beaches Council, the Department of Planning and Environment and trainers from TATE Animal Training Enterprises. We know that across the world detection dogs are being used for a huge range of things—sniffing out pests, problems in water, sniffing out cancer, and finding koalas and greater gliders. They are increasingly being valued for their role in conservation. These are low-cost, high-confidence and resource-efficient tools. Detecting this pathogen is like finding a needle in a haystack, but New South Wales is lucky to have Alice and Echo on the case to make sure that we can stop it spreading through nurseries, reserves and national parks.

**The PRESIDENT:** Order! Although our friends from the Solomon Islands and Bougainville have left the Chamber, the students from Riverstone High School are still here. Let us continue to preserve the day with the decorum for which this House is well renowned.

### TRAUMATIC BRAIN INJURY AND DOMESTIC VIOLENCE

**Dr AMANDA COHN (11:36):** My question is directed to the Minister representing the Minister for Health. It is now widely recognised that head trauma, particularly repeated head trauma in contact sports, can have a lifelong impact on athletes. The recent Senate inquiry into concussions and repeated head trauma in contact sports has made extensive and important recommendations to improve the prevention, assessment and treatment of traumatic brain injury for athletes. Recent peer-reviewed research has estimated that the number of women who have experienced traumatic brain injury due to family and domestic violence is more than 10 times greater than the number experienced by military personnel and athletes combined. What work is being undertaken to improve diagnosis and management of traumatic brain injury for known victim survivors of family and domestic violence?

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (11:37):** I thank Dr Amanda Cohn for a really important but very sensitive question relating to domestic violence survivors. The member has asked the question of me in my capacity representing the Minister for Health. It is appropriate that I refer the question to the Minister for Health. In doing so, I will speak to the Minister for the Prevention of Domestic Violence and Sexual Assault as well. There is no doubt that the correlation that the member draws between traumatic head injuries and victims of domestic violence is a really concerning one. I know that it is one that we need to work through carefully, as indeed both those Ministers are.

It is excellent to see the Senate producing those important reports, but it is appropriate that we consider them carefully in responding to them. I know that the issue of traumatic head injuries is being considered across a wide range of sports, and we are thinking about it as our kids participate in sports. There is no doubt that it is an important correlation that the member has made. It is important that I come back to her with a detailed and considered response. We want to make sure that we are taking every step in relation to victims of domestic violence but certainly in relation to a range of sporting activities and that we are doing everything we can. We are learning more and more about the nature and the long-lasting effects of head injuries. I know that a number of sporting codes are making careful and considered responses to this research as it emerges from both Australia and overseas.

My kids play soccer, which is probably not a sport we would consider. I know we think about brain injuries in relation to high-contact sports and the impacts it is having, but even in sports like soccer they are considering kids heading the ball and what impact that might have. It is appropriate that we consider that and make an appropriate response. This is an example of how upper Houses like ours and the Senate take those big, complex and difficult issues and come forward with a range of solutions. I know before I was a Minister I had the opportunity, as others did, to participate in a large range of inquiries dealing with those big and important issues. They will no doubt have large and long-lasting consequences, but it is important that we can make recommendations for governments of all descriptions to take steps to address important issues like those.

### LIVESTOCK FODDER ASSISTANCE

**The Hon. SAM FARRAWAY (11:40):** My question is directed to the Minister for Agriculture. With fires raging across parts of the mid North and North coasts, what provisions has the Minister put in place to support landowners needing fodder to keep livestock alive? Will she advise the House of the specific actions she has taken on this important issue?

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:41):** I thank the member for the question. This is a serious issue, which the Shooters, Fishers and Farmers Party has raised earlier. I appreciate the question. We are working directly with producers around the North Coast area to deal with the issues, particularly following the fires around Kempsey. The Department of Primary Industries [DPI] and Local Land Services [LLS] have officers in place to assist, particularly with animal welfare issues that have arisen as a consequence of or are in relation to fire, which is also related to the drier conditions people are facing. We have staff who are engaging with primary producers across that region to provide assistance in relation to animal welfare issues particularly, and that includes dealing with animals that need to be dealt with in the most careful way, including in relation to euthanasia.

**The Hon. Sam Faraway:** Point of order: My point of order is about relevance. I specifically asked what support was there for landowners needing fodder—that is food for animals to be kept alive. What actions has the Minister put in place for this very important issue?

**The PRESIDENT:** Order! There is no point of order. The Minister is being directly relevant. The Minister has the call.

**The Hon. TARA MORIARTY:** I am well aware of the difference. I do not need assistance from the National Party or the Hon. Sam Faraway. I am not interested in it; I do not need their advice. Fodder is related to

animal welfare because it relates to how primary producers can maintain feeding their animals, which is currently an issue they are facing as they make decisions about what to do with their stock. I understand the issues relating to fodder. Again, they also relate to animal welfare issues, because farmers who are having some difficulty financially are making decisions about what to do with their stock.

We are working closely with primary producers across that region to deal with those issues, particularly where they have been impacted by fire in recent times. As I have already outlined, specific employees from both LLS and DPI are providing resources and assistance to the local community and will continue to do so. We are also asking people locally to report when they have lost fodder, particularly in the fires. Broadly, where they are having issues with that, we are asking that they report that through to the department so that we can engage—*[Time expired.]*

**The Hon. SAM FARRAWAY (11:44):** I ask a supplementary question. Will the Minister elucidate and exactly quantify what resources and assistance have been deployed to the mid North and North coasts? She has outlined that the DPI and LLS have deployed resources and personnel on the ground. Will she elucidate what resources and how to access them?

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:45):** I thank the member for the supplementary question, because it is a good opportunity to communicate with the landowners and primary producers who are in that area about the assistance that is available. I will come back to where I was before. Local staff members from DPI and LLS are specifically assisting with those issues as they are occurring now. We are providing assistance with emergency fodder where it is required and emergency stock water where there is an immediate animal welfare concern. I again refer the member to my previous answer as to why fodder is relevant. There is animal assessment and veterinary assistance; and, unfortunately, stock euthanasia and burial; livestock feeding and management advice; and care of animals, including pets and companion animals, in evacuation centres.

The assistance is available. I encourage people who are impacted or who feel as though they may be getting to the point of needing assistance to reach out early. Emergency fodder and stock water is available and will be available to assist primary producers and their animals when it is needed. I really encourage people to reach out for that assistance so that we can help them get through this period.

**The Hon. Wes Fang:** How? How do they reach out?

**The Hon. TARA MORIARTY:** By calling 1800 814 647. That is the number I would encourage people to call. The National Party members should write it down. There is a direct line available to assist people through this because it is a serious issue. I want to assist, and this Government is focused on assisting people to get through not just the emergency situation as a result of the fires—which we know we will face more of over the summer—but also, as I have indicated and talked about a number of times before, the drying conditions we will be facing. We will assist them. We are focused on making sure that there is no politics in this. We have to assist farmers through this crisis, and we will.

**The Hon. MARK BANASIAK (11:47):** I ask a second supplementary question. I thank the Minister for her answer. Given the cumulative impact this is having and the financial impacts hitting farmers in different areas, will the Minister consider offering more resources and support besides fodder, and look at a whole-of-government response?

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:47):** I thank the member for the second supplementary question. It is a great question. We will have a plan that will engage with communities about a broader drought plan. The first round of this is landowners and farmers who are directly impacted right now.

**The PRESIDENT:** The Deputy Leader of the Opposition will cease interjecting sotto voce.

**The Hon. TARA MORIARTY:** As things get drier and as we move into next year, drought will have a broader impact on regional communities, not just farms. Work is being done across all of government to assist broader communities through those issues. We are certainly prepared for that. Right now we are in a situation where some parts of the State are affected; not all of the State is affected. Some landowners and farmers are affected. We are currently working with individuals who need assistance because drought plans are generally in place one or two years in advance. We are engaging with people now to assist them to make sure they are up to date and have all the relevant information they need. Assistance is available right now for individual landowners and farmers who may need it and I encourage them to reach out. Where broader assistance is needed, we will be there. We have the backs of farmers in New South Wales.

**The PRESIDENT:** Before I call the Hon. Mark Buttigieg, I make the following point. It is not helpful or appropriate for members of this Chamber, while the Minister is answering the question, to be shouting out continual questions such as "what?", "when?" or "How are you doing that?". If members want to ask a further question, they can ask a supplementary question. Such behaviour is not conducive to a good culture in this place. There will be the odd interjection—I understand that—but members' behaviour is bordering on hectoring and bullying. If it continues, I will call members to order.

### CRITICAL MINERALS AND HIGH-TECH METALS

**The Hon. MARK BUTTIGIEG (11:50):** My question without notice is addressed to the Minister for Natural Resources. Will the Minister update the House on the opportunity that New South Wales' critical minerals deposits have on realising our clean energy future?

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (11:50):** I thank the member for his excellent question. We have an opportunity in New South Wales to make serious strides towards realising our clean energy future and we can do that because we are blessed with significant and strategic reserves of critical minerals and high-tech metals. Unlike those opposite, this Government is committed to nurturing an ecosystem of manufacturing and industry in this State. New South Wales has an abundance of critical minerals and high-tech metals; in fact, 17 of the 26 nationally declared critical minerals are in New South Wales. Those minerals are the building blocks of the clean energy future. Whether it be silver in solar panels, copper in electrical wiring or molybdenum or scandium in alloys, the critical minerals and high-tech metals found in New South Wales will enable this State to reach its net zero targets.

That once-in-a-generation opportunity in critical minerals begins with exploration and extraction, but it is the line we draw from extraction to the manufacturing of products where the real opportunity lies. At every point along that line our world-leading mining equipment, technology and services sector stands to gain. We will be welcoming the NSW Mining Annual Parliamentary Dinner to Parliament tonight and I am sure there will be many members of this House who will be there to support our excellent and world-leading sector.

Over the past 12 years those opposite talked down manufacturing in New South Wales, saying that we could not build things here. At a time when other countries were building their domestic industries, those opposite sent major government contracts overseas instead of fostering a local manufacturing industry. Not only does that mean losing the opportunity to support thousands of jobs in New South Wales, it also means that New South Wales does not have the infrastructure and the industry to take maximum advantage of the boom to come. I am most concerned about the way those opposite decimated the domestic skills base, which resulted in people leaving New South Wales to look overseas for the skills and experience we should have here in New South Wales.

This Government will not make that same mistake. Building the clean energy future means building our industry here in New South Wales. The real measure of our success is seizing the opportunity and grabbing it with both hands. The measure of our success is a future of mining and processing minerals and building products in New South Wales and of using our minerals and high-tech metals to deliver a clean energy future for the people of this State. We are absolutely committed to ensuring our State does not miss out on the opportunity presented by the next mining boom to build our clean energy future.

### ENGINEERED STONE

**The Hon. JEREMY BUCKINGHAM (11:53):** My question without notice is directed to the Treasurer, representing the Minister for Work Health and Safety. The Master Builders Association said it would support a ban on kitchen slabs with more than 40 per cent silica but only if tradespeople tasked with removing or modifying already-installed benchtops were not subjected to additional red tape. What is the Government's response to the Master Builders Association request for no further red tape when renovating or demolishing silica-containing products in the coming decades?

**The Hon. DANIEL MOOKHEY (Treasurer) (11:54):** I thank the member for his question and I acknowledge his special interest in the matter, the leadership he displayed when he was previously in Parliament and the role he has resumed in this Parliament. I am aware of the call of the Master Builders Association. I am also aware of the other five organisations that reject an outright ban of all engineered stone containing silica and support only a ban of stone that contains over 40 per cent silica, as was published as an ad in yesterday's newspapers.

I thought that ad was a disgrace. It was an attempt at misinformation and misdirection that was worthy of James Hardie and the worst of its tactics as it fought to stop the regulation of asbestos. The policy that those organisations are now calling for—and I accept that the Master Builders is not part of that group—is a policy that they were campaigning against when this House proposed it in the Standing Committee on Law and Justice under

the leadership of the Hon. Wes Fang. The very policy that they said—in front of this Parliament years ago—should not be implemented is now what they are calling for in a national ad.

As a result of work undertaken by members across the Chamber, we now have much better data about the incidence and spread of silicosis in our community. In 1718 there were nine cases. In 1890 there were 40 cases. In 1920 there were 107 cases. In 2021 there were 57 cases and seven deaths. In 2021-22 there were 64 cases and 10 deaths. The claim that group made yesterday that silica workers and engineered stone workers are not the majority of workers that are exposed to silica is true but engineered stone processors are the fastest-growing cohort of workers catching silicosis in New South Wales and Australia. In addition to that, the demography of those people is eye-opening and blood-curdling for us all because they are aged between 21 and 40. They are younger than I am—and younger than many of us—yet they are now having to experience life with silicosis.

Work is being undertaken by State work health and safety Ministers at a national level and they are meeting next week. I believe a national approach is required because of evidence that was led through the Standing Committee on Law and Justice that stated that any unilateral action by a State will not work because it will simply go to another State. We need national action. The Minister is onto it. We look forward to providing the House with more detail as that work develops.

#### **POLICE TASER USE**

**The Hon. SUSAN CARTER (11:57):** My question is directed to the Leader of the Government. In response to the further order for papers relating to the Cooma Base Hospital or NSW Ambulance patient registration information and patient registration file of Mrs Clare Nowland at the Cooma Base Hospital, the Cabinet Office has provided a letter from NSW Health stating that two documents identified by NSW Health as covered by that order now "form part of the brief of evidence for the prosecution of a criminal offence in relation to the matter subject of the resolution". On what date was each of those documents included in the brief of evidence?

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:58):** I thank the honourable member for her question. I think she probably expects that I will need to take the detail of that question on notice. The situation in relation to the very sad death of Clare Nowland has been discussed in the Chamber and I know that members are pursuing information via Standing Order 52. We are obviously taking very seriously our need to provide the information that is requested. However, we have to ensure that we do not interfere with documents that will form a brief of evidence. An active case is being dealt with. I will not go into detail about those matters. I will take the specific question on notice because I do not know the answer. Everyone needs to tread very carefully as we work through those issues so we do not jeopardise a court case.

#### **OVERHEIGHT TRUCKS**

**The Hon. Dr SARAH KAINE (11:59):** My question without notice is addressed to the Minister for Roads. Will the Minister update the House on the Government's efforts to tackle overheight trucks in our city's tunnels?

**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) (11:59):** I thank the Hon. Dr Sarah Kaine for the question. I know she has taken an interest in the issue and is serving on a committee of this House looking at not only that issue but also the impacts on truck drivers generally. Our heavy vehicle drivers are often on the road for long hours and often suffer fatigue, and it is having an impact on safety. That is one of the issues under consideration by a committee of this House at the moment. As members know, the Government is continuing to crack down on overheight truck incidents, carrying on the work of the former Minister to try to turn around what had become an increasing problem.

I can update the House that as of 19 October 2023, 98 overheight truck incidents were recorded in New South Wales this year. The majority were in the Sydney Harbour Tunnel. We have done some early analysis of those incidents now, working between Transport for NSW and the National Heavy Vehicle Regulator. I can report to the House that scrap metal truckies and those carrying or towing machine equipment have been identified as being involved in a high number of those overheight tunnel closures. Since June, road tunnels across the network have been forced to close 13 times following overheight incidents involving trucks with loose or protruding scrap metal or rigs carrying construction machinery and equipment. Those incidents have occurred on vital arterial links, including the Sydney Harbour Tunnel, The Domain tunnel and the airport tunnel. They have resulted in hours of delay for Sydney motorists going about their day. It has been an issue for the city, which is why the Government has acted.



The Government has committed \$5 million to upgrade infrastructure. Additional warning signs and sensors are being installed further back along the Warringah Freeway to ensure that drivers can take earlier evasive action. New sensors to measure the height and weight of vehicles will be trialled at Pheasants Nest and Mount White. Work is being carried out in The Domain tunnel to identify low-hanging signs to be lifted to increase height for trucks. Transport for NSW and the National Heavy Vehicle Regulator continue to work collaboratively on industry education and communication. That includes brochures translated into four languages, and digital and print advertising. I have to alert the House and the public that the problem may get worse before Christmas, and that makes sense because our freight networks will run more heavily over that period. We are concerned as we go into November that the problem may get worse, which we are working to avoid. Good drivers know the height of their trucks, but we need to get the message out to others to make sure that they are taking care.

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

*Supplementary Questions for Written Answers*

**LOCAL SMALL COMMITMENTS ALLOCATION**

**The Hon. SARAH MITCHELL (12:02):** My supplementary question for written answer is directed to the Special Minister of State. Did the policy costing request to the Parliamentary Budget Office regarding the Local Small Commitments Allocation specifically reference parks and playgrounds upgrade projects? When and by whom was an election commitment made to fund upgrades to parks and playgrounds in each of the 25 electorates where no other community projects were nominated?

**POLICE TASER USE**

**The Hon. ROD ROBERTS (12:03):** My supplementary question for written answer is directed to the Leader of the Government. On what date were the patient registration information and patient registration file of Clare Nowland served on the defence as part of the brief of evidence, as outlined in the documents provided in the return to order?

*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.

**AMANDA FAZIO COMMENTS**

**LOCAL SMALL COMMITMENTS ALLOCATION**

**The Hon. DAMIEN TUDEHOPE (12:03):** I take note of two issues regarding the manner in which questions have been answered this day. The first involves the question that I directed to the Leader of the Opposition regarding what steps have been taken following the motion passed by this House with respect to the expulsion of—

**The Hon. Anthony D'Adam:** Point of order: It is not appropriate to make a contribution to the take-note debate about a question that was ruled out of order. The purpose of the debate is to take note of answers to questions.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** I uphold the point of order.

**The Hon. DAMIEN TUDEHOPE:** Thank you, Mr Assistant President. The upholding of the point of order speaks volumes.

**The Hon. Daniel Mookhey:** Point of order: The Leader of the Opposition just reflected on the ruling of the Assistant President in a manner that was highly inappropriate. It was not directed at the member who took the point of order; it was directed at the Chair. That is outside parliamentary standing orders, and the member should withdraw it. He should not make reflections on the Chair after the Chair has made a ruling, regardless of who is sitting in the chair.

**The Hon. DAMIEN TUDEHOPE:** If you took offence to my response, Mr Assistant President, I withdraw it.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** The point is moot but thank you. The Hon. Damien Tudehope will continue.

**The Hon. DAMIEN TUDEHOPE:** The second issue that I raise is a matter that I know was close to your heart, Mr Assistant President, when you were on this side of the House. You used to take serious objection to the manner in which questions were answered by Ministers in Government who took great delight in not answering questions. That issue is highlighted by an answer given by the Special Minister of State. This is the question he was asked:

My supplementary question for written answer is directed to the Special Minister of State. Who gave the advisers in the Premier's Department the details of the election commitments made by Labor candidates for community projects to be funded under the Local Small Commitments Allocation?

The answer was:

I am advised that advisers in the Premier's Office gave the election commitments list to officials in the Premier's Department.

That is a complete non-answer; it is a repetition of the question. [*Time expired.*]

## ENGINEERED STONE

### LIVESTOCK FODDER ASSISTANCE

**The Hon. JEREMY BUCKINGHAM (12:06):** I take note of two answers given today. The first is the excellent answer given by the Treasurer about the issue of silicosis and the advertising campaign by the manufacturers and distributors of engineered stone. It gives me and a lot of people in the community who are affected by silicosis a lot of encouragement. I entirely concur with the Treasurer's description of the tactics of those companies and the way that they parallel the tactics that we saw from James Hardie through the abysmal asbestosis epidemic.

I also take note of the answers to the questions from the Hon. Mark Banasiak about assistance to farmers and communities, especially in the north of the State, with the availability of fodder, stock water and drinking water for many communities on the mid North Coast. I have heard anecdotally across areas around Coffs Harbour, Grafton, Bowraville, in behind Kempsey and those areas that people who rely on rainwater for their drinking water supply, like I do—I live in a remote area—cannot get it for up to six to eight weeks. It now takes eight weeks because we do not have a publicly provided water cartage service in northern New South Wales anymore. We are completely dependent on private providers.

Tens of thousands of homes have run out of drinking water—which they require to survive, wash and flush their toilets—and they cannot get it. It is a massively broad problem across the mid North Coast, and it is getting worse as we head into a drier and hotter period. I will be interested to see the Government's response to that issue, and whether local governments, in conjunction with the State Government, should be shouldering some of the burden of making sure that remote and rural households have the drinking water that they need to get through a deepening and dire drought.

### LOCAL SMALL COMMITMENTS ALLOCATION

**The Hon. MARK BUTTIGIEG (12:09):** Today we saw an unusual attempt by the Opposition, after perpetrating what was probably one of the greatest rorts in government history—

**The Hon. Natalie Ward:** Point of order: It is interesting that the member seems to think that the take-note debate is for him to debate the questions that were asked.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** What is the member's point of order?

**The Hon. Natalie Ward:** My point of order is that the member's contribution is not in order because he is commenting on the questions rather than the answers given during question time today. The purpose of this debate is to comment on the answers given by Ministers, which he is not doing.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** There is no point of order. The Hon. Mark Buttigieg has the call.

**The Hon. MARK BUTTIGIEG:** The substance of the debate was on the Government's allocation of funds, which was purposefully designed to avoid the rorts perpetrated by members opposite, such as the litany of funds that went disproportionately to Coalition electorates and the \$90 million that turned up in the bank account of Hornsby Council unsolicited. What the Government did—and you know it very well—was allocate \$400,000 per electorate. There are 93 electorates in the Legislative Assembly and the funding was allocated evenly. Then the question was, "Who allocated the funds?" Note to self—

**The Hon. Wes Fang:** Point of order—

**The Hon. MARK BUTTIGIEG:** You don't like it.

**The Hon. Wes Fang:** Actually, I will take two points of order. The first point of order is that all comments should be directed through the Chair. The Hon. Mark Buttigieg was clearly directing his comments to the Hon. Sam Faraway. That is inappropriate and a Parliamentary Secretary should know better.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** Order! Take the point of order.

**The Hon. Wes Fang:** My second point of order is that whilst I am trying to take a point of order, the Hon. Mark Buttigieg is making comments to me across the Chamber. I ask that you call him to order.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** I have heard enough on the point of order. I uphold the first point of order. On the second point of order, members are advised that interjections are disorderly at all times. The Hon. Mark Buttigieg has the call.

**The Hon. MARK BUTTIGIEG:** The embarrassment is palpable. Members opposite have just sucked up most of my time on spurious points of order.

**The Hon. Natalie Ward:** Point of order: The member is now reflecting on other members, who are entitled to take points of order. I believe that the Hon. Anthony D'Adam kicked it off by taking a point of order. Members are entitled to do so. I ask that the Hon. Mark Buttigieg withdraw his comment.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** I understand the point of order. Members will cease interjecting.

**The Hon. MARK BUTTIGIEG:** That is \$400,000. I have fast-breaking news. In an election campaign, parties pitch for the support of voters. That is exactly what we did. Maybe the Liberal Party should have asked for the \$400,000 to be allocated to their electorates— [*Time expired.*]

#### LIVESTOCK FODDER ASSISTANCE

**The Hon. SAM FARAWAY (12:12):** I take note of answers given by the Minister for Agriculture. A number of important questions were asked about the raging fires across the mid North Coast and north coast. Places like Kempsey and Grafton are experiencing drought right now. It is important to reflect on the lack of answers given by the agriculture Minister today, because those were serious questions that deserved serious answers. I was most interested to hear from the agriculture Minister on what exactly the Local Land Services, Rural Assistance Authority and Department of Primary Industries staff and personnel are doing on the ground and how they can be effective for those communities, which are doing it pretty tough right now. This week there was a fatality in Kempsey due to the fires. Farmers in that part of the State are already living in drought conditions. There was a lot of talk from the agriculture Minister, but no action. She quoted a phone number—that was the only useful piece of advice in her answer today. The Opposition will take that on board.

I asked a specific question about what supports exist for landowners who need fodder. We can have an argument about what fodder is, but the Minister gave an answer about welfare. In order to look after the welfare of any animal or beast—cow, sheep, goat, lamb or whatever—they need to be fed. That was the basis of my question, but for the Minister it clearly went in one ear and out the other. To look after the welfare of an animal, it needs to be fed and watered. That was the question. The Minister's chief of staff has been sitting in the gallery all week—I do not know what that is about. Maybe they are getting some tips for the budget estimates hearings or trying to prep for question time. The reality is that the Minister needs to come back to this House and provide some real policy and direction. She needs to provide real answers to MPs on the coast, such as the member for Oxley and the member for Clarence—and Government MPs on the coast as well. They will face drought conditions very shortly, if they are not already.

The answer the agriculture Minister gave to the second part of my question was a real disappointment. It was also the clear aim of the Hon. Mark Banasiak's question. What, specifically, has the Minister done? What, specifically, has the Minister been able to involve herself in? What is being done to offer support on the coast right now? Clearly the answer was zippo. It was zilch. It was a big doughnut. It was absolutely nothing. I encourage the Minister to get herself across the detail. Her chief of staff has been sitting in the public gallery. Between the two of them—come on. The Minister should find out what is going on, take the learnings of the previous drought— [*Time expired.*]

#### GENDER DIVERSITY AND WORKPLACE OPPORTUNITY

**The Hon. MARK LATHAM (12:16):** I take note of the answer given to question on notice No. 990, dealing with gender diversity and workplace opportunity. Those are important issues that are often reflected on by members in this place. Perhaps the Opposition MP applying for a pay rise—that most self-indulgent of parliamentary behaviour—should go home at night and not only thank her lucky stars that she is here at all but furthermore buy a lottery ticket because she is in the shadow ministry, which is clearly due to gender. There is a

gender bias whereby for public appearances and to meet woke media demands, the Liberals have implemented an informal female quota.

The answer to question on notice No. 990 also goes to workplace safety and opportunity. In some workplaces, including this one, some people make public the most devastating and tragic circumstances of their own upbringing. Abuse by a family member is the most dreadful of things and has the sympathy of every normal, compassionate person. Amid this sadness and sympathy, though, it is also true that those who have had a more fortuitous, nurturing and loving upbringing are not traumatised by things to do with sex. They can enjoy it in the normal way. They can joke about it. They can use throwaway lines, humorous and cheeky, in parliamentary debate and not cause any offence or feeling of endangered workplace safety. We saw that in the Ultimate Fighting Championship debate yesterday, and last week on the amusing, harmless, throwaway line about a lumberjack fetish.

Again relating to question on notice No. 990, an important consideration in any workplace is to understand, under the banner of true, genuine diversity, that not everyone shares your life experience and perspectives. Indeed, only a tiny minority ever will. I say to the MP who made that speech, "Drop the self-indulgence. Drop the self-centred sooking about other people and understand that this is not an unsafe workplace." If the worst thing faced is sharing a lift, a corridor or a meeting room with another MP one does not like, imagine how many of us feel about Ms Abigail Boyd and her Green Left extremism.

The difference is that we are not so psycho and precious as to run off sooking about it and make delusional speeches about the imagined horrific dangers of pressing a lift button or walking down a corridor in this building. That, ultimately, is the biggest joke of all. It is not a lumberjack fetish, a homoerotic fetish, or a roller derby fetish we have to worry about; it is the fake sooking fetishes of The Greens.

### OVERHEIGHT TRUCKS

**The Hon. Dr SARAH KAINE (12:18):** I take note of the answer given by the Minister for Roads to the question I asked about overheight truck incidents. The Minister referred to the inquiry currently being undertaken by Portfolio Committee No. 6, of which I am a member. I will talk about some of the things that the Minister alluded to that have come out in that inquiry regarding the nature of those incidents and their causes. That committee has already held a public hearing with a focus on both rest stops and overheight vehicle incidents in tunnels. We have heard, across the sector—

**The Hon. Natalie Ward:** Point of order: I welcome the member's contribution, but the committee is still underway. I am not sure that it is appropriate to be commenting on the committee's hearing until the committee reports. We are not debating committee reports at the moment. I urge the member to come back to the Minister's comments about overheight trucks.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** I do not want to take the member's time, but it was raised by the Minister. The member has the call.

**The Hon. Dr SARAH KAINE:** The Minister raised issues in the sector that are being investigated. That includes economic pressures that may cause further incidents leading into Christmas as delivery pressures are put on organisations, largely by lead organisations at the top of supply chains, which put a great amount of contractual pressure on truck companies and, consequently, truck drivers who are involved in deliveries. The Minister spoke about concerns around education and requiring education about the issues. Part of the issue is that there is a chronic shortage of drivers in the heavy vehicle sector, and there are potentially issues with the current training arrangements for drivers. I welcome the Minister's contributions and work, as well as the work of the department in interrogating those issues and figuring out the best way of solving them to avoid further overheight truck incidents in the future.

### LOCAL SMALL COMMITMENTS ALLOCATION

#### AMANDA FAZIO COMMENTS

**The Hon. NATALIE WARD (12:21):** I take note of answers given today. Firstly, it was telling that there was interference run in answer to a number of questions that members on this side of the House asked about the Local Small Commitments Allocation. We are entitled to ask questions; that is our job. On some occasions, questions were taken on notice. On others, there was full, frank disclosure, with the Minister providing the guidelines. The Opposition's interest in the subject arises from the fact that it seems the Government has taken steps to retrofit this after the allocations were promised to communities. The questions being asked only give rise to further questions because the answers are not forthcoming.

Despite repeated questions this week, and the opportunity to provide open, fulsome and frank disclosure, we have not seen the Minister or the Government stand by their grants program. That was most telling in the

answer to the second question about the 25 electorates for which a Labor candidate failed to nominate a single community project for funding. We are asking questions about what those communities can expect and where they were given the opportunity to access the \$400,000 that is supposedly available for every electorate. How is it that Labor candidates were entitled to make those promises? The commitments were so promised that they were advertised on Facebook pages. They were promised to communities and so-called "delivered".

Members on this side of the House will have more questions about that because we did not get answers today about who made the commitments and how the commitments came from Sussex Street to the Premier's office. We then continued to ask questions. We got some answers, but we are concerned that there does not seem to be the level of transparency that was promised before the election. The Government was so keen to restore transparency. Our concerns continue to grow, and the lack of answers will continue to give rise to an opportunity for the Opposition to ask more questions about each and every electorate. There are a lot more.

Finally, I turn to the first question, regarding the cover-up that was run about Amanda Fazio. The House moved a motion unequivocally and unanimously—

**The Hon. Rose Jackson:** Point of order—

**The Hon. NATALIE WARD:** —to throw her out. It seems that there is a protection racket for an antisemite.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** Order! The Hon. Rose Jackson has taken a point of order.

**The Hon. NATALIE WARD:** Their actions speak volumes.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** The member will resume her seat.

**The Hon. Rose Jackson:** The question was ruled out of order and therefore should not form the substance of the take-note debate.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** I uphold the point of order.

**The Hon. NATALIE WARD:** That is telling in itself. Not only was there a point of order taken about this during question time, but there is now a point of order being taken during the take-note debate. It seems that this is nothing less than a cover-up about an antisemitic member.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** Order! I refer to the ruling of President Ajaka on 24 September 2020. He ruled that during take note of answers it is not in order to debate the subject matter of a question that has been ruled out of order.

**The Hon. Wes Fang:** Point of order: That ruling was given in 2020. There was an amendment to the standing orders moved by the Hon. Adam Searle that widened the standing order around the take-note debate from being directly relevant to generally relevant. It widened the scope. Is that ruling still appropriate in relation to—

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** It is still appropriate; it is in the March 2023 rulings. The member will resume his seat. If the member would like a copy, I will make sure that one is provided.

#### LIVESTOCK FODDER ASSISTANCE

**The Hon. MARK BANASIAK (12:25):** I take note of answers given to my question today. In 1906 Dorothea Mackellar so eloquently wrote:

I love a sunburnt country,  
A land of sweeping plains,  
Of ragged mountain ranges,  
Of droughts and flooding rains.

In 117 years, that has not seemed to sink in with respective governments. For the past five years, my party has been talking about developing a structured response to drought and flood where we say, "This is when the State gets involved, and this is when the feds get involved." Just like those little bobblehead animals in the backs of cars, there is a smile and nod in agreement, but nothing bloody happens. When will we have a structured response to drought and flood in this place, given what we know about climate variability in this country? Prevention is one of the principles of emergency management. We know that we are not meeting our hazard-reduction targets. There have been answers given previously about the weather sometimes not being right. When the weather is right, you invest the resources you need to do it on a larger scale, but that is not happening.

When the weather is not right, there are other things that can be done for prevention, but we are not doing them. We are not clearing the fire trails. We are not doing mechanical clearing as a form of hazard reduction. We

are not hitting the mark for preparedness, response and recovery either. Looking at the expenditure of the bushfire recovery fund, money is being spent on flights of fancy like Local Land Services being up in the sky and shooting pigs. How is that a responsible use of bushfire recovery funds? How is giving \$300,000 to a cellar door or \$420,000 to honey producers a responsible use of bushfire recovery funds? There is \$ 117,000 for someone to run around and look at scout halls to see whether they are appropriate. Surely that could have been covered by a phone call to Scouts NSW. List the scout halls. Can they be used for bushfire respite? This Government needs to take seriously having a structured response to drought and flood instead of having this "oh, shit" moment whenever we come to that point.

### TAKE NOTE OF ANSWERS TO QUESTIONS

**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) (12:28):** I take note of answers given today, primarily to the series of questions that we have been asked this week and today about how Government money is spent. Obviously, there is the budget process. The Treasurer is not here, but members can reflect on the rigorous process that he runs. But there is another process that decides how money is spent, and that is election commitments.

Parties make commitments before elections about what they will spend public money on if they have the privilege of forming government. There are big election commitments and, as everyone knows, there are local ones. There are local community election commitments. There are two ways that parties can manage the commitment of funds to local communities in an election campaign. They can do that openly, fairly and where every community gets a fair share of taxpayer money for local projects in their community. Obviously, those local commitments from the Labor Party are made by Labor candidates. That is obvious; they are Labor election commitments. Of course, members opposite, not satisfied with rorting their own programs, are trying to rort ours too.

The alternative to an open and fair process that gives every community its fair share is that all of the money goes to some electorates. All of the money can be spread fairly or all of the money can be given to some electorates that are marginal or are held by a certain political party. Those are the two choices. Of course, we have seen the explanation of the fair spread across every community, but we also have the experience of what the alternative looks like.

**The Hon. Wes Fang:** Point of order—

**The Hon. Mark Buttigieg:** They don't like the truth.

**The Hon. Wes Fang:** I now take two points of order because the Hon. Mark Buttigieg is interjecting while I try to take my point of order. During question time today part of an answer that the Special Minister of State was giving was ruled out of order because it strayed from the question. The Minister is now straying to that part of the answer that was ruled out of order.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** I uphold that point of order and rule that the member cannot debate the subject matter of a question that has been ruled out of order.

**The Hon. Wes Fang:** The second point of order is that the Hon. Mark Buttigieg is clearly seeking to bully and intimidate me by interjecting as I take my point of order. In question time today, the President ruled that calling out to a person who is making a contribution would be considered bullying and intimidation.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** All interjections are considered disorderly.

**The Hon. ROSE JACKSON:** With the 10 seconds I have left, I say that Opposition members are not satisfied with rorting grants for political purposes; they will rort them for their secret boyfriends as well.

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

**Motion agreed to.**

### *Written Answers to Supplementary Questions*

### LOCAL SMALL COMMITMENTS ALLOCATION

In reply to **the Hon. DAMIEN TUDEHOPE** (18 October 2023).

**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)—The Minister** provided the following response:

I am advised that advisers in the Premier's Office gave the election commitments list to officials in the Premier's Department.

### ABORIGINAL CHILD SEXUAL ABUSE

In reply to **the Hon. MARK LATHAM** (18 October 2023).

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage)**—The Minister provided the following response:

The New South Wales Government is committed to ensuring children and young people across the State are safe and supported to thrive.

I am advised:

The Department of Education is currently implementing the Connected Communities Strategy in 33 schools to improve educational outcomes in areas with complex social challenges.

The Connected Communities Strategy focuses on supporting health and wellbeing, safety, school attendance, early childhood development, HSC and post-school pathways.

Schools participating in the Connected Communities Strategy include: Bourke High School, Bourke Public School, Brewarrina Central School, Coonamble High School, Coonamble Public School, Dareton Public School, Menindee Central School, Moree East Public School, Moree Secondary College (Albert St and Carol Ave campuses), Toomelah Public School, Walgett Community College - High School, Walgett Community College - Primary School, and Wilcannia Central School.

The program is currently being evaluated, with the Government committed to ensuring more children are supported and outcomes are enhanced.

On Tuesday, 10 October 2023, the Department of Communities and Justice [DCJ] and the Joint Child Protection Response Program [JCPRP] held a community engagement session in Maranguka, Bourke in conjunction with the NSW Police Force and its Child Abuse Squad, Education, Youth Justice and non-government organisations.

The JCPRP shared resources about effectively identifying, understanding and responding to child sexual abuse. Future planned work includes:

- Information workshops for community members on 'what to do if a child discloses abuse', held in collaboration with NSW Health and the NSW Police Force,
- Engagement with local community members and groups to promote information about reporting sexual abuse, and
- Additional resources and training for local caseworkers to respond to reports and to equip community members to effectively deal with abuse disclosures.

In the last 12 months, Aboriginal Affairs NSW has provided support to a wide range of Aboriginal community controlled organisations in the Bourke and Walgett areas such as the Maranguka Community Hub and Nulla Nulla Local Aboriginal Land Council. This has included funding for activities and programs to support local families including children and young people. Activities and programs funded through these grants include a BlackFit Fitness Program to run at night in Bourke New South Wales and supporting Wampali Youth Hub in Bourke to be open for extended hours - from morning to midnight.

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

### *Bills*

### JURY AMENDMENT BILL 2023

### Second Reading Speech

**Debate resumed from an earlier hour.**

**The Hon. MARK BUTTIGIEG (14:01):** On behalf of the Hon. Daniel Mookhey: Item [2] expands the test for the selection of additional jurors in criminal proceedings in the Supreme Court or the District Court. Currently, the test under section 19 (2) allows the court to order up to three additional jurors if satisfied that the length of the trial necessitates it. The current provisions fail to recognise that, while the length of the trial is a significant factor influencing the need for additional jurors, certain trials carry an increased risk of juror attrition that is not due to the duration. The proposed new sections 19 (2) and 19 (3) will allow a judge to empanel up to three additional jurors if satisfied it is necessary due to the nature, likely duration or complexity of the proceedings. This amendment retains the ability of the court to consider the length of the trial but also introduces new factors that the court can consider.

The amendment includes an example of what sort of trials may require additional jurors in relation to these new factors, namely a trial that involves distressing or sensitive material. This amendment will provide the courts with further scope and discretion to empanel more jurors where appropriate. It is intended to guard against the impact of juror attrition, including wasted resources, delay, and trauma for complainants and witnesses. Empanelling additional jurors reduces the risk that juror numbers will fall below the number required for the trial to continue under section 22 of the Jury Act or for a majority verdict to be reached under section 55F. Schedule 2 to the bill makes one consequential amendment to the Jury Regulation 2022, as a result of this amendment.

Item [3] enables all requests to be excused from jury service to be made either verbally or in writing. Currently, section 38 (3) only allows applications to be made in writing if they relate to the person's health or may cause embarrassment or distress if made public. If they do not fall within these categories, the person must make their request to the judge or coroner directly. This amendment is based on stakeholder feedback that a verbal explanation is not necessary and may disincentive some potential jurors from making valid applications, even if the cause for excusal is not health related or embarrassing or distressing.

In response to this feedback, this amendment removes the requirement for a verbal explanation, in order to make the process easier and less distressing for potential jurors who may not be comfortable seeking excusal verbally. This amendment also seeks to avoid the negative impacts of juror attrition. If a written excusal application is made and further context is required, a judicial officer or the sheriff can discuss the written request with the person, if needed. Importantly, this amendment still allows for excusal applications to be made orally if that is the person's preference. Item [4] corrects an incorrect cross-reference, to support this amendment.

Item [6] enables a court or coroner to order the selection of a replacement juror if a juror dies or is discharged before the judge or coroner commences their opening remarks. Currently, under section 53C, if a juror dies or is discharged, the court or coroner has only two options: either discharge the jury or continue the trial with a reduced number of jurors if continuing would not carry the risk of a substantial miscarriage of justice. These limited options do not sufficiently address circumstances where a juror is discharged or dies very early in trial proceedings, namely before the judge or coroner has given their opening oral directions to the jury. Where this occurs, the whole jury may need to be discharged due to fairness concerns, even though the jury would not yet have heard any evidence. This is because continuing a trial with a reduced number of jurors from the outset carries a greater risk that the trial will become unviable, or that a majority verdict will not be available, if there are further reductions in juror numbers.

The proposed section 53D would introduce a new, middle-ground option for trials to continue by empanelling a replacement juror if the juror is discharged or dies before the commencement of opening remarks. This amendment will reduce the likelihood of whole juries being discharged very early in the proceedings. Item [7] removes the requirement for a court to make an order permitting the jury in criminal proceedings to separate at any time after the jury retires to consider its verdict. Under section 54, a jury can only separate during deliberations if allowed by a court order. This rule stems from the historical rules that required juries to remain together and seclude themselves while they deliberate.

The need to keep jurors physically separate from society no longer addresses the ways in which jurors may be influenced, and therefore these orders are no longer considered necessary in most cases. This amendment removes this outdated technical requirement and increases trial efficiency. It will bring New South Wales in line with other jurisdictions, where there is no requirement for the court to make an order to allow jurors to separate. While the proposed new section 54 removes the historical requirement, it still provides the court the ability to order that a jury do not separate if deemed necessary in the circumstances of a particular proceeding.

Item [8] implements the single recommendation of the statutory review by amending section 55F to enable a majority verdict to be returned by a jury in criminal proceedings where a unanimous verdict has not been reached after the jurors have deliberated for not less than four hours. This amendment will replace the existing test which requires jurors to deliberate for at least eight hours. Importantly, a majority verdict may only be returned in criminal proceedings where the jury consists of not less than 11 persons; a unanimous verdict has not been reached after the jurors have deliberated for a period of time that the court considers reasonable having regard to the nature and complexity of the criminal proceedings—currently that reasonable period must be not less than eight hours; and the court is satisfied, after examination on oath of one or more of the jurors, that it is unlikely that the jurors will reach a unanimous verdict after further deliberation.

The bill only amends the minimum deliberation period. The jury will still need to consist of 11 or more jurors, and the court needs to be satisfied that the jury has deliberated for a reasonable period and that it is unlikely a unanimous verdict could be returned. During the statutory review consultation process, the majority of stakeholders submitted that eight hours has been demonstrated to be too long a minimum period of deliberation in many circumstances. This minimum deliberation period was considered inappropriate for securing the overall policy objectives of the majority verdicts amendments. Stakeholders that supported reducing the deliberation period had differing views as to the appropriate minimum period, with four hours being the most commonly suggested period. The review concluded that requiring juries to deliberate for eight hours is inefficient, creates additional costs and contributes to trial backlogs. It can also cause issues related to juror safety and wellbeing, as extended periods of deliberation may lead to disagreements and undue pressure being placed on jurors who do not agree.

After considering the submissions received and comparable frameworks in other jurisdictions, the review determined that reducing the minimum deliberation period to four hours strikes the appropriate balance between



maintaining a statutory safeguard against a premature majority verdict while avoiding unnecessary expenditure and stress. The amendment would bring New South Wales in line with the majority of other Australian jurisdictions, where a minimum of four hours' deliberation or less is required. New South Wales and Queensland currently have the longest minimum deliberation period, with both requiring eight hours of deliberation. The remaining jurisdictions' minimum periods range from six hours in the Northern Territory to no minimum period in Victoria.

Item [9] expands the definition of "employee" in sections 69 and 69A to include part-time employees. Existing sections 69 and 69A are intended to prevent employers from dismissing or prejudicing employees because they are summoned to serve as a juror. However, that protection does not currently cover part-time employees. The amendment will provide part-time employees the same protections against adverse workplace treatment that full-time and casual employees currently have. Item [10] provides that the sheriff may, with the consent or at the request of the court, investigate if there is a reason to suspect that any part of the trial may have been affected by improper conduct. Currently, section 73A provides the sheriff with the power to investigate only if there is a reason to suspect that the improper conduct may have affected the verdict itself. This precludes sheriff's officers from investigating conduct where there is no verdict. Improper conduct may occur at any time during a trial and needs to be investigated. Any improper conduct has the potential to impact the outcome of a trial and the integrity of the jury system, even where improper conduct does not affect a verdict.

Item [11] further extends the circumstances in which the sheriff may investigate improper conduct by permitting investigations into conduct committed by another person, rather than just the conduct of the juror themselves. The purpose of the amendment is to broaden the scope of section 73A to allow the sheriff to investigate improper conduct towards or directed at a juror, as well as conduct by a juror, at the request of the court. Currently, the law does not permit the sheriff to investigate conduct of third parties, as that is the responsibility of the police. Enabling the sheriff to conduct such investigations will be timelier and will better ensure that trials are able to run efficiently. In cases where improper conduct is sufficiently serious, the court may refer the matter to police for investigation.

Item [12] provides that a summons, notice or other document related to jury service authorised under the Jury Act may be served on a person via email. This will only occur if that person has nominated their preference for email service and provided the sheriff with a preferred email address for service. Currently, section 75 requires jurors to be summoned via postal service. The requirement involves vast numbers of letters being sent to potential jurors with the aim of getting sufficient numbers of persons to serve on a jury. Sending summonses, notices or documents to a person's email address would alleviate the administrative burden of postal service. It will also assist potential jurors to receive and respond to summons by permitting the use of direct hyperlinks to the juror portal and other useful information. The amendment will only apply where the potential juror has consented to the use of their email address and provided it to the sheriff for that purpose. Item [13] makes an amendment of a transitional nature. The bill provides that, if passed, the new provisions will commence on a day or days to be appointed by proclamation.

Before concluding, I thank those who contributed to the development of this important reform. I acknowledge the work of representatives from the NSW Sheriff's Office, the Supreme Court and the District Court and extend special thanks to the Hon. Justice Derek Price, Chief Judge of the District Court, and those in the Department of Communities and Justice who have been instrumental in this work. I thank the people of New South Wales who dedicate their time to serve as jurors. Their contribution is an essential and valued part of our justice system. The bill will improve the operation and management of juries in New South Wales. I commend the bill to the House.

**Debate adjourned.**

## **BIOSECURITY AMENDMENT (INDEPENDENT BIOSECURITY COMMISSIONER) BILL 2023**

### **First Reading**

**Bill introduced, read a first time and ordered to be published on motion by the Hon. Tara Moriarty.**

**The Hon. TARA MORIARTY:** According to standing order, I table a statement of public interest.

**Statement of public interest tabled.**

### **Second Reading Speech**

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (14:17):** I move:

That this bill be now read a second time.

The Biosecurity Amendment (Independent Biosecurity Commissioner) Bill 2023 will establish the Independent Biosecurity Commissioner to provide oversight, clarify responsibilities and strengthen accountability in our biosecurity framework and improve the management of invasive species in New South Wales. The impact of invasive species on New South Wales' economy, environment and community is profound. Each year weeds cost our agriculture sector around \$1.8 billion, and pest animals cost over \$170 million.

In addition, there are cultural and public amenity impacts that are difficult to quantify but are no doubt substantial. There are also significant impacts on our biodiversity and threatened species. Collectively, weeds and pest animals have been identified as a threat to approximately 70 per cent of New South Wales' listed threatened species. It is estimated that over 1,650 introduced plant species have become established in New South Wales, with at least 300 of these causing significant environmental impacts and damage—species such as lantana and blackberry. Weeds can outcompete crops, resulting in lower productivity and the need for expensive and ongoing control measures.

Wild dogs, feral pigs, rabbits, foxes, cats and deer are some of the most significant widespread pest animals in New South Wales. A recent Australian Bureau of Agricultural and Resource Economics and Sciences [ABARES] survey showed that the effort required to control pests and weeds is increasing. Eighty-nine per cent of land managers reported problems due to feral animals in 2022, which was up from 85 per cent in 2019. We have all seen those pests and we know the damage they do. Once widespread, the eradication of pest animals and plants is rarely a practical option. Priorities for the control of those species must be determined and control efforts must be focused in areas where the benefits will be the greatest.

In the lead-up to the March election, we made a number of commitments around biosecurity because we are committed to ensuring that this Government is doing everything it can to support our farmers and communities to tackle infestations. The cornerstone of our commitments is the subject of the bill before the House today—appointing a commissioner who will oversee the biosecurity framework around pest and weed management in New South Wales and drive continuous improvement. We know that our farmers work hard to fight invasive pests and weeds on their land. They do their best to keep pests and weeds out, and we need to make sure that other occupiers of land are doing the same, and that includes the Government. We know that biosecurity is a shared responsibility. We know the actions of one can have far-reaching impacts. Successful management of pest and weed threats requires a coordinated effort and that is why the bill is so important. The commissioner will have the power to drive improvements, to hold public land managers to account and to make recommendations to Government on what more needs to be done to protect New South Wales.

I want to speak about the importance of biosecurity and this Government's commitments and investment in securing and strengthening the system in New South Wales. Australia's biosecurity threat level continues to escalate due to the increase in movement of people, products and produce globally. That is why this Government is working tirelessly across all aspects of biosecurity. In our September budget, the New South Wales Government committed \$298.5 million in support for biosecurity and agricultural industries. Agriculture is one of the most significant and iconic industries in our regions. New South Wales is home to more 39,000 agricultural businesses, 42,000 farms, and more than 66,000 people are employed in the agricultural sector alone. Our investment includes \$80 million for red imported fire ants and \$77.2 million for varroa mite emergency responses. We have committed a further \$39 million supporting sheep and goat farmers to implement mandatory electronic identification across New South Wales.

In relation to pests and weeds, this Government is investing \$13 million in the feral pig control program to reduce the number of feral pigs, and to protect primary producers and farming communities overseen by a feral pig coordinator. The Government has also committed \$10 million to tackle pest and weed infestations through the Good Neighbour Program, which I look forward to launching in the coming months. In addition, we are conducting a comprehensive review of the extent and impacts of invasive species in New South Wales which will act as a baseline for assessing the effectiveness of our management strategies into the future. As the Minister for Agriculture, I have been, and will continue to be, a fierce advocate for the importance of biosecurity and ensuring that this Government continues to do what it can to strengthen the framework in New South Wales.

Pests and weeds do not respect borders or property boundaries. That is why effective management is so important and why we need to clarify responsibilities and improve accountability in the whole biosecurity system. That is why, in June 2023, I appointed an interim Biosecurity Commissioner, Dr Marion Healy, to lead consultation with a range of stakeholders from industry, government, environmental and community groups. From this consultation, Dr Healy delivered a report to me recommending a legislative model for an Independent Biosecurity Commissioner. The Government has continued the report and developed the bill before the House, which gives effect to the role, functions and powers of the commissioner. In doing so, we are introducing legislation which reflects and responds to the feedback we heard through consultation and to concerns relating to pest and weed management in New South Wales.

The bill is about delivering the commitment this Government took to the election this year in direct response to stakeholders reporting issues with pests and weeds coming onto their property from public lands. Those issues were reiterated through consultation undertaken by the interim Biosecurity Commissioner. That is why this Government is bringing forward the bill establishing a commissioner specifically focused on pests and weeds. In her report to me, Dr Healy noted unanimous stakeholder support for the new commissioner to provide an advisory and oversight function. Stakeholders identified specific opportunities for the commissioner to enhance the New South Wales biosecurity framework and system by providing independent advice to Government, setting strategic priorities for pest and weed management in New South Wales, promoting accountability and clarifying responsibilities, and enhancing collaboration and coordination among key stakeholders.

The New South Wales Government agrees that these are the opportunities to be captured, and they will be delivered by the bill before the House today. We propose to establish a commissioner who provides independent expert advice, who makes recommendations to Government about what action is needed, and who drives accountability by making its advice and the Government's responses available for all to see. There is a strong public interest in ensuring that New South Wales primary industries and environmental values are protected, and the impacts of pests and weeds are minimised. The commissioner will provide the oversight necessary to comprehensively address the challenges posed by invasive species across the State. The commissioner will do so efficiently, without duplicating existing functions, and in a financially responsible way aligned to the fiscal discipline demonstrated in our most recent budget.

With that in mind, I now turn to the detail of the bill. This bill is made up of several parts that provide for the establishment of the Independent Biosecurity Commissioner, including the functions and powers of the commissioner, reporting requirements and other administrative provisions. In the report of the interim Biosecurity Commissioner, it was clear that stakeholders saw a need for an independent voice to provide expert and impartial advice on the management of pests and weeds in New South Wales. The bill before the House establishes the commissioner in a way that ensures they can undertake this role effectively and independently. The bill establishes the Independent Biosecurity Commissioner as a statutory role to be appointed by the Governor on recommendation of the Minister responsible for the Act. The commissioner reports directly to the Minister and not the head of a department. The commissioner is not subject to the control and direction of the Minister in the exercise of its functions, except in limited circumstances, which I will go through shortly.

It is worth noting that the commissioner will be required to appear before New South Wales parliamentary committees as requested—such as budget estimates— independent of the department. This ensures that the commissioner can provide direct insights and information to parliamentary committees, further strengthening their independence, and promoting accountability and clarifying responsibilities. The bill sets out the functions of the commissioner, which include providing advice to the Minister administering the Act, other Ministers and the Government. The commissioner will undertake reviews about issues relating to pests and weeds, and will also prepare and publish reports about those reviews. The commissioner can provide advice or undertake a review on their own initiative, or on the direction of the Minister. This is the only circumstance in which the Minister can direct the commissioner.

In relation to those functions, it is intended that the commissioner considers pest and weed issues as they relate to New South Wales only, acknowledging that given the nature of biosecurity issues, this may at times require consideration of information from other jurisdictions. The bill also provides that the commissioner will monitor issues relating to pests and weeds, and identify opportunities for improvements, promote coordinated and collaborative responses, and engage experts and key stakeholders. Importantly, in exercising their functions, the bill specifies that the commissioner must act in an independent and impartial way. It is important that the commissioner is able to determine their own work plan and that the Minister and Government do not control the work, advice or recommendations of the commissioner. While the Minister has the power to direct the commissioner to provide advice or undertake a review, the Minister is not able to control the content of those reviews or direct that a specific piece of advice is provided.

As we know, pests and weeds impact public and private land alike. They are on our agricultural land, in our national parks and in our State forests. They are everywhere. Biosecurity, as I have said, is a shared responsibility, and that is why the bill allows for the commissioner to make recommendations to the Minister administering the Biosecurity Act, other Ministers and the New South Wales Government generally. It is also why the bill specifies that the commissioner's functions include engaging experts and key stakeholders and promoting coordinated and collaborative responses. The commissioner will be able to work across the Government and access expertise that sits within the Department of Primary Industries and in other agencies. The commissioner will also be empowered to engage with external experts, private landholders and key industry and community groups. Their perspectives and input will be essential in ensuring that the advice and recommendations of the commissioner consider all the issues.

The bill also provides parameters to ensure effective and appropriate delivery of advice, reviews and recommendations. Reviews undertaken by the commissioner must be accompanied by a report that is published on the commissioner's website. A copy of the report will be provided to the Minister administering the Biosecurity Act 2015 and any other Minister to whom the contents of the report are relevant so that they can consider the report prior to publication. I note that this provision is not intended to provide for changes to be made to the contents of the commissioner's report prior to its publication—the commissioner is not subject to the Minister's direction regarding the content of the commissioner's advice—but rather it is for Government to be able to consider its response.

To promote accountability and action from the work of the commissioner, the Government or relevant Minister will have six months to respond to the commissioner's recommendations. Importantly, the response to recommendations will be published on the commissioner's website. The bill requires that the commissioner table an annual report in each House of Parliament that describes their activities and any findings and recommendations made in the previous financial year. The annual report will also include the status of the implementation of any recommendations made by the commissioner in previous financial years. This requirement will ensure public visibility about the work of the commissioner by making it available to the Parliament and the New South Wales community. That is what the bill is about: meeting stakeholder expectations to promote accountability, clarify responsibilities and improve effectiveness in the New South Wales biosecurity framework to support the management of pests and weeds.

I will now turn to the powers of the commissioner that will enable the effective delivery of the functions and activities I have just outlined. These powers primarily relate to allowing the commissioner to gather information to undertake their functions effectively and promote the accountability sought by occupiers of land and broader stakeholders in relation to pest and weed management. The commissioner may require a public service agency or State-owned corporation that has functions relating to or is otherwise involved in pest or weed management or the care, control or management of land to provide documents and information to the commissioner. These powers are significant and necessary to deliver on the intent and purpose of the commissioner. I note that, while the commissioner has the power to collect and use personal information, the provisions of the Privacy and Personal Information Protection Act 1998 will apply to disclosure of personal information by the commissioner. The commissioner will not publish or distribute any personal information unless the disclosure is in accordance with the Privacy and Personal Information Protection Act 1998.

The bill provides for the employment conditions of the role of the commissioner. An appointed commissioner may hold office for a term of not more than five years. A person appointed to the office is eligible for reappointment. The commissioner will be employed either part-time or full-time via a contract of employment between the commissioner and the Minister. The commissioner is not a public servant, and the provisions of the Government Sector Employment Act 2013 will not apply except in relation to provisions relating to their contract of employment, their band of employment, and the remuneration, employment benefits and allowances. This ensures the contract and remuneration for the commissioner will be appropriate and aligned to public sector salary standards. The bill also specifies when the office of the commissioner is vacant, provides for the appointment of an acting commissioner where there is a vacancy and sets out the grounds for removal from office. These provisions are necessary to ensure the proper functioning of the role of the commissioner as they deliver outcomes for the people of New South Wales.

I now turn to other miscellaneous provisions in the bill that will round out the operation of the commissioner. Staff may be employed under the Government Sector Employment Act 2013 to support the commissioner in carrying out their functions. The commissioner will be supported by a secretariat located in the Department of Primary Industries, which is the lead agency on biosecurity policy across the New South Wales Government. This model leverages the significant policy, research and operational biosecurity expertise within the Department of Primary Industries and is consistent with the model successfully used to support the Commonwealth's Inspector-General of Biosecurity.

This approach is yet another demonstration of this Government's fiscal discipline evidenced in the budget. What we are doing here today does not duplicate any other existing functions or roles across government and is the most cost-effective way to achieve our commitment to strengthen and secure the resilience of our agriculture industry by legislating and funding an independent biosecurity commission. In line with this approach, the bill also provides that the commissioner is prescribed as a government officer of the department and that the commissioner will be declared to be part of the department for the purposes of the Government Sector Finance Act 2018. Essentially, this will mean that the requirement to produce financial reports will be covered off by the department's annual financial reports.

But, in relation to their work plan and advice, the commissioner will report directly to the Minister and report annually to Parliament, as per the provisions of the bill. This is a commonsense approach aligned to this

Government's fiscal discipline. This approach will significantly reduce the financial and administrative burden on the commissioner and means that the benefits and expert advice of the commissioner can be realised without requiring an unnecessary impost on the New South Wales taxpayers of establishing an entire entity with underlying administrative costs. Finally, to ensure that the operation of the Independent Biosecurity Commissioner continues to be effective and appropriate, the commissioner's operations, objectives and functions will be reviewed every five years to ensure they remain appropriate. The outcome of the review must be tabled in each House of Parliament within 12 months after the end of each five-year period.

It is critical to ensure that the purpose of the commissioner is clear. Biosecurity is a broad and complex space, with every element requiring specific and detailed attention. The Independent Biosecurity Commissioner will focus on pests and weeds because this is where stakeholders have told us they want greater accountability, clarified responsibilities and improvement in the management of pests and weeds in New South Wales, and this is what we will deliver. The community has raised its concerns about pests and weeds coming onto its property from public lands. It is important that there be measures in place to support our farmers and other private landholders to address issues from pests and weeds and that public land managers are held to the same standards as everyone else.

It is clear that the focus of the commissioner must be on strategic issues to allow for meaningful progress to be made in relation to pest and weed management. Dr Healy identified in her report a number of high-priority areas that should be priority considerations of the commissioner, as they represent significant opportunities to drive immediate improvements. These are a review into issues that may create a perception of an inconsistent enforcement approach, including the selection of appropriate compliance tools and actions and clarifying responsibilities around the application of these; improving communications to occupiers of land around biosecurity obligations; exploring avenues to enhance the involvement of Aboriginal communities in biosecurity pest and weed management initiatives, fostering cultural engagement and sustainable practices; and reviewing the governance arrangements and structure of the State and regional committee system responsible for pest and weed management.

To ensure the Government is responding to what key stakeholders have identified as priority issues, I will refer these four proposals to the commissioner upon the commissioner's appointment. The commissioner's work plan will evolve over time, and I would welcome representations about what additional strategic priorities the commissioner should consider. For the benefit of the House, I will outline aspects of biosecurity for which the commissioner will not cover and why. I will start by saying we are not here today to re-prosecute the effectiveness of the Biosecurity Act 2015 and the general biosecurity duty in managing the risk of invasive species.

There are other avenues where that type of legislative review occurs, such as the recently published statutory review into the Biosecurity Act 2015, which concluded that the policy objectives of the Act and terms are valid, including the General Biosecurity Duty. The Independent Biosecurity Commissioner is about responding to the threat of invasive species and to the clear feedback from landholders that they want to see meaningful change in relation to pest and weed management. The commissioner is not being tacked on to an existing commission. The issue of invasive species management is one that requires specific attention. We have heard from stakeholders time and again that they want specific measures to support effective pest and weed management. That is what this Government is committed to and that is what we are delivering. Establishing this commissioner with a specific scope of work will provide for a strategic focus on pest and weed issues.

In a similar vein, I have spoken about the merits of establishing an independent commissioner supported by the Department of Primary Industries staff, rather than as a standalone entity. This is fiscally responsible and expedient and will yield the most benefit from government resources for the community. We are not here to reinvent the wheel. The addition of a new entity to the biosecurity framework should focus on adding value without duplication and it should have a distinct role from the multiple existing agencies involved in the biosecurity framework. In terms of its scope of work, the commissioner will focus on terrestrial pest and weed matters; that is, matters on land rather than aquatic matters. The commissioner will focus on land management impacts of pests and weeds, not other biosecurity-related matters like animal disease, emergency response or public health impacts. There are well-established State and national processes, agreements, structures and legislation in place for addressing these other biosecurity matters.

Our aim is to focus on stakeholder concerns about pests and weeds, and complement and enhance the existing biosecurity framework and avoid creating any potential overlap or confusion. The commissioner is about improving accountability and the management of pests and weeds and mitigating the significant impact they have on our economy and our environment. That is why the focus of the commissioner will be on strategic pest and weed issues. I hope everyone in the House can appreciate the value of creating fit-for-purpose policies and solutions for such complex issues, rather than trying to take a one-size-fits-all approach.

The bill before the House today is one of the many ways that this Government is delivering on critical issues for the people of New South Wales. It will deliver an independent voice to provide expert and impartial advice to the Government in relation to pest and weed issues in New South Wales. This is something that the Government has promised, stakeholders have asked for and we are delivering. I thank all of the stakeholders and the interim Biosecurity Commissioner, Dr Marion Healy, for their important contributions to the process and to the development of this vital piece of legislation. I commend the bill to the House.

**Debate adjourned.**

## **CENTENNIAL PARK AND MOORE PARK TRUST AMENDMENT (CAR PARKING) BILL 2023**

### **First Reading**

**Bill received from the Legislative Assembly, read a first time and ordered to be published on motion by the Hon. Courtney Houssos, on behalf of the Hon. Penny Sharpe.**

**The Hon. COURTNEY HOUSSOS:** According to standing order, I table a statement of public interest.

**Statement of public interest tabled.**

**The Hon. COURTNEY HOUSSOS:** I move:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

**Motion agreed to.**

**The Hon. COURTNEY HOUSSOS:** I move:

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

**Motion agreed to.**

## **REVENUE, MINING AND ENERGY LEGISLATION AMENDMENT BILL 2023**

### **Second Reading Speech**

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (14:44):** On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

The Revenue, Mining and Energy Legislation Amendment Bill 2023 amends a number of Acts and a regulation as a result of the Mining and Energy division of the Construction, Forestry, Maritime, Mining and Energy Union withdrawing from the CFMMEU and becoming a standalone union called the Mining and Energy Union. The bill will address an anomaly in one of the duty exemption provisions and ensure that the Mining and Energy Union can continue to exercise its functions under various Acts.

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

**Leave granted.**

At present, certain Acts assign functions to the CFMMEU, but it is the Mining and Energy Division which in practice performs these functions. As such, it is necessary to update these references.

#### **Duties Act**

This bill amends the Duties Act 1997 to extend an existing duty exemption for property transfers associated with the amalgamation of employee or employer organisations to apply to the withdrawal of such organisations from an amalgamation. It also clarifies that the exemption applies to trusts holding property on behalf of such organisations.

There is no sound policy rationale that an exemption for duty for registered employee or employer organisations only applies to amalgamations but not withdrawal from amalgamations.

Similar exemptions already exist for the amalgamation and de-amalgamation of registered clubs. The proposed amendment aligns the exemption for registered employee and employer organisations with the exemption applying to registered clubs.

#### **Coal Industry Act**

This bill amends the Coal Industry Act 2001 to refer to the Mining and Energy Union instead of the "CFMMEU". These provisions relate to the company approved by the Minister to perform certain functions in the coal industry relating to mine safety.

#### **Electricity Infrastructure Investment Act**

This bill amends the Electricity Infrastructure Investment Act 2020 to refer to the Mining and Energy Union instead of the CFMMEU (Mining and Energy Division). This provision relates to union representation on the NSW Renewable Energy Sector Board.

**Work Health and Safety (Mines and Petroleum Sites) Act**

This bill amends the Work Health and Safety (Mines and Petroleum Sites) Act 2013 to refer to the Mining and Energy Union instead of the CFMMEU (Mining and Energy Division). These provisions relate to the nomination of an industry safety and health representative and service of documents on an industry safety and health representative.

**Work Health and Safety (Mines and Petroleum Sites) Regulation**

Finally, this bill amends the Work Health and Safety (Mines and Petroleum Sites) Regulation 2022 to refer to the Mining and Energy Union instead of the CFMMEU (Mining and Energy Division). These provisions relate to representation on the Mine Safety Advisory Council and Mining and Petroleum Competence Board.

I commend the bill to the House.

**Second Reading Debate**

**The Hon. DAMIEN TUDEHOPE (14:45):** I lead for the Opposition in debate on the Revenue, Mining and Energy Legislation Amendment Bill 2023. The bill makes amendments to the Duties Act 1997, the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and associated regulation, the Coal Industry Act 2001 and the Electricity Infrastructure Investment Act 2020 as a consequence of the withdrawal of the Mining and Energy division from the Construction, Forestry, Maritime, Mining and Energy Union [CFMMEU].

The Opposition supports the right of freedom of association, including the right not to associate. That includes the rights of workers to form or join a union, to not join a union and to withdraw from a union. The principle also applies to a part of a union seeking to withdraw from that union. In March 2023 the Fair Work Commission approved the conducting of a ballot of the Mining and Energy division on the question of withdrawal from the Construction, Forestry, Maritime, Mining and Energy Union. Unsurprisingly 98 per cent of votes were in favour of withdrawal. The Mining and Energy division has applied to the Federal Court of Australia to set a withdrawal date of 1 December 2023. A court hearing date to consider the application has not yet been set.

Schedule 1 [2] of the bill amends the Duties Act 1997 to extend an existing exemption from duty where unions or employer organisations amalgamate to also cover the circumstances where a union or employer organisation subsequently withdraws or de-amalgamates and forms a new entity. There is no obvious reason to exempt from duty in one case but not in the other. While the withdrawal of the Mining and Energy division from the CFMMEU is the occasion for introducing that provision, it will be of general application.

The remaining schedules contain amendments that simply replace references to the CFMMEU with references to the new Mining and Energy Union in relation to responsibilities for mine safety and representation on various boards. Members are no doubt aware that corporations seeking to de-amalgamate are exempt from duty in relation to the transfer of assets from the principal entity to the de-amalgamated entity. The Opposition supports the reform. I welcomed the opportunity of meeting with representatives from the union who explained lucidly and coherently the reasons why it should be supported. Consequently, the Opposition has no issue with supporting the bill.

**The Hon. CHRIS RATH (14:48):** It is with enormous glee that I speak in support of the Revenue, Mining and Energy Legislation Amendment Bill 2023. My only criticism is that the bill does not go far enough. Rather than the splitting up of the Construction, Forestry, Maritime, Mining and Energy Union, perhaps a better amendment would be the abolition of the CFMMEU. But I say that in a rather tongue-in-cheek way. I agree with everything that the Leader of the Opposition said about freedom of association and the right for people to join unions, but I could not help contributing to debate on this very interesting bill.

It is probably my favourite piece of legislation that the Government has brought forward since the election, and that is because 98 per cent of members of the CFMMEU voted for withdrawal. That is a really important factor. I thank the Hon. Courtney Houssos for introducing the bill in our Chamber on behalf of the people of New South Wales. I do not thank John Setka for his thuggish management of the CFMMEU Victorian branch and his persistent intent to influence the operation of mining and construction companies for the worse. In fact, it would be great to see the return of the Australian Building and Construction Commission because I know that the CFMMEU has been fighting against that for years. It has been abolished by the Albanese Government, but it would be great to see a return of the construction watchdog—but I do digress.

**The Hon. Anthony D'Adam:** Point of order: The member is drifting a long way from the long title of the bill and needs to draw his comments back. The bill is about duty exemptions, as I understand it, and has nothing to do with the Victorian branch of the CFMMEU.

**The Hon. Wes Fang:** To the point of order: Wide latitude is given during second reading debates, which has long been my salvation, so the Hon. Chris Rath's contribution is definitely in order.

**The DEPUTY PRESIDENT (Ms Abigail Boyd):** It has indeed been the Hon. Wes Fang's salvation. A wide latitude is permitted. The Hon. Chris Rath will continue, but I would expect him to come back to the provisions of the bill shortly.

**The Hon. CHRIS RATH:** In March of this year the Fair Work Commission approved the conducting of a ballot of the Mining and Energy Division on the question of withdrawal from the CFMMEU. As I said, 98 per cent of votes were in favour of withdrawal. The Mining and Energy Division has applied to the Federal Court of Australia to set a withdrawal date of 1 December 2023, but a court hearing has not yet been set. The only redeeming characteristic of Mr Setka's actions is that they have contributed to the need for this legislation by dividing the CFMMEU into the CFMEU and the MEU, and long may that continue. Not only is it a good thing to see the splitting up of that union, but it would also be good to see a CU, an FU, an MU, another MU and an EU in the future. It would be good if it was split up not just into two separate entities but into multiple smaller and smaller unions with less and less power. That would be a very good thing for the future. This bill is for the everyday Australian. It should be a cause for celebration among workers in New South Wales, and I strongly commend it to the House.

**The Hon. TANIA MIHAILUK (14:52):** I make a brief contribution to debate on the Revenue, Mining and Energy Legislation Amendment Bill 2023. In the first instance, I congratulate the members of the Mining and Energy Division on now being their own union. I worked with them when I was the shadow Minister for Natural Resources, and I understood from some of my discussions with the members of that division that they were very keen to separate and have their own union. I understand that. Unions have different reasons to divide, integrate or amalgamate. Unions have lots of changes over the course of years, but we have to respect the decision that they have made. As the Hon. Chris Rath mentioned in his contribution, they made an application in March. They were granted an opportunity to conduct their own ballot and 98 per cent of members agreed that they wanted to divide from the larger union, which is an overwhelming result.

My experience with the union is very interesting because I recall, when I was the member for Bankstown about 10 years ago, finding a stack of party members who suddenly joined in Bankstown. I was an active member for Bankstown and certainly an active member of the party at that stage, so I thought I would investigate because it was really interesting that about 15 to 20 members joined from the same street. It was extraordinary. When I had a look, they were from a construction site.

**The Hon. Stephen Lawrence:** Point of order: Clearly members are given wide latitude, based on the earlier ruling. This is outside that latitude and has descended into a gratuitous and deliberate attack on the union, which does not have a single thing to do with the subject of the bill.

**The DEPUTY PRESIDENT (Ms Abigail Boyd):** I have some sympathy with that point of order. I will allow the Hon. Tania Mihailuk to continue but would ask that she come back to the provisions of the bill in short order.

**The Hon. TANIA MIHAILUK:** What I am saying is relevant because it might give some understanding of why the Mining and Energy Division wanted to separate from the bigger union, particularly given that that union was certainly active in the Labor Party.

**The Hon. Stephen Lawrence:** Point of order: It is not clear if the Hon. Tania Mihailuk is dissenting from the ruling or just continuing with her remarks, but the remarks that she is making have the same problem as the remarks she was making earlier. That is that they do not have a thing to do with the bill.

**The Hon. Wes Fang:** To the point of order—

**The DEPUTY PRESIDENT (Ms Abigail Boyd):** I have heard enough on the point of order. I said that we afford wide latitude and that I would allow the Hon. Tania Mihailuk to continue so long as she came back to the provisions in short order, not immediately. But I would expect the member to come back to the provisions within the next 60 seconds or so. The Hon. Tania Mihailuk will continue.

**The Hon. TANIA MIHAILUK:** I decided to go doorknocking and visit those new members as the member for Bankstown.

**The Hon. Stephen Lawrence:** Yeah, right!

**The Hon. TANIA MIHAILUK:** Absolutely, I did. When I turned up to the location where those members supposedly lived, it was a construction site. I then decided to call some of the members, because as a member their phone numbers were provided to me by the party office. I called a number of the members and asked the question. They said to me, "Well, we were told by the Construction, Forestry, Maritime, Mining and Energy Union to join up and to use the address in Bankstown where we worked rather than our residential address." That is my experience with that union. It would not surprise anybody in this Chamber that they very quickly were no longer



members of the party, given they had no idea why they joined and they used an incorrect electoral address. But let us leave that subject.

I congratulate the Mining and Energy Division on making the right decision for its members in separating from the greater union. They are doing a great job. When I was the shadow Minister I saw terrific work undertaken by their organisers and their secretary. It was an absolute pleasure to work with them on the greater work needed in the mining area. They are terrific advocates for mining, not just supporting their own members but also understanding the value of that industry. I enjoyed working with the Mining and Energy Division. I congratulate the members and wish them all the best with their application at the Federal level as well.

Back to amalgamations and the way unions operate, I was a member of two different unions. I have since resigned from both unions. That should not surprise anybody in this Chamber. I worked at the United Services Union and was a member of that union for a very long time. I originally worked there when it was the Federated Clerks Union, and I experienced what it was like to amalgamate with another union. We amalgamated—or "integrated" was the terminology that we used at the time—with the Mining and Energy Union. That was a very difficult period for the Federated Clerks Union division.

There were discussions at a later stage about trying to de-amalgamate the clerks but, ultimately, almost all of the members, staff and organisers who were part of the Federated Clerks Union were moved on very quickly after the amalgamation. It was quite sad. I understand the union covers the local government area, but the work that the Federated Clerks Union did for the members in that area would not be undertaken with the same passion and energy by the new union, because it decided to focus on local government. Often, when these smaller divisions get together and amalgamate, it is wise to have a real think about whether it is worth their while to stay in those big unions. We will probably see a lot of other unions consider de-amalgamating in the future, because—

**The Hon. Mark Buttigieg:** Point of order: This is now getting tedious. It is the same line of reasoning on which points of order have been taken before. The historiography and microanalysis of unions is not what the bill is about.

**The Hon. Wes Fang:** To the point of order: Contrary to what the Parliamentary Secretary said, I think that the member's contribution has been on point. She is elucidating her experiences. Members are given wide latitude in their contributions to second reading debates, and the drivers of this debate are part of the very issues that the member is talking about. Her contribution is certainly in order. I am finding it far from repetitious and tedious. I think it is fascinating and I ask that she be allowed to continue.

**The DEPUTY PRESIDENT (Ms Abigail Boyd):** The bill is not about the break-up; it is about very small changes made to reflect the de-amalgamation of this particular union. On that basis, the member's contribution has strayed outside what is ordinarily allowed during a second reading debate. The member will come back to the provisions of the bill.

**The Hon. TANIA MIHAILUK:** I was about to sum up and had only one thing to add, if the member had waited for me to finish. Regarding the point of order, all I wanted to do was make a positive comment that de-amalgamation can be of great help to members and to unions. The example I gave about my experience in the Federated Clerks Union is that there were discussions early on about trying to de-amalgamate and that opportunity was missed.

**The Hon. Emily Suvaal:** Point of order: The member is now directly flouting your previous ruling, Madam Deputy President. I ask that you draw her back to the point.

**The DEPUTY PRESIDENT (Ms Abigail Boyd):** I do not need to hear any more on the point of order. I was listening very carefully. The member was coming to a close and was not directly flouting the previous ruling. The Hon. Tania Mihailuk will be heard in silence.

**The Hon. TANIA MIHAILUK:** As I said earlier, I congratulate the Mining and Energy Division on taking a very courageous step in separating from the bigger union. It is entirely focused on its membership and their needs. In my experience, having worked with them in the past—the Minister for Natural Resources is in the Chamber, and I know that her experience with the Mining and Energy Division would also have been good.

**The Hon. Courtney Houssos:** Absolutely.

**The Hon. TANIA MIHAILUK:** For the *Hansard* record, I acknowledge the interjection—the Minister agrees. I think we all congratulate them on making this move. I wish the union the very best, particularly with its Federal application.

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (15:02):** On behalf of the Hon. Daniel

Mookhey: In reply: I thank the Leader of the Opposition, the Hon. Damien Tudehope. I am not sure that I thank the Hon. Chris Rath, but I acknowledge his contribution, and that of the Hon. Tania Mihailuk. This is an important bill with two parts. There are the somewhat administrative updates, as members have noted in their contributions. Approximately 98 per cent of members in the new Mining and Energy Union [MEU] voted to de-amalgamate, so some administrative matters need to be updated in relation to the Coal Industry Act, the Electricity Infrastructure Investment Act, the Work Health and Safety (Mines and Petroleum Sites) Act and the Work Health and Safety (Mines and Petroleum Sites) Regulation.

An issue has also been revealed, which is that unions and employer associations that amalgamate are not subject to duty, but unions and employer associations that de-amalgamate do not receive the same protections from duty as other non-profit organisations. Although it has been highlighted by this particular instance, the bill will update that for any future unions or employer associations that wish to de-amalgamate. That is an important point to put on record. I thank the Mining and Energy Union for working closely with the Government on drafting the bill. I have known the union's secretary for some time. Incidentally, we heard about the United Services Union [USU] in the debate. The USU's secretary is Graeme Kelly and the general secretary of the MEU is a Grahame Kelly as well—with a slightly different spelling.

I thank the staff at Revenue NSW, who are always excellent. I thank Kris Neill, who was my interim chief of staff and is still a very good friend. I thank Laura in my office, Matt, Cullen and the whole team at Revenue NSW for their professional advice and excellent work to ensure that what passes through the Parliament today comes into effect and brings into effect what the Government is seeking to do. I commend the bill to the House.

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

**Motion agreed to.**

### **Third Reading**

**The Hon. COURTNEY HOUSSOS:** On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a third time.

**Motion agreed to.**

### *Business of the House*

### **POSTPONEMENT OF BUSINESS**

**The Hon. COURTNEY HOUSSOS:** I postpone Government business notice of motion No. 2 until a later hour of the sitting.

### *Bills*

### **JUSTICE LEGISLATION AMENDMENT (MISCELLANEOUS) BILL 2023**

### **Second Reading Speech**

**The Hon. ANTHONY D'ADAM (15:07):** 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 Justice Legislation Amendment (Miscellaneous) Bill 2023. The bill will introduce several miscellaneous amendments to address developments in case law, close gaps, provide clarity and updates where needed, and support operational improvements. Regularly reviewing and updating legislation is an important mechanism to ensure that laws remain fit for purpose and keep pace with developments in the community and the legal system. Miscellaneous bills are a sensible and practical way to introduce amendments to multiple Acts to achieve this. Miscellaneous bills are not the same as statute law bills, which progress as part of the statute law revision program and make only minor amendments to the statute book, including the removal of typographical errors and the repeal of redundant provisions. More significant amendments can and do progress in miscellaneous bills where appropriate and required.

The amendments that will be introduced by the bill include amendments to the Bail Act 2013 to address case law developments and resolve an operational issue relating to accompaniment requirements; an amendment to the Children's Guardian Act 2019 to remove the requirement for the Children's Guardian to be under the age of 65 years; an amendment to the Fines Act 1996 to allow the completion of certain activities to be treated as payment of a penalty notice, which is being introduced as part of a pre-court diversion scheme for personal drug use and small-quantity drug possession offences; an amendment to the Law Enforcement (Powers and Responsibilities)

Act 2002 to remove a sunset clause and thereby continue the ability for non-urgent warrant applications to be made by email; and amendments to implement the recommendations of the statutory review of the Terrorism (Police Powers) Act 2002. The bill also clarifies regulation-making powers across 10 Acts to provide more specificity in the enabling regulation-making provisions.

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

### **Leave granted.**

I turn now to the detail of the bill.

#### **Bail Act 2013 Amendments**

Schedule 1 to the bill amends the Bail Act 2013.

Item [2] of schedule 1 amends section 22B (1) (b) of the Bail Act to clarify that "the decision" referred to in that provision is a decision to grant or dispense with bail.

Section 22B of the Bail Act requires bail to be refused following conviction and prior to sentencing where the offender will be sentenced to imprisonment to be served by full-time detention, unless special or exceptional circumstances can be established to justify "the decision". Currently, section 22B does not specify that, for detention applications, "the decision" referred to is a decision to grant or dispense with bail. The bill will remedy this drafting anomaly by inserting the words 'a decision to grant bail or dispense with bail' into section 22B (1) (b).

This amendment reflects the original intent of the section and adopts the approach taken by the NSW Court of Criminal Appeal in *DPP v Van Gestel* [2022] NSWCCA 171. It will clarify the legislative text and ensure consistent application of the law.

Items [3] to [5] of schedule 1 will also amend the Bail Act 2013 to permit the court to impose an accompaniment requirement as a pre-release requirement.

A pre-release requirement is a condition that must be complied with before an accused person is released to bail. Section 29 of the Bail Act, as currently drafted, does not allow a court to impose an accompaniment requirement as a pre-release requirement. This means that courts are curtailed from properly imposing this type of pre-release requirement, even when it is necessary to meet a bail concern.

In *WR v Director of Public Prosecutions* (NSW) [2023] NSWCCA 38, the Court of Criminal Appeal held that to the extent that an accompaniment requirement imposes an obligation on an accused, it is a conduct requirement and cannot be imposed as a pre-release requirement. The distinction is that whereas a pre-release requirement must be complied with before an accused person is released on bail, a conduct requirement does not have to be complied with **before** an accused person is released on bail. This means that, where an accompaniment requirement is imposed as a **conduct requirement**, an accused person could technically be released on bail directly into breach of the accompaniment requirement, if it is not immediately complied with.

Amending the Bail Act 2013 to make accompaniment requirements available as pre-release requirements will ensure the validity and intended effect of conditions that courts seek to make, by allowing a court to order that a person will not be able enter bail or leave custody until the nominated person is present. It also provides clarity for Corrective Services NSW and other law enforcement agencies about when an accused person can be released on bail in compliance with their court-ordered conditions.

The bill will introduce a new section 28A into the Bail Act which will define an "accompaniment requirement" as a bail condition requiring that the accused person be released into the care or company of another specified person or class of person when released on bail. Reference to a "class of persons" has been included to ensure that an accused person may be accompanied, where appropriate, by a person such as an NDIS worker or employee of Youth Justice, in circumstances where the specific identity of the accompanying person may not be known in advance.

Existing requirements in the Bail Act for the assessment of bail concerns and the limits on imposing bail conditions will continue to apply. This means that a bail authority may only impose a pre-release accompaniment requirement if it is satisfied that the requirements in section 20A, subsection (2) of the Bail Act are met, including that the condition is:

- reasonably necessary to address a bail concern,
- no more onerous than necessary to address the bail concern in relation to which it is imposed, and
- reasonably practicable for the accused person to comply with.

Item [1] of schedule 1 makes a consequential amendment.

#### **Amendment to the Children's Guardian Act 2019**

I now turn to schedule 2 to the bill, which makes amendments to the Children's Guardian Act 2019. Item 1 of schedule 2 to the bill will remove the requirement in the Children's Guardian Act for the Children's Guardian to be under the age of 65 years.

This provision is inconsistent with age discrimination provisions in the Anti-Discrimination Act 1977 and therefore has no operative effect.

The repeal of the age requirement will ensure consistency with New South Wales anti-discrimination law and the governing legislation for other statutory officers in New South Wales who are not subject to a statutory age limit.

The amendment is drafted to apply retrospectively to current and future holders of this office. However, because the provision being repealed is inoperative, this does not represent a change in the substance of the law.

#### **Amendment to the Fines Act 1996**

Schedule 3 to the bill will introduce section 236 into the Fines Act 1996 to allow the completion of certain activities to be treated as payment of a penalty notice. These activities will be prescribed by regulation.

This amendment will provide the Commissioner of Fines Administration with greater flexibility in administering and finalising fines, and provide new pathways for penalty notice recipients to access approved interventions designed to address their offending, motivated by the prospect of having their fine treated as paid if they do so.

The Work and Development Order scheme already allows for some penalty notice recipients, after commencement of the fine enforcement process, to undertake community work or other approved activities in lieu of payment. However, unlike the Work and Development Order scheme, under the new section 23B of the Fines Act, the fine recipient will need to undertake a prescribed activity prior to the fine being enforced.

Section 23B will allow penalty notice recipients to access support to address their behaviour, and provide that if they complete a prescribed activity, their fine will be treated as though it has been paid in full. As with penalty notice recipients who pay the full amount of a fine, those who complete a prescribed activity will not be liable to any further proceedings for the alleged offence.

This provision will be used to facilitate the pre-court drug diversion scheme. This scheme will allow police to issue up to two criminal infringement notices, being fines of \$400, for personal drug use and possession offences involving small quantities of prohibited drugs.

The new section 238 will be used to prescribe a new, targeted, alcohol and other drug health intervention provided by a specialist service provider. The recipient of a criminal infringement notice will then have the option to either pay the fine or to participate in the intervention, the completion of which will finalise the fine as if it has been paid.

Work on this scheme has been underway for some time and the scheme is supported by the NSW Police Force and NSW Health. The scheme is intended to improve health outcomes, including for First Nations people, whilst also reducing the number of matters in our courts and letting police and our justice system focus on serious drug offences, like the supply and manufacture of prohibited drugs. Police will also retain the discretion to proceed with a matter to court.

The scheme can largely be enacted within existing frameworks, but this amendment to the Fines Act is an important change that will enable fines to be treated as paid upon the completion of a tailored drug and alcohol intervention.

#### **Amendment to the Law Enforcement (Powers & Responsibilities) Act 2002**

Schedule 4 to the bill amends the Law Enforcement (Powers and Responsibilities) Act 2002 to remove the sunset clause at section 60A subsection (9). I will subsequently refer to the Act as LEPR. Section 60A of LEPR allows non-urgent warrant applications to be made by email. The provision was introduced in 2021 to address issues arising from the requirement under LEPR for warrants to be applied for in-person when COVID-19 restrictions were in place at the time. Section 60A contains a sunset clause that will have the effect that it is automatically repealed on 9 December 2023 if the sunset clause is not removed or amended.

Email warrant applications were initially introduced as a 12-month pilot, with a sunset period of two years to enable email warrant applications to continue while the pilot was assessed. The Department of Communities and Justice has assessed the email warrant application pilot and recommended that the sunset provision be repealed, so that email warrant applications may continue.

The assessment by the Department of Communities and Justice included consultation with the key stakeholders involved in warrant applications—the NSW Police Force and Local Court registries. These stakeholders advised that the email warrant process was operating well, and was more efficient and cost effective than 'in person' warrant applications, and is therefore the preferred method of application.

Importantly, the introduction of email warrant applications has not impacted the rights of persons subject to a warrant application, as all existing safeguards in LEPR apply equally to applications made by email.

The bill will make the email warrant application process permanent to modernise the search warrant process and ensure that key stakeholders continue to benefit from the process.

#### **Amendment to the Terrorism (Police Powers) Act 2002**

The bill also makes several amendments to the Terrorism (Police Powers) Act 2002, to implement recommendations made by the statutory review of the Act.

The statutory review recommended that the preventative detention scheme in Part 2A of the Act should be extended for a further three years.

The statutory review noted the conclusion of the previous statutory review of the Act in 2018, that it would be premature to repeal part 2A before the investigative detention powers in part 2AA of the Act had been operationally tested. These powers have not, as yet, been operationally tested. Repealing part 2A would also be inconsistent with the national legislative framework for using preventative detention as a tool to prevent and respond to terrorism. The statutory review also noted that the NSW Police Force continue to advise that preventative detention orders remain a valuable counter-terrorism disruption mechanism in the context of an imminent terrorist attack.

Accordingly, it is appropriate for preventative detention orders to continue to be available for use in the event of a terrorist incident in New South Wales. The amendment at item 7 of schedule 5 to the bill achieves this by amending the sunset provision in section 2675 of the Terrorism (Police Powers) Act so that the operation of part 2A of the Act can continue for a further three years.

The amendments to the Terrorism (Police Powers) Act proposed by the bill also implement two recommendations of the Law Enforcement Conduct Commission that were endorsed and recommended by the statutory review of the Act. The amendments at Items [1] to [6] of schedule 5 to the bill will ensure that a person detained on a preventative detention order in a correctional centre or a youth justice detention centre in accordance with an arrangement under section 26X of the Act will be notified of their right, and given the opportunity, to contact the NSW Ombudsman to make a complaint about their treatment while held in such a facility.

#### **Regulation Making Power Amendments**

Schedule 6 to the bill makes amendments across 10 Acts to clarify regulation-making powers under those Acts.

These amendments have been recommended by the Parliamentary Counsel's Office and are largely technical in nature. The amendments are being introduced to provide greater specificity in the enabling regulation-making provisions. Following consultation with stakeholders, some small changes are also being made to some regulation making powers to ensure that they remain fit for purpose and reflect current practice. The amendments do not reflect substantive changes to any existing policy or practice, and do not introduce substantive changes to existing legislation or regulations. They simply provide the Parliament with clearer language around what the regulation-making powers provide for.

I turn now to the specifics of these amendments.

Sub-schedule 6.1 amends the Children (Criminal Proceedings Act) 1987 to insert an express regulation-making power for the making of parole orders, including conditions imposed on a parole order, at the time of sentencing in criminal proceedings in the Children's Court.

Where the Children's Court makes a parole order, clause 11 of the Children (Criminal Proceedings) Regulation 2021 currently requires that consultation occur before treatment or residence conditions are imposed under that order. Subclause 12 (1) of the Regulation also currently requires that parole orders must be in the approved form. Currently, section 51 of the Children (Criminal Proceedings) Act contains a general regulation making power, but the Act lacks an express regulation making power in relation to parole orders and conditions imposed on a parole order. The amendment in this bill will insert an explicit power, putting beyond doubt the power of the Children's Court to impose conditions and make parole orders at the time of sentence, which will support the existing clause 11 and subclause 12 (1) in the Children (Criminal Proceedings) Regulation 2021.

Sub-schedule 6.2 makes necessary consequential amendments to the Children (Criminal Proceedings) Regulation 2021.

Sub-schedule 6.3 to the bill amends the Children (Detention Centres) Act 1987 to provide an express power for the Secretary of the Department of Communities and Justice to issue guidelines about how complaints must be dealt with in youth detention facilities.

Clause 57 of the Children (Detention Centres) Regulation 2015 currently allows the Secretary to issue guidelines as to how complaints and applications for the review of complaint decisions are to be dealt with. This regulation is made under regulation-making powers relating to the management and administration of detention centres, and complaint procedures, contained in sections 32A(a) and (n) of the Children (Detention Centres) Act 1987, respectively.

The bill will remove clause 57 of the Children (Detention Centres) Regulation 2015 and instead insert an equivalent provision into the Children (Detention Centres) Act 1987 under the proposed section 32AA, to ensure there is a clear statutory authority in the Act, rather than in a Regulation, for the Secretary to issue procedures for dealing with complaints and applications for the review of decisions on complaints.

Sub-schedule 6.4 makes consequential amendments to the Children (Detention Centres) Regulation 2015.

Sub-schedule 6.5 makes amendments to the Civil Procedure Act 2005 to enable the continuation of current practice for civil procedure in New South Wales.

Clause 16 of the Civil Procedure Regulation 2017 sets out that certain domestic and personal violence proceedings are excluded from certain provisions of parts 3 to 9 of the Civil Procedure Act. This clause was originally inserted into the Civil Procedure Regulation 2012 by an amending regulation, relying on the power at section 4, subsection (4) (a) of Civil Procedure Act which enables regulations to be made.

This amendment provides more specificity for the regulations to be made, and the regulations already made, under section 4, subsection (4) of the Civil Procedure Act.

Item [3] of sub-schedule 6.5 to the bill also makes amendments relating to fees in section 18 of the Civil Procedure Act.

The amendments include introducing an express regulation-making power to issue fees for functions exercised by the Marshal in Admiralty, in addition to the Sheriff. The new section 18 subsection (1) (e) will provide that fees are payable for the exercise, and attempted exercise, of functions by both the Sheriff and the Marshal in Admiralty, consistent with current practice.

The jurisdiction in admiralty is conferred on the Supreme Court of New South Wales, who appoints a marshal under the Commonwealth Admiralty Rules 1988 to serve and execute arrest warrants. This enables the Marshal to retain safe custody of, and to preserve, a ship or property under arrest pending the outcome of litigation before the court.

Item [3] in the bill will also make explicit the power to make regulations in relation to fees for administrative services provided by a registrar or other officer of the court, as well as the fees payable for other services in connection with civil proceedings. For example, a registrar may charge fees for providing an administrative service such as fixing typographical errors in documents, or when there are administrative expenses to process refunds in response to a court user's error. Consistent with current practice provided for under the Civil Procedure Regulation, the amendment will also extend the regulation making power to include **attempts** to provide these services, such as where service is attempted by post and returned to the Court.

Finally, item [3] will clarify that the power to make regulations in relation to fees includes the persons to whom the fees are payable, the time at which the fees are due, and the person liable to pay them, consistent with current practice.

Item [2] makes a consequential amendment.

Item [4] of schedule 6.5 to the bill clarifies the regulation-making power for registrars of a court and the Sheriff to waive, postpone or remit fees, and impose conditions on the waiver, postponement or remission of fees. This amendment includes a definition of a registrar in relation to the Supreme Court, to clarify current practice.

Item [5] of sub-schedule 6.5 to the bill transfers, from the regulations to the Civil Procedure Act, the Registrar's power to deduct 2.5 per cent of any amount received by way of interest or dividends on deposited funds paid into court and provides for the payment of that amount into the Consolidated Fund.

The amendment clarifies that, with respect to the Supreme Court, this power is limited to the Principal Registrar or any registrar nominated by the Principal Registrar of the Supreme Court, consistent with the current practice of how this power is exercised.

In providing for the distribution of money to group members in a representative proceedings, section 178 of the Civil Procedure Act 2005 provides that the Supreme Court may constitute and administer a fund consisting of the money to be distributed. Item [6] is a consequential amendment that inserts a note explaining that the requirement to deduct 2.5 per cent of funds received as interest or dividends also applies to funds constituted under section 178.

Item [7] makes a consequential amendment.

Sub-schedule 6.6 makes a consequential amendment to the Civil Procedure Regulation 2017.

Sub-schedule 6.7 to the bill amends the Crimes (Forensic Procedures) Act 2000 to provide that a person is "appropriately qualified" to carry out a forensic procedure if the Commissioner of Police authorises the person in writing to carry out the forensic procedure.

Under section 3 (1) of the Crimes (Forensic Procedures) Act 2000, a person is "appropriately qualified" to carry out a forensic procedure if they have suitable professional qualifications or experience to carry out the procedure, or if they are qualified under the regulations to carry out the procedure. Clause 5 of the Crimes (Forensic Procedures) Regulation 2014 currently states that a person is qualified to carry out a forensic procedure if authorised in writing to do so by the Commissioner of Police.

This amendment will embed the existing power of the Commissioner of Police to authorise persons to carry out forensic procedures in the definition of the term "appropriately qualified" under the Act rather than relying on the Regulation.

The bill also makes a consequential amendment to the regulation in sub-schedule 6.8.

Items [1] to [4] of sub-schedule 6.9 to the bill address an inconsistency between the membership of the High Risk Offenders Assessment Committee set out in section 24AB (2) of the Crimes (High Risk Offenders) Act 2006, the regulation making power in section 24AB (3) to provide for the constitution and procedure of the Assessment Committee, and the power in section 24AD (1A) for a sub-committee to be formed to exercise the Assessment Committee's functions under the Terrorism (High Risk Offenders) Act 2017.

Clause 4 of the Crimes (High Risk Offenders) Regulation 2018 currently limits the Assessment Committee's membership when it exercises functions under the Terrorism (High Risk Offenders) Act 2017 to representatives of key agencies, such as the Department of Communities and Justice, Corrective Services NSW, the NSW Police Force and the Justice Health and Forensic Mental Health Network. When exercising these functions the Assessment Committee considers highly sensitive material, some of which is provided by other agencies and jurisdictions. Accordingly, clause 4 limits the membership of the Assessment Committee for the purposes of its functions under the Terrorism (High Risk Offenders) Act 2017 to ensure that such material is only accessed by representatives of agencies who hold appropriate security clearances.

Although sub-section (3) of section 24AB of the Crimes (High Risk Offenders) Act 2006 states that the regulations may provide for the Assessment Committee's constitution, sub-section (2) provides for its membership to consist of specific persons. In addition, section 24AD (1A) provides that a sub-committee may exercise the Assessment Committee's functions under the Terrorism (High Risk Offenders) Act 2017.

Accordingly, the amendments address the inconsistency between these sections by providing for a sub-committee of the Assessment Committee, known as the terrorism sub-committee, to exercise the Assessment Committee's functions under the Terrorism (High Risk Offenders) Act 2017, and providing for the regulations to prescribe its composition.

These amendments will not change current practice. All matters under the Terrorism (High Risk Offenders) Act will continue to be considered only by representatives of Department of Communities and Justice, Corrective Services NSW, the NSW Police Force and the Justice Health and Forensic Mental Health Network. These members will constitute the Assessment Committee's terrorism sub-committee and only the terrorism sub-committee will exercise the Assessment Committee's functions under the THRO Act.

Items [1] to [2] of sub-schedule 6.10 to the bill are consequential amendments to clause 4 of the Crimes (High Risk Offenders) Regulation 2018 arising from the amendments in sub-schedule 6.9.

The amendments to the Criminal Procedure Act 1986 in sub-schedule 6.11 to the bill will enable the continuation of current practice in areas of criminal procedure in New South Wales.

Item [1] of sub-schedule 6.11 makes clear that the power to make regulations with respect to fees extends to persons to whom the fees are payable, the time at which they are due, and the person liable to pay them.

Item [2] inserts an explicit power for the Criminal Procedure Regulation 2017 to provide for a registrar and the Sheriff to waive, postpone or remit fees, and impose conditions on the waiver, postponement or remission of fees. This amendment also provides that this function is limited to the Principal Registrar or another nominated registrar in relation to the Supreme Court, which confirms the current practice.

Item [3] of sub-schedule 6.11 confirms that the operation of an intervention program can be limited to a specified part of the State by order of the Attorney General.

Currently, section 347 subsection (4) of the Criminal Procedure Act 1986 provides that the operation of such an intervention program can be limited either in terms of time or location by the Criminal Procedure Regulation 2017. Clause 33 subclause (2) of that Regulation declares specific locations at which an intervention program, such as circle sentencing, can occur and also allows the Attorney General to declare additional locations. This amendment ensures that the Attorney General's power to make orders for the location of intervention programs is drawn from the relevant Act rather than the Regulation. The amendments do not change any of the specific locations where intervention programs, including circle sentencing, can occur.

Sub-schedule 6.12 makes consequential amendments to the Criminal Procedure Regulation 2017 and an amendment of a savings nature to ensure the continued validity of existing circle sentencing locations.

Sub-schedule 6.13 to the bill will amend the Dormant Funds Act 1942 to clarify that the general regulation-making power in section 19 of the Act allows the regulations to provide for the fees and charges that may be imposed under the Act.

A dormant fund is property that has been set aside for a charitable or public purpose, controlled by trustees, where the Commissioner of Dormant Funds has determined that the fund is no longer being, or is no longer capable of being, used for the purposes for which it was intended.

The amendment proposed at sub-schedule 6.13 to the bill clarifies that the regulations may specifically provide for a fee for the formulation of a proposal for a dormant fund, as described in section 11 of the Act, and currently provided for in clause 5 of the regulations. The existing clause 5 of the regulations is intended to reflect that the development of a proposal for a dormant fund requires work and expenditure on behalf of the Commissioner, and a fee is therefore appropriate for this work. This amendment will not make any changes to current practice or procedure.

Sub-schedule 6.14 to the bill amends the Drug Misuse and Trafficking Act 1985 (DMTA) to provide a specific regulation-making power in relation to needle exchange programs.

Clause 37 of the Drug Misuse and Trafficking Regulation 2021 provides exemptions from some provisions of the Drug Misuse and Trafficking Act to facilitate participation in a needle exchange program. This applies to needle exchange programs published on the Ministry of Health website. The bill will amend the existing regulation making power in the Act, under which a person can be exempt from the application of certain provisions of the Act, to refer specifically to the needle exchange program and to a person or class of persons involved in the program who are approved by the Secretary of the Ministry of Health. This will confirm, and clarify, the existing practice for exclusions in relation to the needle exchange program.

Sub-schedule 6.15 to the bill will amend the NSW Trustee and Guardian Act 2009 to clarify that the regulation-making power in sections 111 and 128 allows the setting of fees by the NSW Trustee, in accordance with the regulations. This will ensure continuity of existing business practices by the NSW Trustee in charging fees for the services it provides to the community.

Item [1] of sub-schedule 6.16 to the bill amends the definition of 'offender information' in section 57 of the Terrorism (High Risk Offenders) Act 2017. This amendment will clarify the scope of the Attorney General's power in section 58 of the Act to require a person to provide to the Attorney General offender information of a kind prescribed by the regulations.

The current definition of "offender information" in section 57 captures "any document, report or other information that relates to the behaviour, beliefs, financial circumstances, or physical or mental condition, of an eligible offender".

Key offender information that is prescribed by clause 7 of the Terrorism (High Risk Offenders) Regulation 2018 for the purposes of section 58 of the Act includes documents about an offender's education and work history, and the offender's correspondence to associates or family members. This can be important to assessing the offender's risk of committing a serious terrorism offence.

While such documents may contain information about an offender's behaviour, beliefs, financial circumstances, or physical or mental condition, the amendment to the definition of 'offender information' in section 57 of the Act will explicitly provide for the regulation making power in section 58 of the Act to capture all documents from which such information may be inferred, to ensure they can be produced to assist the assessment of the offender's risk, regardless of whether they expressly relate to those characteristics.

Items [2] and [3] of sub-schedule 6.16 to the bill clarify the power in section 59B of the Terrorism (High Risk Offenders) Act 2017 to make regulations about the appointment of qualified persons as independent third parties who may make submissions to the Supreme Court about terrorism intelligence.

The amendment in item [2] provides that the regulations may provide that a person is a qualified person to be appointed as an independent third party only if the Supreme Court is satisfied that they meet key requirements for the appointment. The amendment in item [3] provides that the regulations may impose duties on persons who are appointed as independent third parties. These amendments enable the regulations to provide for a person to be qualified to be appointed as an independent third party if the Supreme Court is satisfied they meet key requirements and to impose duties on an independent third party relating to the exercise of their functions.

### Conclusion

This bill is an important part of the Government's ongoing work in regularly reviewing and updating legislation to ensure that it continues to meet its objectives.

## Second Reading Debate

**The Hon. SUSAN CARTER (15:09):** I lead for the Opposition in debate on the Justice Legislation Amendment (Miscellaneous) Bill 2023. The bill represents significant legal housekeeping by the Minns Government and, as such, is a welcome change in pace. We have seen too many examples of slight bills—for example, the Drug Misuse and Trafficking Amendment (Appointed Persons) Bill 2023—dealing with matters individually that could just as easily have been incorporated into a statute law (miscellaneous provisions) bill, together with other similar matters. It is pleasing to see a coordinated approach in the Justice Legislation Amendment (Miscellaneous) Bill, which seeks to amend 12 separate Acts with the one bill. However, I also note that the bill is being considered in the same week as the Statute Law (Miscellaneous Provisions) Bill (No 2) 2023. One wonders why these matters needed to be considered separately and not dealt with together. Apparently the Government feels no time pressure on its legislative agenda.

It is not so pleasing that three of the amendments in the bill facilitate the creation or raising of fees payable by the public at a time of significant cost-of-living pressures. Changes to the Civil Procedure Act 2005, the Dormant Funds Act 1942 and the NSW Trustee and Guardian Act 2009 are all designed to streamline the levying of a variety of fees. Any increase in fees, or the facilitation of future increases by Government agencies, is essentially a new form of taxation from a government that promised no new taxes. Most of the changes introduced by the legislation are sensible reforms that the Opposition is happy to support.

The amendments respond to recent developments or recent case law and represent an appropriate and timely response. For example, as the honourable member has noted, changes to the Bail Act 2013 clarify that a court must refuse bail on a detention application, unless it is established that special or exceptional circumstances justify a decision to grant or dispense with bail. It also allows a bail condition to be imposed, requiring the accused to only be released on bail into the care or company of a specified person or class of persons. The changes to the Children's Guardian Act 2019 align the Act with the State's age discrimination laws and remove the requirement for the Children's Guardian to be under 65 years of age. It is not my intention to discuss each of the changes proposed by the bill. They have been well rehearsed by the honourable member in his second reading speech.

I indicate that the Opposition is happy to support all of the changes, but it has serious concerns about one of the proposed changes. The bill provides insufficient information to the Parliament and the people of New South Wales to allow the Opposition to support the change with confidence. Schedule 3 to the bill seeks to amend the Fines Act 1996 by inserting new section 23B. That section provides that a penalty notice could be satisfied by the completion of prescribed activities in place of the payment of the monetary amount specified in the penalty notice. Importantly, all of the relevant detail—which persons, what activities, what class of penalty notices and any other additional requirements—is to be specified by regulation. The details are not disclosed in this legislation. That change is couched in very general terms but, from the second reading speech, appears to have been introduced to facilitate the Government's policy announcement about intervention rather than criminal fines for drugs other than cannabis.

The operation of that section will not be limited by the words of the Minister in the second reading speech. Once passed, it will be able to operate as broadly, or as narrowly, as the regulations provide. It will be important for us, in order to exercise our proper function of review, to very closely watch the regulations that are made. It is disappointing that the House is being asked to consider this legislation not on the basis of full details being provided to the Parliament and the people but on the basis of a short press release that was issued on 10 October 2023, which made no reference to the Fines Act and any necessary amendments. The press release flagged the introduction of a policy relating to providing health interventions rather than imposing criminal fines for drugs other than cannabis.

The policy has echoes of the Coalition policy that was announced in September last year as part of its half-a-billion-dollar response to the recommendations emerging from the ice inquiry. I say "echoes" advisedly, because the Coalition had a clear, detailed and funded policy response, whereas the Government has given us a broad-brush press release. It is not yet clear to what extent the Government policy, facilitated by this change to the Fines Act, is consistent with the Coalition's detailed policy. Indeed, until we see regulations made by the Executive, and not by Parliament, the House will apparently have no actual details of what the Government's plan is, but we are being asked today to support this legislative change. The Coalition policy was clear. Recommendation 12 of the ice inquiry stated:

... in conjunction with increased resourcing for specialist drug assessment and treatment services, that the NSW Government introduce a legislated police diversion scheme for use and possession for personal use of prohibited drugs ...

The Coalition's response to recommendation 12 said:

The possession and use of illicit drugs in NSW is and will remain a criminal offence. The NSW Government—that is, the former Coalition Government—

considers that successful implementation of a pre-court diversion scheme—

that is, what appears to be proposed in the Government's press release and facilitated by the change to the Fines Act—

is only achievable when relevant services and supports have been established in the health and justice systems.

The Coalition was happy to look at a diversion scheme but wanted to make sure that the relevant services were in place and available to all as a first step. The Coalition's plan called for assessment, treatment and support operating throughout the entirety of the State. The former Government committed to establishing specialist drug assessment, treatment services and support statewide before a final decision would be made about the implementation of a pre-court diversion scheme. In the media release from the Minns Government, however, there is no evidence that the hard and important work has been done. Instead, it notes that the Commissioner of Police and the Chief Health Officer have advised the Government of their "operational readiness to implement the scheme from next year". Their operational readiness to do what? To implement what? From what date? In what places? Being able to answer those details goes to good government, but it also goes to people's lives.

The scheme was designed to help early-stage drug users. We should not pretend to help, or just help on paper. We should be ready to help everyone who wants help, not just those in some locations while abandoning others. If this is a real attempt at reform, then it needs to be supported properly. That was the Coalition's plan. The



Government's echo is not as clear. The Coalition policy was not an all-of-drugs policy. The Coalition policy envisaged that it would only apply to certain schedule 9 or prescribed restricted substances. The press coverage suggests that the Labor policy will apply to all illegal drugs. The detail is not clear and has not been provided to the House. If it applies to all illegal drugs, has it been thought through? For example, how sure are we that a person arrested with a small quantity of the notorious date rape drug ketamine is intending to use it themselves? Personal use may have different uses. A broad-brush, poorly considered drugs policy could have dangerous and unintended consequences.

The former Government's policy was a whole-of-State policy, offered to every citizen. What assurance is there that the diversion scheme and health supports will be in place throughout the entirety of the State—Sydney and the regions—before the scheme starts? It is important that all residents of New South Wales have equal access to any diversion scheme and that there is not a separate city policy and regions policy. This is a law reform initiative. If it is to operate differentially based on postcode, it offends against important notions of equality of all before the law, which is a hallmark of any system based on the rule of law. The Government's recent announcement flagged the introduction of a diversion scheme. The Government is now presenting this legislation to amend the Fines Act. We are being asked to approve legislative change before we see the detail.

We need those details now. It is irresponsible to introduce a major change in drug policy, designed to support moving early users away from the pathway of addiction, without ensuring that the proper and necessary supports in place have been funded and are available equally throughout New South Wales. The Government has not addressed those issues in this House. It is not sharing those details with the people of New South Wales, and it is not clear what the Government's drug plan is. It has echoes of the Coalition's plan, to which we remain committed, but it is only a faint echo, without all of the necessary detail. We are happy to support the process of reform, but any proper principal drug diversion scheme requires those rehabilitation services to be in place before it commences. Otherwise, we will not have a consistent justice system in our State. There should not be regional inequities in dealing with drug offenders. With those comments and qualifications, the Coalition will support the bill.

**Ms SUE HIGGINSON (15:20):** On behalf of The Greens, I indicate that we will not oppose the Justice Legislation Amendment (Miscellaneous) Bill 2023, but I would also like to put the Government on notice for future miscellaneous bills. It should not take reluctance to oppose at this stage as equal to support from The Greens. If it continues to ram through wideranging powers and legislative change without considered debate in this House, we will have to take the Government to task. We understand that the bill has come about variously, as a result of different reviews and recommendations that have been made to Government, and that there is a general housekeeping nature to it, but it is also more than just that. We accept that some of the changes in the miscellaneous bill are relatively benign and that there are some consistency and improvement measures, so, on the whole, we will support it. But I indicate that there will be at least one amendment from The Greens that seeks to give proper oversight to powers that infringe, in a marked way, upon human rights.

Before moving to the detail of the bill, I must reflect on the nature of miscellaneous bills and this one in particular. In the statement of public interest tabled by the Deputy Leader of the Government, the bill is justified by asserting that a consolidated bill is necessary to avoid the Parliament considering numerous pieces of legislation. There are other parts of the statement of public interest that address the actual public interest. However, suiting the perceived convenience of members of Parliament should not be considered amongst them. Frankly, it is lazy and dangerous for a government that is just over six months old to seek to amend 15 Acts and regulations through a miscellaneous bill with the stated public interest being that the Parliament would otherwise have to do more work—we members would have to do the thing we are here to do: our job.

Most of the amendments are relatively non-contentious and are important to keep sections of the justice system up to date with contemporary case law and consistent with other pieces of legislation, but some schedules in the bill just do not belong together. Bundling all of these amendments together under a miscellaneous justice title is a bit like comparing apples with oranges. Measures to ensure consistency between employment conditions and anti-discrimination laws, and changes that extend sunset provisions for highly contentious powers that can abuse the human rights of individuals should not be in the same bill.

Schedule 1 to the bill introduces a new type of bail requirement that can be imposed by a bail authority on a person who has been granted bail. Although there is capacity for that type of bail requirement to limit certain freedoms and impose requirements despite a person on bail benefiting from a presumption of innocence, we accept that recent developments in case law justify that amendment. Schedule 2 corrects an oversight in the existing legislation that breaches the anti-discrimination law by requiring a person who has been appointed to the role of the Children's Guardian to be under the age of 65. It also ensures that the current Children's Guardian is included in the change.

Schedule 3 will allow a person who has been issued a penalty notice to undertake certain prescribed activities in lieu of payment of a fine for a certain class of penalty notices. I understand, from information provided by the Government, that the change is intended to facilitate the diversion programs for people caught with small amounts of drugs in New South Wales. I reflect here that it is a shame that the New South Wales Government is continuing with that part of the plan that will still slam first-time offenders with significant fines or work programs despite the evidence that it will disproportionately impact people who have been disadvantaged. The ongoing targeting of certain areas and people with certain appearances means that those work programs and fines will continue to punish people who are already over-policed, including First Nations people, people from diverse cultural backgrounds or those faced with structural housing and financial disadvantage. We support diversionary programs but, without inquiry into and reform of racist and discriminatory police practices, that program will not deliver meaningful positive outcomes for the people that need it most.

Schedule 4 will allow the use of emails as a valid pathway for the application of warrants. That practice was commenced during the COVID lockdowns and is reasonable, considering the continuing digitisation of many aspects of society. Schedule 5 seeks to amend the Terrorism (Police Powers) Act 2002 to further extend the sunset provision related to preventative detention orders. Those orders had previous sunset clauses that had come and passed in 2015, 2018 and 2021 and they are now ready to be retired again. But just like in those years, the Attorney General has conducted an internal review, away from public eyes and without submission from civil society, and we are now set to have a further three years granted to these incredibly powerful orders that can detain people without charge for 14 days. I indicate that The Greens will move an amendment to that during the Committee stage so that, after 18 years, those powers can actually be examined by a committee of the Parliament, as they ought to be.

Schedule 6 makes many changes to Acts and regulations—some that are relatively straightforward and some that are less so. The increased clarity and regulation-making powers in the Criminal Procedure Act and regulation for places that are subject to intervention programs are perhaps generally good. The establishment of a permanent subcommittee under the Crimes (High Risk Offenders) Act and regulation are neutral, and the new regulation-making powers for the Secretary of the Ministry of Health in the Drug Misuse and Trafficking Act are not explained and do raise questions.

The fact that this House is being asked to just accept all of these changes to be addressed together is actually problematic, and I contend that some of these changes are neither necessary nor urgent. The necessity is arguable and should be subject to debate. The urgency is less arguable. If there are urgent changes that need to be made and they are of a consistent nature, then I would understand that in a miscellaneous bill. What has been presented by the Attorney General is not consistent, and puts all of the members of this place and, indeed, members of the Government, in a position where the debate is not able to occur productively. I will make further comments in the Committee stage, but I leave my comments for now with a reminder to the Government that some members of this place from various parties are not happy with how the bill has been put together or with the emerging practice of this Government to wedge us into waving legislation through.

**The Hon. STEPHEN LAWRENCE (15:27):** I speak in support of the Justice Legislation Amendment (Miscellaneous) Bill 2023. Like the Hon. Susan Carter, I will focus in particular on the amendment to section 23B of the Fines Act. That is an important amendment, and I note what Ms Sue Higgins said about the content of the bill. I note that this is not a statute law bill; it is a miscellaneous provisions bill. Therefore, content matter does vary. I think it is fair to say that there are a couple of policy changes in the bill, but they do not seem to cross the threshold of being significant. Turning to section 23B of the Fines Act, the proposed provision allows the completion of certain tailored drug and alcohol intervention activities to be treated as payment of a penalty notice. This, commendably, is being introduced as part of a pre-court diversion scheme for personal drug use and offences relating to drug possession in small quantities.

The scheme allows police to issue up to two criminal infringement notices—up to \$400 in fines—for personal drug use and possession offences in respect of small quantities. The recipient of the criminal infringement notice will have the option to either pay the fine or engage in a drug or alcohol health intervention. Certainly I note what the Hon. Susan Carter said and her assertion of a lack of underlying detail in relation to such programs: Where will they be available? What will they be? I suggest it is well within the capacity of this House, for example, to monitor those matters, and members will be able to take an active interest in them.

The scheme comes with significant support from the NSW Police Force, NSW Health and various actors in the criminal justice system. It is intended to improve health outcomes, especially for Aboriginal and Torres Strait Islander peoples, reduce the backlog of cases in our courts and allow police to focus their efforts on investigating truly serious drug offences—for example, supply and manufacture. It is important that the bill creates an alternative to the payment—or non-payment, in some cases—of fines. Generally speaking, while fines play an important role in encouraging compliance with various aspects of the law, fines for disadvantaged people can be

an absolute curse. They are easy to pass into law. They are easy to impose, from the point of view of administrative decision-makers, but they can burden people's lives in very significant ways.

In the course of my work with the Aboriginal Legal Service, I have personally seen that a person's pathway to the roundabout of going into jail, out of jail and back again very often starts with the imposition of fines that they cannot pay. An array of laws attach consequences to the non-payment of fines. A particularly significant one leads to a suspension of licence, which often leads to a disqualification of licence when a person drives notwithstanding the suspension. That has dire consequences, so it is good to see a constructive alternative to the payment of fines. Very often we are talking about the non-payment of fines as the alternative, and that then has related consequences.

In my view, these and the related changes to drug law that were recently announced will need to be closely assessed as we go forward. It will be important to know whether they are achieving the underlying objectives of the reform package. For example, are they freeing up police resources to focus on truly serious offences? Are they helping people to avoid getting caught up in the criminal justice system, in a meaningful way? Are they operating fairly in respect of Aboriginal and Torres Strait Islander people? If they are not achieving those objectives, then further reform may well be needed because that is the clear intent of this reform package. Whether it achieves that will be a significant matter for members of this House to stay on top of. For those reasons, I commend the bill to the House.

**Ms CATE FAEHRMANN (15:32):** As The Greens spokesperson for drug law reform and harm, I contribute to debate on the Justice Legislation Amendment (Miscellaneous) Bill 2023. I support the comments of my colleague, Ms Sue Higginson. I will speak specifically about proposed section 23B of the Fines Act 1996, which provides that where an individual has received a penalty notice that penalty can be taken to have been paid if the Commissioner of Fines Administration is satisfied that the individual has completed an activity as prescribed by the regulations. I understand that provision is required to give effect to the Government's recently announced "two-strike" pre-court drug diversion scheme. While it is good that the Government has finally taken a small step to reduce drug harm, it is a pity that we are not seeing more ambitious reform today. What is before us is very simple. Other States and Territories have had it in place for some time, and we should have done it years ago.

A pre-court diversionary scheme was recommended in 2020 by Professor Dan Howard, SC, following the Special Commission of Inquiry into the Drug 'Ice'. In his report, Commissioner Howard clearly outlined that the recommended diversionary scheme that is before us was a fallback option to full decriminalisation of personal drug use. The scheme before us today is even weaker than the commissioner's recommended fallback option. We need to be really clear about that. He stated, in no uncertain terms, that police discretion should be removed from the process to avoid the stark inequity seen under the Cannabis Cautioning Scheme.

I note Opposition comment that the previous Government put \$500 million into drug treatment and court programs and what have you. That was all leading to what was hoped to be a pre-court diversion program. The whole point of the former Government's funding announcement was because it was under immense pressure to do more to respond to the ice inquiry. A key finding of the inquiry was that thousands of people in this State who were caught with an insignificant, personal quantity of drugs were being sent to court and having their lives wrecked. The associated stigma around drug offences means that people who need treatment for drug addiction do not seek it. The \$500 million was always supposed to be, in part, for a pre-court diversionary scheme.

The Government has announced this scheme—I am not sure about implementation—three years after Commissioner Howard's recommendation. People are still getting into a lot of trouble with drugs, particularly with ice. A lot of overdoses are still occurring. People are still being needlessly harassed and baselessly stripsearched. All of that is still going on and will continue to go on because we do not have any details on what the scheme will entail. The former Government announced the \$500 million investment and tasked the Police Commissioner, Karen Webb, and the Chief Health Officer, Dr Kerry Chant, to advise whether those services were sufficiently advanced to be able to bring in a court diversion scheme. We are more than three months past the deadline for that. That is the history. Essentially, the bill simply enables people to undertake an activity that will result in their fine being wiped, but, frustratingly, there is no substance to it. There is no detail.

We have seen this Government put a lot of things into regulation. As my colleague Ms Sue Higginson said, a lot of miscellaneous provisions bills are being brought to this place. The Government is missing an opportunity to legislate the details of this scheme. Supporters of the Voice spoke in this place about the need for the Voice to be in the Constitution to avoid future governments taking a wrecking ball to it. Of course, future parliaments can do what they want, but we have an opportunity here. Both Houses of this Parliament have the requisite majority to pass laws that reduce drug harm.

For the first time in a very long time we have a majority this House and, if the Government comes onboard, absolutely in the other place as well. There is the potential to have a big impact on a lot of people, but a lot of trust

is required. We have not seen the advice of Karen Webb and Kerry Chant to the Government about the services in place. It would have been good to have that information before us. In the mental health inquiry hearing the other day, I asked a health professional from Broken Hill what the treatment or rehab options are for people in that area. The answer is that it takes months. If somebody speaks to their GP and wants to get off ice that day, they need to come back in four months. That is still where it is up to. The Greens support the bill because, as my colleague said, there is nothing objectionable in it. But it is a missed opportunity. I look forward to substantial legislation in this place that reduces the harm from drugs.

**The Hon. BOB NANVA (15:40):** I support the Justice Legislation Amendment (Miscellaneous) Bill 2023. I concur with the Hon. Stephen Lawrence's opening remarks that the bill seeks to address developments in case law, close gaps, provide clarity where needed and support operational improvements. Where there are policy changes, they are not significant. It is the second miscellaneous bill I have spoken to this week. I am very happy to do so, because it is important that governments undertake a regular program of legislative review and improvements to make sure that legislation is fit for purpose, to improve regulatory performance and to keep pace with legal and other developments.

With respect to the specific provisions of the bill, the amendment of the Bail Act 2013 clarifies that the decision referred to in section 22B (1) (b) is a decision to grant or dispense with bail and to allow the court to grant an accompaniment requirement as a pre-release bail condition. That is something courts often seek to make orders about, to meet a bail concern. It is appropriate to amend the Act to reflect that and remove ambiguity. The amendment to the reference to the decision in section 22B (1) (b) is to address a glaring deficiency in drafting identified most recently by Justice Garling. I also speak to the current requirement in the Children's Guardian Act 2019 for the Children's Guardian to be under the age of 65. The Anti-Discrimination Act has made that a form of age discrimination for some time, so it is entirely appropriate that it is removed by the bill.

I speak particularly to the amendment to the Fines Act 1996, which introduces new section 23B to allow the completion of some activities to be treated as the payment of a penalty notice. Prescribing those activities by regulation is not always ideal, but the amendment is a good step change nonetheless. Giving the Commissioner of Fines Administration flexibility to administer and finalise fines, and provide for different pathways for penalty notice recipients to access intervention programs designed to address their offending is a very good thing, particularly if they have the prospect of their fines being treated as paid if they do.

I noted in my inaugural speech, now some months ago, that I am a firm believer in second chances and a firm supporter of diversionary programs. I am pleased that we are taking some steps through the amendment bill to achieve that. New section 23B is intended to accommodate a range of intervention schemes and programs by regulation. It is not fixed, but flexible. While fines provide a swift and certain sanction to deter offending, in some instances there is a more appropriate opportunity to address the underlying causes of the offending. It will encourage people who receive penalty notices to seek support services that will much better address the behaviour underpinning the offence.

The provision will be used to facilitate a pre-court drug diversion scheme, developed in response to the Special Commission of Inquiry into the Drug 'Ice'. The scheme gives the police the ability to issue up to two on-the-spot criminal infringement notices, which are \$400 fines, to adults for personal drug use and drug possession offences. The scheme will use the existing criminal infringement notice framework used by police, but it will encourage those who receive criminal infringement notices to complete a tailored drug and alcohol intervention and, in doing so, have the fine treated as paid. I argue that that is a much better outcome for the community, society and the offender.

New section 23B will also be used to prescribe a new targeted alcohol and drug intervention provided by a specialist service provider. The recipient of a criminal infringement notice will have the option either to pay the fine, which I would argue is an inadequate outcome, or to participate in the intervention, the completion of which will again result in the fine being treated as paid. The pre-court diversion scheme is a commonsense reform that can largely be enacted within existing frameworks. It builds on existing diversionary schemes. It is supported by the NSW Police Force and the Ministry of Health. It can and should be implemented now, because it is about preventing crime. It is not about letting drug dealers off the hook. It does not apply to serious drug offences or convicted drug dealers. It is about getting people who commit low-level drug offences the health and intervention support they need as early as possible, without compromising community safety.

Currently, people who commit low-level drug offences receive low-level penalties including fines. Many do not even attend court. This scheme will also increase the efficiency of the criminal justice system by diverting low-level drug offence matters away from the Local Court and into health intervention, where they should be. Evidence consistently tells us that formal contact with the criminal justice system can increase a likelihood of reoffending. It has negative effects on social functioning, including employment, housing and relationships.

Keeping low-level offences out of court means we can prosecute people who pose a genuine risk to safety and wellbeing. I wholeheartedly support the amendment bill.

**The Hon. ANTHONY D'ADAM (15:48):** On behalf of the Hon. Daniel Mookhey: In reply: I thank the Hon. Susan Carter, Ms Sue Higginson, Ms Cate Faehrmann and the Hon. Bob Nanva for their contributions to debate on the Justice Legislation Amendment (Miscellaneous) Bill 2023. The bill reflects the Government's ongoing commitment to good governance through the regular review and update of legislation and response to identified needs. The bill makes necessary amendments across the Communities and Justice portfolio to ensure that legislation is kept up to date and is responsive to developments in the community and the legal system.

I will briefly address some matters raised in debate on this bill. The Hon. Susan Carter raised concerns that the bill will introduce new fees to be paid by the public. The bill does not do this. The amendment to the Civil Procedure Act 2005, the Dormant Funds Act 1942 and the NSW Trustee and Guardian Act 2009, to which the member referred, are among those amendments introduced on the recommendation of the Parliamentary Counsel's office to clarify the scope of the regulation-making powers under those Acts to support current practice. The bill supports existing practices in relation to the setting of fees and enables ongoing operations to continue. There are no new fees in the bill.

The Hon. Susan Carter also referred to the amendment to the Fines Act 1996. This bill inserts new section 23B into the Fines Act. Unlike the existing Work and Development Order scheme, this section will apply prior to fines enforcement processes so that a fine recipient will have the opportunity to undertake a prescribed activity—such as a tailored health intervention—as an up-front alternative to fine payment. The activity will be prescribed by regulation and specifically linked to certain penalties, providing an opportunity to address issues underlying the offending behaviour.

I note the Hon. Susan Carter also raised a lack of detail provided concerning the operation of the future diversion scheme. I understand that the Opposition was extensively briefed, including by the Chief Health Officer, and has already been provided with much of the detail suggested as lacking. Ms Sue Higginson raised concerns about the nature of miscellaneous bills. Miscellaneous bills are standard, efficient and an appropriate part of the legislative process. The amendments in this bill have been subject to appropriate stakeholder consultation and consideration. Ms Sue Higginson also raised concerns about the amendments to the Terrorism (Police Powers) Act 2009 and these will be addressed when the House moves into Committee.

I will address some of the issues Ms Cate Faehrmann raised, particularly about the readiness to implement the scheme. I am advised that the NSW Police Force is scheme-ready. The scheme is an extension of the existing scheme that the NSW Police Force uses at music festivals and it is prepared to implement it. Operational guidance and education and training will be provided to police officers to support them in the implementation of this scheme. The NSW Police Force is fully funded to implement the scheme. In relation to NSW Health's preparedness, NSW Health has designed an alcohol and other drug health intervention to match the needs of a criminal infringement notice [CIN] recipient. Health intervention is well within the scope of practice for qualified and skilled alcohol and other drug specialist service providers. NSW Health will engage an existing alcohol and other drug specialist service provider to deliver the health intervention to enable implementation and scaling up of the scheme.

I now take the opportunity to address matters raised by the Legislation Review Committee. The Legislation Review Committee's *Legislation Review Digest No. 6/58* comments on the provisions of the bill to extend the operation of part 2A of the Act until 16 December 2026. The committee's digest states:

... a person under a preventative detention order or a prohibited contact order may remain in custody for longer than their initial term of detention, which will extend beyond 16 December 2023.

The committee's digest also notes that:

... the person's term of detention may be further extended through an additional application ... [which] may impact a person's right to liberty and freedom from prolonged and uncertain periods of detention.

Section 26A of the Civil Liability Act 2002 provides that the object of part 2A is to allow a person to be taken into custody and detained for a short period of time in order to prevent an imminent terrorist act or preserve evidence of or relating to a recent terrorist act. Section 26K (2) of the Act provides that the maximum period for which a person may be detained under a preventative detention order is 14 days. Section 26I of the Act that preventative detention orders are made by the Supreme Court after a hearing. The person against whom an application for an order is made may adduce evidence and make submissions to the court. Section 26D of the Act sets out the test for making a preventative detention order. With respect to making an order to prevent a terrorist act, there must be reasonable grounds to suspect that the person will engage in a terrorist act, or possesses a thing that is connected with the preparation for or the engagement of the person in a terrorist act, or has done an act in preparation for or planning a terrorist act.

The court must also be satisfied that making the order would substantially assist in preventing a terrorist act occurring and detaining the person is reasonably necessary to do so. With respect to making an order to preserve evidence of terrorist acts that have occurred, the court must be satisfied that a terrorist act has occurred within the last 28 days and it is necessary to detain a person to preserve evidence in New South Wales or elsewhere of or relating to the terrorist act, and detaining the person is reasonably necessary for the purpose of preserving any such evidence. The 2023 statutory review of the Act stated that the powers under part 2A of the Act have been used only once. In 2014 the NSW Police Force obtained interim preventative detention orders against three people as part of a joint counter-terrorism team operation. These orders expired after two days and the persons were released.

One further point in the committee's digest should be clarified. The digest states at paragraph 6.7, page 41, that the Attorney General's second reading speech in the other place referred to the powers in part 2A of the Act not having been operationally tested yet. For the benefit of members, the Attorney General's speech stated that the powers in part 2AA of the Act, which were introduced in 2016 and provided for any investigative detention of terrorism suspects, have not yet been operationally tested. The 2023 statutory review of the Act stated that part 2A of the Act should remain in force while the powers under part 2AA remain untested.

I noted the Legislation Review Committee's further comments that the bill defers some matters to regulations instead of setting them out in the primary Acts. The Government notes and agrees with the committee's observation that the regulation-making powers in the bill are of a mostly administrative nature and do not limit individual rights or liberties. The regulation-making amendments in schedule 6 are among those amendments introduced on the recommendation of the Parliamentary Counsel's office to clarify the scope of the regulation-making powers under those Acts to support current practice. The other regulation-making power in the amendment to the Fines Act 1996 allows for the regulations to prescribe activities for the purpose of the section and will make additional necessary regulations.

Prescribing activities by regulation rather than in the Act allows for flexibility in the implementation of this process and ensures it can be updated to incorporate or exclude certain activities as required. It is critically important that legislation be used to support and meet the community's expectations of good and effective governance. Miscellaneous amendment bills such as this bill are an efficient and appropriate mechanism through which discrete and sometimes minor but necessary reforms can be put in place. This bill ensures that legislation across the Communities and Justice portfolio is fit for purpose and suitable to support systems of governance in place across New South Wales. I commend the bill to the House.

**The ASSISTANT PRESIDENT (The Hon. Peter Primrose):** 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 amendments on sheet c2023-096C.

**Ms SUE HIGGINSON (15:58):** By leave: I move The Greens amendments Nos 1 and 2 on sheet c2023-096C in globo:

**No. 1      Sunset provision**

Page 7, Schedule 5[7], line 30. Omit all the words on the line. Insert instead—

Omit "16 December 2023" wherever occurring.

Insert instead "30 June 2024".

**No. 2      Review of part**

Page 7, Schedule 5. Insert after line 30—

**[8]      Section 26ZT**

Insert after section 26ZS—

**26ZT      Review of part**

(1) The Legislative Council must designate, by resolution, a committee of the Legislative Council to review this part, to determine whether—

- (a) the policy objectives of this part remain valid, and
- (b) the terms of this part remain appropriate for securing the objectives.

- (2) A report on the outcome of the review must be tabled in each House of Parliament before 1 June 2024. These amendments go to the preventative detention orders that have existed in New South Wales for 18 years. Numerous reviews by various government agencies and bodies have recommended that sunset provisions be extended. From 2015 to 2018, from 2018 to 2021, from 2021 to 2023 and now from 2023 to 2026, these powers have been turned over without real scrutiny and without submissions from civil society organisations or exposure to the public, despite the sunset clause being waved in the faces of human rights advocates as a defence against the misuse of this power.

Preventative detention orders have been the subject of serious criticism and in the past have actually been used to intimidate suspects and can cause innocent persons to be detained in solitary confinement without charge and without knowing what they are being investigated for. This is a draconian power. In 2014, in south-western Sydney, the NSW Police Force applied for and was granted three of these preventative detention orders, against men who were later released without charge, before they were even arrested. The risks and potential abuses of these powers are clear, and a publicly held inquiry could and should bring forward a better system that can respond to significant threats while protecting fundamental human rights.

I have put these amendments to the House, hoping that this new Government—which is standing up for transparency, consultation and accountability—would be willing to allow members of this place to conduct an inquiry into these orders to ensure that they are necessary and continue to meet the objective for which they were introduced. The amendments seek to extend the period to 30 June 2024, rather than 16 December 2023, and provides a mechanism for the Legislative Council to undertake a review of the provisions. Without support for the powers of this House to inquire into and review powers that have been successively recycled, there is rightly a reduced trust in this process, which smacks distinctly of anti-transparency governance. Sunset provisions have been abused in New South Wales. We get into an abuse phase when they are continuously rolled over. This is a statement of fact.

Most sunset provisions are being simply rolled over following internal government reviews. A failing of most police powers, particularly those that arose in response to terrorism in 2002, is that they are maintained and justified by the mere fact that they already exist. We should be examining this. It is bad lawmaking that uses old powers and out-of-date thinking to justify future solutions, with the genuine purpose and intent of making us safer. We see this occurring across the political aisles, where groupthink and institutionalism are accepted without question. I move these amendments in genuine hope that the Labor Government is willing to break from reactive and protective lawmaking and allow considered legislation to be reviewed and exposed to the public and those with expertise, because the public, as should be expected in a mature democracy with a civil society, should have oversight of what goes on here, rather than having it roll over.

**The Hon. ANTHONY D'ADAM (16:03):** The Government does not support the amendments. The Greens amendments would require a review of part 2A of the Act to be undertaken and tabled before 1 June 2024. We do not support that. Two major reviews of part 2A were completed and tabled in Parliament in 2022 and 2023, and further reviews are due to be undertaken within the next three years. The Law Enforcement Conduct Commission completed a review of the exercise of police powers under parts 2A and 3 of the Act in 2022, as required by sections 26ZO and 27ZC of the Act. The commission's report was provided to each House of Parliament by the former Attorney General on 1 July 2022. The commission is required to review and report on parts 2A and 3 of the Act every three years. The commission's next report is due to be prepared in 2025.

Section 36 (1) of the Act requires the Minister to review the Act to determine whether its policy objectives remain valid and whether its terms remain appropriate for securing those objectives. Section 36 (2) requires the Minister's review to be undertaken every three years, as soon as possible after the commission's report on the exercise of powers under parts 2A and 3 of the Act has been tabled. A statutory review of the Act was completed and tabled in each House by the current Attorney General in June 2023. The statutory review included a chapter that examined in detail the policy objectives and terms of part 2A and considered the commission's report. The review recommended that the sunset clause in section 26ZS be extended for a further three years. The next statutory review is due to be prepared in three years' time, after the commission's next report is completed. For those reasons, the Government believes that The Greens' amendments are unnecessary and therefore does not support them.

**The Hon. SUSAN CARTER (16:05):** I indicate that the Opposition will also not support the amendments, for reasons similar to those set out quite clearly by the Government. This provision in legislation is the subject of a continuous program of review, as is appropriate. We look forward to the next scheduled review of this legislation.

**The CHAIR (The Hon. Rod Roberts):** Ms Sue Higginson has moved The Greens amendments Nos 1 and 2 on sheet c2023-096C. The question is that the amendments be agreed to.

**The Committee divided.**

Ayes .....6  
 Noes .....32  
 Majority.....26

#### AYES

Boyd  
 Cohn

Faehrmann (teller)  
 Higginson (teller)

Hurst  
 Ruddick

#### NOES

Banasiak  
 Buckingham  
 Buttigieg  
 Carter  
 D'Adam  
 Donnelly  
 Fang  
 Farlow  
 Franklin  
 Graham  
 Houssos

Jackson  
 Kaine  
 Latham  
 Lawrence  
 MacDonald  
 Maclaren-Jones  
 Martin  
 Merton  
 Mihailuk  
 Mitchell  
 Mookhey

Moriarty  
 Munro  
 Murphy  
 Nanva (teller)  
 Primrose  
 Rath (teller)  
 Sharpe  
 Suvaal  
 Tudehope  
 Ward

#### Amendments negatived.

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

#### Motion agreed to.

**The Hon. ANTHONY D'ADAM:** I move:

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

#### Motion agreed to.

#### Adoption of Report

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

That the report be adopted.

#### 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.

#### Announcements

#### LEGISLATIVE COUNCIL BICENTENARY CONFERENCE

**The PRESIDENT (16:15):** I am delighted to inform the House that on Monday 13 November and Tuesday 14 November, the Legislative Council will hold its second bicentenary conference here at Parliament and streamed live online. The first conference having delved into the state of the colony in 1823 and the factors that prompted calls to curb the Governor's power, this year's conference will focus on the adoption of the New South Wales Act 1823—the spark that established both the Supreme Court of New South Wales and the Legislative Council.

We have a particularly high calibre of guest speakers confirmed, including a special panel discussion featuring the Chief Justice of New South Wales, Andrew Bell; a former justice of the High Court of Australia and the Supreme Court of New South Wales, Virginia Bell, AC; and a former President of the New South Wales Court of Appeal and our Independent Legal Arbiter, Keith Mason, AC, KC. We also have esteemed barrister Bret Walker, SC; former Clerk Lynn Lovelock; academics Stephen Garton, David Andrew Roberts, Lisa Ford, Anne Twomey and Frank Bongiorno; author Sue Williams; the Auditor-General for New South Wales, Margaret Crawford; and our very own Treasurer, the Hon. Daniel Mookhey, who will be introduced by our very own



shadow Treasurer, the Hon. Damien Tudehope. The Treasurer will speak in collaboration with an economic historian to explore the development of the colonial Treasury.

While in-person tickets are selling fast—there are only about 20 seats left—I strongly encourage members and staff to tune into the proceedings online as we deepen our understanding of this Parliament's origins and the intriguing stories surrounding the adoption of the New South Wales Act. We encourage others in members' networks to tune in as well. Links will be circulated to all members and staff.

### *Bills*

## **BUILDING LEGISLATION AMENDMENT BILL 2023**

### **Second Reading Debate**

**Debate resumed from 12 October 2023.**

**The Hon. SCOTT FARLOW (16:17):** I lead for the Opposition in debate on the Building Legislation Amendment Bill 2023. I indicate from the outset that the Liberals and The Nationals will support the bill. The provisions within the bill borrow and build upon the important work the former Coalition Government had undertaken to strengthen confidence within the building industry. It is an industry where there should be high standards and practices as well as appropriate safeguards to protect consumers if something goes wrong. Questionable operators have no place in the industry and regulators need strong powers to respond.

Recently, there have been well-publicised challenges in the building sector. We have seen poor and unscrupulous practices, building defects that have proved costly for consumers and high levels of insolvencies. That has adversely affected confidence in the industry. With an increased need to grow the State's housing stock to meet future growth challenges and address the home affordability crisis, consumers must have full confidence to make the large investment decision required to build a new home. We understand the bill is a precursor to a future building bill from the Government. The Coalition Government released draft building bills for public consultation in 2022: the draft Building Bill, the draft Building Compliance and Enforcement Bill and the draft Building and Construction Legislation Amendment Bill and regulation. The former Government was laying the groundwork for the measures before us today and the consolidated building laws to come, which the current Government has now taken up. We welcome that, but there is much more to be done.

I make some observations on the bill's key provisions. All members will recall the building disasters in the apartment building sector involving the Opal and Mascot towers. I acknowledge the incredible things that the Building Commissioner, David Chandler, OAM, has achieved since being appointed by the Coalition in 2019. The commissioner brings a tough but fair approach to the job. He is a strong cop on the beat, cleaning up the apartment building sector, weeding out dodgy operators and practices, and rebuilding confidence for consumers and the industry alike. The Coalition supports expanding the commissioner's powers to class 1 dwellings—standalone single homes. The former Government was working on that. Opposition members have been pressing the current Government to get on with that and are glad it is doing so. The expansion is a testament to the commissioner's work in the apartment space and the success of the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 [RAB Act], which empowers the commissioner's work.

The bill will allow the proactive investigation of building defects in standalone single residential dwellings—class 1—giving the commissioner the powers to enter, inspect and make rectification and stop-work orders. We know that model works in the RAB Act, and the Opposition supports that move so the commissioner can get straight to work on cleaning up the home building industry. Far too many unscrupulous builders have inflicted financial and emotional pain upon home builders. Real people and real lives have been affected. We have heard the stories of young families waiting years for their homes to be finished, only for defects to emerge that are so bad that the home must be demolished and rebuilt. By that stage the builder has already gone out of business. I believe that the work of the Building Commissioner, empowered by the regulatory tools provided in the bill, will go some way to cleaning up the industry and restoring confidence.

We also support the moves to strengthen building product safety and to establish a chain of responsibility. That has been informed by the National Building Product Assurance Framework—a national process aiming to establish consistency across Australian jurisdictions. We want harmonisation and, in government, we engaged with that national process but were frustrated at the time it was taking to establish the national model. Establishing a chain of responsibility between manufacturer, supplier and installer was a feature of the Coalition's Building and Construction Legislation Amendment Bill 2022. The Opposition supports New South Wales getting ahead of the national model because it urgently needs to be done. Confidence needs to be returned to building products in our State. Building products generally do not fall under the protections of the Australian Consumer Law. As has been seen with products such as cladding materials, some of which have proven to be quite combustible, rectification costs can be extremely high. The bill imposes a duty on persons within the supply chain for building

products to ensure that the building products they design, manufacture, sell or install are suitable for their intended use.

Other provisions assist in tackling the problem of insolvency. That is a problem for the industry and for consumers left seeking redress when defects emerge, sometimes years down the track. The building industry has the second highest rate of insolvency of all industries. Decennial liability insurance [DLI] is an emerging insurance product involving 10-year cover taken out by a developer or builder as a first resort protection for future owners for the cost of remediating building defects. Many strata corporations have faced large remediation costs when defects later emerge, particularly when the builder has since become insolvent. DLI would be used as an alternative to a strata building bond or the Home Building Compensation Fund, and the bill facilitates that by lifting some of the requirements for bonds and the HBCF where a DLI policy is in place. The former Government authorised DLI as an alternative to the strata bond levy, subject to Department of Customer Service secretary approval. In August 2022 a ministerial advisory panel reported on its research into the feasibility of introducing a DLI scheme in New South Wales. It found:

Once there is a mature market, DLI will not place an undue burden on project costs, housing supply or housing affordability.

The bill involves a voluntary DLI, rather than a mandatory model that would replace bonds. It is understood the Government has recently concluded consultation on a proposal to later introduce mandatory DLI for all new apartment buildings. Opposition members acknowledge the measures to discipline practitioners who have engaged in phoenixing. We are united with the Government on that. Individuals who are engaging in phoenixing have no place in business, and the book must be thrown at them. It is underhanded and deceptive behaviour, and we support the regulator and courts having the tools necessary to stamp it out.

On behalf of the Opposition, I thank the extensive list of stakeholders who were consulted on the bill, as well as on the wider building reforms that were in train when the Coalition was in government. I also acknowledge the tireless and diligent staff at Fair Trading who have worked on building reform. I thank my Coalition colleague the shadow fair trading Minister, and member for Willoughby, Tim James; and the fair trading Minister, and member for Macquarie Fields, Anoulack Chanthivong. Opposition members await further measures from the Government to further boost confidence in the building sector. We commend the bill to the House.

**Ms CATE FAEHRMANN (16:29):** As The Greens' spokesperson for building and fair trading, I support the Building Legislation Amendment Bill 2023. The bill amends the Home Building Act 1989, the Building Products (Safety) Act 2017, the Strata Schemes Management Act 2015, the Building and Development Certifiers Act 2018, and the Design and Building Practitioners Act 2020 to reduce defective building work, improve customer protection and increase the Building Commissioner's powers to address noncompliant or poor standards in the industry.

The bill is largely based on the findings of the Public Accountability Committee's report *Further inquiry into the regulation of building standards*. The Public Accountability Committee, chaired at the time by my former colleague Senator David Shoebridge, initiated an inquiry in July 2019 into the inadequacy of the building industry in this State. It focused on the role of private certification in protecting building standards; the adequacy of consumer protections, liability for defects and insurance; the role of strata committees in responding to building defects; flammable cladding on New South Wales buildings; and the degree to which the New South Wales Government had implemented the recommendations of past independent investigations of the building industry.

The Public Accountability Committee's first inquiry handed down two reports, one in 2019 and a second in 2020, and conducted a second inquiry into the regulation of building standards in 2022. The first report was released to inform parliamentary debate on the Design and Building Practitioners Bill 2019, which had been introduced during the course of the inquiry. Recommendations were made about the building regulatory framework, flammable cladding, insurance and the current licensing system for building tradespeople. The second report reiterated several findings of the first report and highlighted:

... the systemic issues plaguing the building and construction industry and the lack of regulation and oversight by the NSW Government.

The Public Accountability Committee's further inquiry into building standards was handed down in February 2022. Both inquiries highlighted the "devastating financial and emotional consequences that flow from building defects". While the Public Accountability Committee acknowledged some of the good work undertaken by the newly established Building Commissioner, it stated:

Further additions to a patchwork of legislation, continued division of responsibilities between multiple agencies, and lasting artificial demarcations between ministers' portfolios will only continue to undermine the government's own effectiveness improving in building standards and protecting consumers.

The bill goes some way in addressing the committee's concerns. It expands the powers of the Building Commissioner under the Home Building Act to overcome shortcomings in the commissioner's current remit of

powers. That includes the powers to inspect buildings still under construction and to intervene without a complaint first being received by the commissioner's office. The latter situation is highlighted by the collapse of a Condell Park home in April of this year where the developer had had safety concerns raised about its other developments. However, as no complaint was made about the Condell Park property, the commissioner was unable to intervene.

The Greens support the expansion of the powers of the Building Commissioner and urge the Government to ensure that his office receives the additional resources needed for him to be the powerful watchdog he needs to be as soon as possible. Proposed changes to the Building Products (Safety) Act impose new obligations on persons in the building product supply chain to ensure the quality of the products with which they engage. The Greens support that reform, which will go some way to removing dodgy building products from the supply chain and preventing them hitting the market.

The bill also introduces the option for decennial liability insurance as an alternative to strata building bonds or home building compensation. That is a 10-year insurance that is taken out to cover costs associated with serious defects and potential collapse of a building after completion. I understand that that is supported by stakeholders given the insurance costs to owners, which have gone up substantially over the past few years. The Greens support the shift to consumer protection, particularly regarding future owners, and note that more detailed legislation regarding decennial liability insurance has been floated by the Minister and will be coming to this place next year. We will look at that with interest. I note that in some countries like Egypt and France, decennial liability insurance is compulsory.

The amendments to the Building and Development Certifiers Act and the Design and Building Practitioners Act allow the commissioner to immediately suspend a building practitioner who is the subject of a show cause notice if the secretary is satisfied that there is, or is likely to be, a serious risk to public safety, consumers or businesses if the practitioner is allowed to continue work pending disciplinary action. The focus on consumer protection first is a welcome move. It is strongly supported by The Greens and, I am sure, by the people of New South Wales.

While I note that the Government has indicated that further reform will come next year, I reiterate that plenty more needs to be done in this space. We have seen the impact of unscrupulous and unethical developers who have gotten away with too much for too long. It is not good enough that our laws have lacked appropriate checks and balances for so long. Let us remember it was up to this House to forensically examine the building industry through multiple inquiries and to ultimately recommend what was needed to clean it up. Stakeholders regularly raise concerns about the conduct of professionals. They want more to be done in terms of licences for tradespeople. That was a big issue during hearings of the Public Accountability Committee, and I certainly hope it will come in future reforms. As we debate this bill, a high-profile developer with lots of ruined and terribly unsafe buildings left in his wake is on the run as a wanted fugitive. I look forward to continuing to work with the Minister and the relevant stakeholders on those issues, and look forward to continuing this very important reform next year.

**The Hon. BOB NANVA (16:31):** Much has been said over the past few months about the housing crisis in this State—about the crunch in supply and the resulting impact on housing affordability and the pressure that places on the cost of living. The crisis requires more supply, more construction and more homes. But the race to build in order to ease that pressure in the housing market cannot come at the expense of safety. Quality should not be sacrificed in the name of quantity. The Premier has previously said that he wants to provide confidence to the public that when we build, we will build properly, and he is absolutely right. We do not just want suburbs that are well designed and well serviced by infrastructure. We also want them to be built well, and we want them to be built by top-tier builders.

That is why the timely passage of this bill, before the starter's gun goes off for the big build in this State, is so critical. The tens of thousands of new homes that our State needs to have built all need to be quality homes. Providing greater powers to the Building Commission and the Building Commissioner is an important step in ensuring that people can make one of the biggest investments in their lives with a higher degree of confidence than has otherwise been the case over the past few years. The recent high-profile failures in the construction industry have had a devastating impact on the livelihoods of home owners and investors, not to mention the risks to their safety from living in buildings riddled with defects.

As Project Intervene has demonstrated through the very good work of Building Commissioner David Chandler, there are far too many defects that fly beneath the radar that are no less troubling. Serious failures in structural integrity, waterproofing, fire safety systems, electrical work and building enclosures are unacceptable, and they are all completely avoidable if simple adherence is shown to the many building standards that already exist in Australia. It has been utterly appalling and it needs to be addressed, for the sake of not just home buyers and renters but also the traders and builders whose reputations are being tarnished and shredded through no fault

of their own. The shoddiness of the minority of builders should not continue to cast a pall on the entire industry, which accounts for about 10 per cent of the New South Wales economy.

Reform in this space is critical. There is a once-in-a-generation opportunity to get it right at this really important juncture. The emphasis on quality and on getting the regulatory frameworks right before we shift to quantity of build is a methodical and long-overdue approach to dealing with the housing crisis in this State. That is why the bolstering of the commission and the commissioner's powers is so critically important and so overdue. There are a range of important amendments in the bill, such as giving the Government the power to remove players from the industry that have previously acted unconscionably by illegally phoenixing. That is an appalling practice that leaves far too many people out of pocket.

I welcome the measures in the bill to provide greater line of sight over the design, manufacture, supply and installation of building products to make sure that they are suitable and safe for their intended use. On far too many occasions, nonconforming products are the cause of defects that leave builders, renters and owners in the lurch. I also welcome the rectification orders contained within the bill. Those measures, on top of the Government's broader reform program in housing, are potentially transformative for the construction industry. They are all very welcome initiatives. I commend the bill to the House.

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:35):** In reply: I thank members for their contributions to the debate on the Building Legislation Amendment Bill 2023. I particularly thank the Hon. Scott Farlow from the Opposition, Ms Cate Faehrmann from The Greens, and the Hon. Bob Nanva from the Government for their support of the bill. The recent surge in building defects has cast a shadow over the dream of home ownership and the safety of our built environment. The scale of the problem is significant and demands our urgent attention. The work of the Government in addressing the serious defects in residential apartment buildings has been transformative for consumers in New South Wales, and it has improved confidence in class 2 residential apartment buildings.

The bill is the first step in the Government's significant building reform agenda. We are continuing to work on a holistic new building Act and expect to introduce that into the Parliament next year. We look forward to working with all stakeholders. Expanding compliance and enforcement powers to class 1 buildings will ensure that the building regulator has the tools it needs to hold to account those who cause building defects. That must be complemented by a robust regulatory framework to strengthen accountability for the products used in the design and construction of buildings.

The measures contained in the bill strike the right balance. They create new, necessary powers for the building regulator to protect unsuspecting home owners, enhance the obligation of directors and support market-led solutions to give developers and purchasers real choices between untrustworthy and trustworthy operators in the industry. The Government acknowledges the NSW Building Commissioner, David Chandler, and NSW Fair Trading for their efforts to help the Government deliver its reform agenda and for their ongoing input on those matters. I thank the House for its support. The Government looks forward to working with members and others as it moves to the next tranche of reforms. I commend the bill to the House.

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

**Motion agreed to.**

### Third Reading

**The Hon. PENNY SHARPE:** I move:

That this bill be now read a third time.

**Motion agreed to.**

## STRATA LEGISLATION AMENDMENT BILL 2023

### Second Reading Debate

**Debate resumed from 12 October 2023.**

**The Hon. SCOTT FARLOW (16:38):** I lead on behalf of the Opposition on the Strata Legislation Amendment Bill 2023 and indicate from the outset that the Opposition will support the bill. The Liberals and The Nationals welcome these reforms to build on our strong reforming legacy, which left a robust regulatory framework that has ensured that strata schemes in New South Wales are sustainable, well managed and work for owners. Members may recall the major reforms to strata law enacted by the Coalition in 2015. The 2021 statutory review of the Strata Schemes Development Act 2015 and the Strata Schemes Management Act 2015 confirmed

that the Coalition reform is working well and that the framework "remains appropriate". Acknowledging the shifting realities of living, including the increased trend towards strata living since 2015, the review made 139 recommendations to better realise the objectives and intent of those reforms.

The reform process for most of what is in the bill was initiated by the Coalition in the statutory review, which consulted widely with stakeholders for feedback on how strata schemes are operating. These are complex reforms, and the former Government was taking the time to get them right. The Government is today building upon the Coalition's work on the strata review recommendations. Those who own or live in strata properties need laws that keep pace with increasing development, increasing population and the accelerating move towards strata and apartment living. The current expectation is that in excess of 50 per cent of people in Greater Sydney will live in a strata property by 2040. It is a significant statistic and highlights the importance of getting the strata framework right so that it works for both home owners and occupiers.

I make some brief remarks on a couple of the key proposals in the bill, starting with the strata renewal scheme. The Coalition has been clear that the solution to the current housing crisis is to boost the supply of housing in metropolitan and regional areas alike. To do this, we must facilitate growth and the renewal of existing housing. The former Coalition Government's strata renewal process commenced in 2016 and introduced a method to secure urban renewal. It was a sound reform that took a democratic approach to empowering strata owners to collectively sell or redevelop their lots in cases where not every owner agreed with that course of action. The Coalition built in strong protections and checks and balances for the minority owners in such schemes to secure fairness and transparency for all involved. It was a well-defined process, requiring at least 75 per cent support and with the Land and Environment Court having final consideration and approval over any renewal plan.

Unfortunately, instances have since come to light of unscrupulous developers and other bad-faith actors having purchased within a building and exploited these protections to prevent rival developers from developing the property, despite the other owners supporting its development. The bill increases disclosure requirements to enhance transparency around conflicts of interests and enhances the ability of the Land and Environment Court to address the behaviour of owners that are acting unreasonably or without good faith. The Opposition supports the measures in the bill to uphold the original intent of the reforms and fully realise their potential to deliver urban renewal and ease housing constraints. I note that strong protections for minority interests continue to remain in place in the bill.

In 2021 the former Coalition Government passed reforms related to keeping pets in strata properties. In 2020, in a highly publicised case before the NSW Civil and Administrative Tribunal, which was later affirmed by the Court of Appeal, it was found that by-laws purporting to enact a blanket ban on pets in strata schemes were "harsh, unconscionable and oppressive" and therefore deemed inoperable. This Parliament later passed the Strata Schemes Management Amendment (Sustainability Infrastructure) Bill 2020, which provided certainty to that position. Those reforms struck the right balance between the interests of individual owners and the majority as expressed through the owners' corporation. A property owner should not be denied a pet in their own property unless there is good reason to do so. Owners' corporations can continue to pass by-laws targeting a pet that is unreasonably interfering with other occupants' use and enjoyment of their lot or common property. Reasonable conditions can continue to be imposed on pets by the owners' corporation, such as limitations on common areas that the pet may utilise or the imposition of supervision requirements.

The reform in the bill is about extending the balanced approach that currently exists to community land schemes and closing some of the loopholes that have undermined that balance. Some strata plans have sought to get around the restriction on blanket bans by instead imposing unreasonably high bond requirements or insurance amounts that have, in effect, amounted to a de facto ban on pets. Pets are an important part of a family, and the value of their companionship to millions of people cannot be understated. That was particularly highlighted during the COVID-19 pandemic. Australia has one of the highest percentages of pet ownership in the world, with some 61 per cent of households enjoying the companionship of a pet. Pets are loved members of families. With the increasing move to apartment living, pet ownership should not be unreasonably constrained for property owners who choose to own a pet.

With respect to strengthening the operation of schemes, the further amendments in the bill are mainly technical in nature and arise from the statutory review. They are the product of extensive stakeholder consultation and engagement that started under the former Coalition Government. The Opposition welcomes the machinery provisions, such as increasing annual general meeting notice periods, moving to electronic record keeping and limiting proxy harvesting, and is confident they will enhance the governance, operation and management of strata schemes in New South Wales.

The Opposition and stakeholders await further reforms from the Government arising out of the outstanding recommendations of the strata review. On behalf of the Opposition, I thank all stakeholders and the hardworking staff at NSW Fair Trading who have contributed to the strata review and these reforms. I acknowledge my

Coalition colleague in the other place the shadow Minister for Fair Trading, Work Health and Safety and Building, Tim James, and the work of the Minister for Better Regulation and Fair Trading, Anoulack Chanthivong, in coming up with the bill. The Liberals and The Nationals support the reasonable proposals put forward by the Government today, which build upon the Coalition's sound work in government. I commend the bill to the House.

**Ms CATE FAEHRMANN (16:44):** I speak as The Greens' spokesperson for fair trading in support of the Strata Legislation Amendment Bill 2023. The bill amends the Strata Schemes Management Act 2015 and the Strata Schemes Development Act 2015 to provide for changes identified by a statutory review undertaken by the former Government. The consultation received over 2,300 online survey responses and 230 submissions from strata residents, industry stakeholders and the broader community. The statutory review reported in December 2021; however, we are only now seeing legislation to implement any of the recommendations. Accordingly, much of what is before us today is much needed and heavily delayed. I am looking forward to next year, when the weight of the recommendations will be dealt with. I understand that this bill is only the first tranche of changes that the Government will make coming out of the statutory review's 139 recommendations.

The changes in the bill are largely non-controversial and long-overdue amendments. The Minister has assured me that there is still a significant body of work to come next year to implement many of the key recommendations. The Greens look forward to that, as I outlined in the debate on the Building Legislation Amendment Bill 2023. The bill amends the collective sale provisions of the Strata Schemes Development Act. The provisions were introduced by the previous Government in 2016 and were intended to empower strata owners to make a collective decision about what to do with buildings as they age. If 75 per cent of owners agreed, they could sell their entire block for redevelopment, with a handful of objectors, or single objectors, having their legal fees paid for by the majority. Prior to that, owners had no choice but to either unanimously agree to a sale or face hefty special levies in order to fund works programs or redevelopment. However, it soon became apparent that the 2016 legislation was being used by bad actors, mainly property developers, to hijack the collective sale process.

There is the case at Macquarie Park, which has been highlighted extensively, where 40 of the 45 owners of two neighbouring buildings have been trapped in what they describe as a "never-ending nightmare". I understand that is potentially still ongoing. That case has partly led to the reforms before us today. It is disappointing that the previous Government knew of those problems yet did not act. The Department of Customer Service admitted in a paper to Parliament back in 2021 that there were problems, but the previous Government made no changes. The paper stated:

That dissenting developer held several lots in the scheme and was able to adopt a blocking position, drawing out legal proceedings and incurring costs for the owners corporation such that the renewal proposal was ultimately withdrawn.

I understand that is not an isolated example. Thankfully, the bill before us deals with that. It also introduces protections for companion and assistance animals. A by-law will now have no force or effect to the extent that it would "unreasonably prohibit" the keeping of an animal on a lot within a strata scheme. That protection is balanced by the regulations that allow action to be taken in reasonable circumstances, such as where the animal causes repeated damage to common property. A strengthened provision will also apply whereby by-laws will have no effect if they restrict or unreasonably burden the keeping of an assistance animal. The Greens wholeheartedly support the change. We all know how important pets are to the wellbeing of many people. With more people, including families, living in apartments and under strata schemes, this is long overdue.

I also note that the bill makes numerous changes to strata meeting governance arrangements. Many of them are commonsense changes that improve record keeping and require that tenants be given the necessary by-laws when they move in. Importantly, the bill will empower the regulator to compulsorily appoint a strata managing agent if an owners' corporation is not functioning satisfactorily. That implements recommendation 71 of the statutory review, which recommended that change to deal with mismanagement of an owners' corporation. As foreshadowed by the Government and as I have mentioned, this bill is the first of what we think are two tranches of reform that implement the recommendations of the statutory review. Hopefully it will be only two, because what is coming down the line is very significant and long overdue. The Greens look forward to working with the Minister on that legislation next year. I commend the bill to the House.

**The Hon. EMMA HURST (16:50):** I speak on the Strata Legislation Amendment Bill 2023 on behalf of the Animal Justice Party. It is great to see that the New South Wales Labor Government is building on some of the hard-fought changes secured by the Animal Justice Party to protect the rights of animals and people living in strata properties. Members will recall that in 2021 the Animal Justice Party succeeded in having section 137B inserted into the Strata Schemes Management Act 2015, which made it unlawful for strata schemes to unreasonably ban animals. That reform was long overdue. The Animal Justice Party's amendment made ineffective any strata scheme by-law that imposed a blanket ban on people having animals in their homes. Animal ban by-laws were, sadly, commonplace in strata complexes throughout New South Wales, including large

townhouse complexes, and were adversely affecting both owners and renters who simply wanted to live with their animals.

Previously I highlighted in the House the story of Colin and his beloved greyhound, Bu. The strata scheme had introduced retrospective by-laws, which were legal at the time, leaving Colin, an elderly man suffering from a range of health issues, to face the awful choice of either parting with his beloved companion, Bu, or somehow finding a new home during the COVID crisis. Prior to the 2021 changes, there were many stories like Colin and Bu's. Harmful blanket animal bans were commonplace. Thankfully, that has now changed. Because of the reforms brought by the Animal Justice Party, supported by both the Government at the time and the Labor Party, the default position now is that animals are permitted in strata schemes with only limited exemptions. That was a significant step forward for animals and humans living in strata properties. I am pleased to see that this bill will extend to properties that fall under the Community Land Management Act 2021 those same rights and protections regarding animals.

The bill also prohibits strata schemes from charging fees or bonds or requiring residents to obtain insurance to have an animal. The Animal Justice Party has been writing to the Government and calling for those changes for years now, and I am glad to see it is listening to the party's advice. A prohibition of fees or bonds is needed because, after our 2021 amendment inserted section 137B regarding animals in strata schemes, unscrupulous strata schemes that did not want to comply with the new laws decided to impose animal bonds of thousands of dollars or charge large fees to process applications to have animals. The aim was to make it financially impossible or, at least, very difficult for people to move in with their animals. Since those changes to the strata laws, my office has been contacted by members of the community with concerns about actions being taken contrary to the spirit of the legislation, which is to allow people to have companion animals in their homes. New section 105A in schedule 3 [20] to the bill will stop that loophole from being abused, and I thank the Minister for acting on those concerns.

The bill will also provide greater protections for assistance animals in strata schemes, which is another key concern that has been raised with my office by the disability sector and is something that I have raised in the House in previous debates on the issue. Currently strata schemes can force people to provide highly personal paperwork proving that an animal in their care is an assistance animal. That is despite the fact that the Disability Discrimination Act does not require assistance animals to be professionally trained, and it may lead to owners' corporations making uninformed judgements about what qualifies as an assistance animal. The bill introduces some restrictions on the types of evidence strata schemes can require regarding assistance animals, which is a welcome change that I understand has been consulted on and is supported by the sector.

However, despite my support for the reforms contained in the bill, I must state for the record that I remain entirely baffled as to why the Minns Labor Government has not acted on its election commitment to ensure people are also able to rent with their animals. It is entirely disingenuous to suggest that the bill is any real step forward in achieving that reform. The rental crisis remains acute, and people looking to rent with animals are doing it especially tough because there are so few properties that currently allow animals. The fact that landlords can legally refuse animals, under any circumstances, is putting animals and humans at great risk of becoming houseless. There are many important reasons to ensure that renting families can find accommodation with their companion animals as soon as possible. A 2020 Domestic Violence NSW report found that 93 per cent of frontline workers surveyed said that the biggest barrier for clients with animals was a lack of animal-friendly rental accommodation, and we all know that situation has become worse in the past few years.

Animal companionship provides enormous mental and physical health benefits, especially for older populations or people unable to work. As the rental crisis has worsened, there has been a dramatic increase in animal surrenders, and many pounds and shelters are now full. Many surrenders are caused by a lack of accommodation in the rental market, meaning that euthanasia rates of animals remain high and beloved animals are losing their lives. I simply cannot understand the delay. The work has already been done.

As I have stated in this House previously, a consultation undertaken by the Liberal-Nationals Government in 2022 found that 82 per cent of people, including the majority of landlords, want to see New South Wales adopt animal rental reforms based on the Victorian model. Yet the New South Wales Labor Government has not acted. Instead, it has insisted on doing its own consultation, wasting more taxpayer time and resources, and is insisting on adopting the Queensland rental law model despite there being no justification and no public support for that weaker, less effective model, with only 9 per cent of people taking part in the Government consultation supporting that model. These changes will not protect the rights of renters with animals. Although the Animal Justice Party supports the bill, it strongly encourages the Government to get a move on with its election promise to improve rental laws for animal owners and not point to this bill as being any real part of that significant and urgently needed change.

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (16:56):** I make a brief contribution to debate on the Strata Legislation Amendment Bill 2023. It is a very important bill, and I commend the Minister for acting so quickly in this important area. For years, when in opposition, Labor asked about when the then Government was going to bring forth the important reform needed to modernise our strata legislation. For years we were told it was coming. Now, six months into the term of the new Government, Minister Chanthivong has brought it to the Parliament for consideration. Increasingly, people are living in strata in New South Wales. We face a huge challenge with housing supply. As we try to increase supply, we have to make sure that buildings are safe. The Building Legislation Amendment Bill 2023 that we debated earlier also dealt with that. But we also have to make sure that our strata legislation is modern and fit for purpose and that we have modern governance arrangements in place for people living in strata properties.

I note that the Minister has already appointed a new strata commissioner, in accordance with our election commitments. That really elevates the role and importance of strata within the Government. As I said, we know that the number of people living in strata is increasing. While the Minister is obviously deeply concerned about strata living, it is important to have that advocate—that specific voice—within government making sure that we prioritise this area of policy. I am delighted to see that we are bringing this legislation to the House tonight. It is important that we consider it carefully.

Undoubtedly there will be a continuing program of reform. I commend the Minister, his office and the public servants working within the department of fair trading for all the work they have done and the consultation they have undertaken, like the strata review. I have lost count of the recommendations—I used to know how many recommendations there were in the strata review—that the previous Government failed to action, but there is no doubt that a huge amount of work was undertaken to bring forth this bill. I thank everyone involved for their diligent and tireless work with the community to make sure this legislation is fit for purpose and ready to be introduced today.

The Minns Labor Government recognises that historically people would live in an apartment for a short period of time, perhaps as their first home. But we are seeing more and more that people are living for years, decades and in some cases their whole lives in strata apartments. Therefore, it is important that the legislation and governance around strata schemes reflects that, so that those arrangements cater for people over the course of their lives. Through my work on the upper House inquiries into the building industry that were referenced earlier today, I learned that lots of people are moving into strata apartments in their later years. Indeed, we can expect to see that occurring more and more. There is no doubt that people can live their whole lives in an apartment. We see that occurring overseas. We have apartments that are purpose-built and large enough to raise a family in. It is no longer seen as a short-term way of living.

It is particularly important for those people who have lived in a house or a detached house for most of their lives to understand the different obligations, roles and responsibilities that come with living in a strata arrangement. It is important that we continue the process of reform, that we make sure that our laws are fit for purpose and that we respond to the statutory reviews in time. A significant change was made to the legislation in about 2015, when I was first elected to this place. It is timely that it be updated and regularly reviewed to reflect this important area of public policy. With those brief remarks, I commend the Minister and his office, and the fantastic public servants in NSW Fair Trading for their excellent work. I commend the bill to the House.

**The Hon. BOB NANVA (17:01):** I speak in support of the Strata Legislation Amendment Bill 2023. The House has heard about the growing number of strata schemes in New South Wales, there being approximately 9,000 more schemes and 162,000 more strata lots in 2023 than when the Strata Schemes Development Act and the Strata Schemes Management Act commenced in 2016. Strata schemes will most likely house a majority of New South Wales residents in the future, and so it is important that strata laws work. When considering the regulation of strata schemes, it is important to look forward and to consider the changing nature of the housing sector and the evolving role that strata schemes play in it. It is also important to reflect on where strata schemes came from and what they are really about: a form of community living. They are made up of a building or a collection of buildings divided into lots. When a person buys a lot within the strata scheme, they own the inside of the lot and they share the ownership of the common property with other lot owners.

Lot owners in a strata scheme automatically become a member of the owners' corporation, the legal entity made up of all lot owners, and are collectively responsible for taking care of the common property and making key decisions affecting the scheme. The owners' corporation is, effectively, a mini democracy. Owners' corporations are responsible for electing representatives to a strata committee. Strata committees, in turn, are responsible for the day-to-day running of the strata scheme and for making a range of decisions on behalf of the owners' corporation. Strata committees have a duty to carry out their functions for the benefit of the owners' corporation and with due care and diligence. When strata committees cease to act for the benefit of all owners, or



fail to exercise due care and diligence in their role, they undermine the intent of strata laws, which is to facilitate the smooth and effective running of the scheme while making sure all residents' interests are fairly represented.

The statutory review of strata laws found several issues impacting the effective running of strata schemes. The bill implements 31 of the recommendations from the statutory review and will make meaningful changes to create more effective and accountable committees and improve the governance of the meeting of owners. I will now speak to some of those changes. Most committees do the right thing. However, some members do not always act in the best interests of those living in the scheme. Conflicts of interest, particularly in strata schemes, can lead to bad decision-making. Bad decisions can lead to higher costs for owners' corporations and benefits for only a few rather than most owners, resulting in breakdowns in trust and the rise of dysfunctional strata committees.

The statutory review recommended codifying additional duties and obligations for strata committee members in the Strata Schemes Management Act 2015, which I will now, for convenience, refer to as the management Act. The bill partly implements that recommendation. It removes the ability for committee members to participate in a matter if they have a conflict of interest relating to that matter. It is remarkable that those provisions do not already exist, given how significant strata schemes are in this State. The bill removes the discretion of the strata committee to allow a member with a conflict of interest to be present during deliberations on a relevant matter and to take part in any decision of the strata committee on that matter. Further duties and obligations on strata committee members will be considered as part of the next stage of legislative amendments to strata laws. They will be critical to strengthening committee members' understanding of their roles and functions.

Complementing the reform on conflicts of interest, the bill also lowers the voting threshold to remove a serving member of the strata committee from a special resolution to an ordinary resolution. This will mean a simple majority vote of owners at a general meeting will be needed to remove someone from the committee instead of the currently required three-quarters of owners. This reform will assist strata schemes to remove poorly performing members of the committee, or members who do not have the right ethics or values in the mini democracies they take part in. It will also prevent a vocal minority of owners from being able to retain a member who has lost the confidence of the majority.

A further commonsense reform in the bill is a new prohibition on a person who has been removed from a strata committee serving again on that committee for one year from their removal. It is not in the interests of strata committees or owners' corporations to have a person who has been voted off a strata committee simply re-elected to the committee so soon after being removed. It undermines the purpose, the spirit and the intent of the reforms that we are putting forward today. A one-year ban from re-serving on the strata committee is reasonable, necessary and effective, and it will stop a lot of the undermining that takes place in owners' corporations.

These strata committee changes will also apply to community land schemes, to ensure that strata and community land laws are harmonised. Turning to a reform specific to community land schemes, the bill implements the review recommendation to increase the maximum number of association committee members from nine to 15. The Government has acted on feedback to the review indicating that the nine-member cap may be too small for some community land schemes. Community land schemes, especially with their tiered management structures, are often larger, more complicated organisations, which naturally enough require a larger committee. Some bigger community land schemes have a larger pool from which volunteers can be drawn, so it makes sense to use that pool. The increase in the number of people who can serve on an association committee is optional; it is not mandatory.

I now turn to reforms aimed at improving the governance of meetings so that owners can fully participate in matters of the scheme, in a manner that is completely appropriate and good for the vast majority of owners in those schemes. As the review noted, procedures are important to ensure the effective functioning of schemes and consistency across schemes in New South Wales, and to encourage owners' active engagement in the running of their scheme. However, feedback to the review—of which there was plenty—indicated that some meeting procedures should be clearer. The bill gives effect to that, implementing several of the review's recommendations relating to improved meeting procedures. The vast majority of people on the committees are volunteers, not necessarily with any training in appropriate meeting procedure or declarations of conflict of interest. So it is very important that those volunteers, who give up their time, are given as much guidance as possible in this space.

The bill extends the minimum notice period for annual general meetings from seven to 14 days. The intent of that reform is to provide more time for owners to arrange to participate in meetings and to align with the notice period required for the first annual general meeting. It will not impose an additional regulatory burden on schemes or strata agents but will benefit owners. The bill makes some commonsense changes. I commend the bill to the House.

**The Hon. CAMERON MURPHY (17:12):** I support the Strata Legislation Amendment Bill 2023. Strata schemes are becoming the type of accommodation that most people are going to live in. Almost everybody, at some point in their lifetime, will live in a strata scheme, and more and more people in our community will end up living their whole lives in strata schemes. The reforms in the bill are so important in terms of the way strata schemes are run and the ability for people to enrich their lives through that form of accommodation. The bill is the beginning of the Government's reforms to improve the lives of people living in strata and community land schemes. There are now more than 85,000 of them in New South Wales. The reforms in the bill will positively impact the lives of the vast number of those people.

The Strata Schemes Development Act 2015 and the Strata Schemes Management Act 2015 together provide the regulatory framework for strata schemes in New South Wales. Those Acts are the pillars that govern the way individuals live in and interact with strata schemes in our State. While I speak in support of the bill's reforms, I especially want to speak about the reforms that will make it easier to keep pets and assistance animals in strata schemes. Those reforms, together with the Government's election commitment to make it easier for tenants to keep pets, will improve the lives of residents living in strata and community land schemes. As we know, pets play a very important role in people's lives. Pets have a positive impact on their owners' physical and mental wellbeing. Australia has one of the highest rates of pet ownership in the world. Australians' love for their pets remains strong, and many people rely on their pets for comfort during difficult times. Pets provide companionship for many people, particularly those living alone. They are a source of unconditional love and are often considered by people to be a member of their family.

While the benefits of having a pet are well known, the costs and barriers some owners' corporations and associations impose mean that, for some, it can be simply too difficult to keep a pet in a strata scheme. The bill makes necessary amendments, firstly, to enable people who live in community land schemes to keep pets and, secondly, to stop those residents from being charged fees and bonds to keep a pet. Under the current strata laws, the keeping of an animal cannot be prohibited unless the animal unreasonably interferes with another resident's use and enjoyment of their lot or the common property. The Strata Schemes Management Regulation 2016 sets out some of the circumstances in which an animal is considered to unreasonably interfere with another resident's use and enjoyment of their lot or the common property—for example, where the pet attacks another resident or spreads infection. Owners' corporations are allowed to include reasonable conditions in their by-laws for the keeping of animals, such as that animals must be carried or tethered in common areas like lifts.

There are a bunch of issues I would ordinarily go through in relation to the way strata schemes deal with pets. However, I am conscious of the late hour, so I will leave my comments there. I conclude by saying that the bill shows that the Government is taking important steps to fix the problems that currently exist in strata and community land schemes in New South Wales. It will make real improvements to the day-to-day lives of people who live in those schemes and, on that basis, I commend the bill to the House.

**The Hon. JOHN RUDDICK (17:17):** I oppose an aspect of the Strata Legislation Amendment Bill 2023. Private property rights are the foundation upon which our prosperity is built. Libertarians believe in the castle principle—a property owner is sovereign over their property. For the most part, the bill is unoffensive, and the proposals are of general benefit to strata schemes. However, I support the rights of property owners to decline a tenancy application if the tenant wants to bring their pets. I am personally radically pro pets, but we must not further erode the rights of property owners to do as they please.

I suspect that most property owners will be fine to accept a tenant with pets, and they are free to charge a slightly higher rent because of the damage some pets may cause to some properties. But let us let the market decide and keep the heavy hand of the State out of private contracts between individuals. We are in a housing crisis. We have a lack of supply because governments at all levels keep adding more and more regulations, and every time they do, they disincentivise the attractiveness of investment in property. Ever more regulation is in the DNA of the Labor Party, but I must put on record my disappointment once again in the Opposition for supporting the bill and the further erosion of property rights.

**The Hon. MARK BUTTIGIEG (17:18):** On behalf of the Hon. Penny Sharpe: In reply: I begin by thanking all honourable members for their contributions to the debate on the Strata Legislation Amendment Bill 2023: the Hon. Scott Farlow, Ms Cate Faehrmann, the Hon. Emma Hurst, the Hon. Courtney Houssos, the Hon. Bob Nanva, the Hon. Cameron Murphy and the Hon. John Ruddick. The bill implements 31 recommendations from the 2021 statutory review of the Strata Schemes Development Act 2015 and the Strata Schemes Management Act 2015. It is the first step in delivering the review's recommendations and demonstrates the Government is getting on with the job.

The reforms in the bill will improve the lives of residents in strata and community land schemes. It will do so by making the strata renewal process more workable and transparent, like the well-publicised example at Macquarie Park; stopping community land schemes from making decisions or by-laws that prohibit the keeping

of a pet on a lot, unless the pet would unreasonably interfere with other residents' use and enjoyment of their home; stopping schemes from charging bonds or fees or requiring insurance for a resident to keep a pet; supporting people with an assistance animal to maintain their privacy and ensuring that by-laws cannot affect assistance animals' performance of their role to help their owners; and increasing the effectiveness of schemes' governance processes and accountability mechanisms, such as requiring schemes to keep electronic records going forward.

The Government is committed to strengthening the foundations of strata and community land scheme laws so that everyone has the confidence to live and invest in those types of living arrangements. That is especially important as we move to increase housing supply across New South Wales. Strata and community land schemes are a growing share of the housing mix in New South Wales. They play an increasingly important part in meeting people's housing needs. I note that most amendments in the bill commence on assent, providing immediate benefits to strata and community land schemes. However, two amendments commence on proclamation. The first is the amendment to extend the existing strata pet reforms to community land schemes. This amendment will commence once supporting regulations have been developed.

The regulations need to be developed in consultation with stakeholders and will set out some of the circumstances where it is unreasonable to keep an animal because it interferes with another resident's use and enjoyment of their lot or association property. The second is the amendment giving standing to the Commissioner for Fair Trading to seek the appointment of a compulsory managing agent at the NSW Civil and Administrative Tribunal. That is to ensure that there is sufficient time for the tribunal's case management system, forms and websites to be updated before the provision starts. I also note that the amendment requiring schemes to keep records in electronic form starts on the Act's assent. However, the provision only applies to records made six months after it commences. That gives schemes time to prepare for this new requirement. For the bill provisions that commence on assent, the Department of Customer Service will take an educative approach to enforcement for the first few months. However, the strata renewal changes will not be subject to this transition period as it is important that they apply immediately for the benefit of schemes that are currently in a stalemate.

I will now respond briefly to the points made by honourable members. I welcome the support of the Opposition. I note the Hon. Scott Farlow's comments that the bill builds on the work of the former Government. It is a shame that it did not bring the required legislative changes to the House, despite the statutory review report being tabled in 2021. I also welcome the support of the bill from The Greens, as outlined by the fair trading spokesperson, Ms Cate Faehrmann. I want to reassure her that the remaining reforms recommended by the review report will be included in a draft bill for consultation in 2024. Following public consultation, the Government intends to bring another bill to Parliament to implement those remaining reforms. I wish to clarify that reforms to make it easier for residents to have pets have already been in place in strata legislation since 2021. The bill extends this to community land schemes so pets cannot be unreasonably prohibited. I also acknowledge the support of the Hon. Emma Hurst of the Animal Justice Party. I assure the Hon. Emma Hurst that the Government continues its important work on our reforms to make it easier to have pets in rentals.

I turn briefly to address the comments and contribution of the Hon. John Ruddick. I understand his desire to protect property rights, but this is a sensible balance between the rights of landowners, strata schemes and tenants who deserve to have pets in reasonable situations. We believe the bill strikes a reasonable balance, notwithstanding the Hon. John Ruddick's contributions. With more than 85,000 strata schemes in New South Wales, the bill will improve the lives of the great numbers of people who live in strata and community land schemes. The bill continues to modernise strata and community land laws. It addresses pain points that stakeholders have identified over the last few years. The bill also complements the Government's other commitments relating to strata living. This includes our appointment of a Strata Commissioner, our work to crack down on unscrupulous builders, our work to increase housing supply and our work to make it easier for tenants to have pets in rentals. The Government's ambitious reform agenda will provide buyers and renters with confidence in the quality of their homes and their living arrangements.

I again thank the wide range of stakeholders who have constructively engaged with us on the bill, from key strata stakeholders such as the Strata Community Association (NSW) and the Owners Corporation Network, to industry stakeholders such as the Real Estate Institute of New South Wales and the Australian Property Institute, to tenant and animal justice advocates such as the Tenants' Union of NSW and Animal Care Australia. Your input is invaluable. I also thank the dedicated staff at NSW Fair Trading for their work to bring the bill to fruition. I look forward to building on this first stage of work with future legislative reforms and the continued advancement of modern and fit-for-purpose strata and community land scheme laws. 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:** By leave: On behalf of the Hon. Penny Sharpe: I move:

That this bill be now read a third time.

**Motion agreed to.**

### EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2023

#### Second Reading Speech

**The Hon. ANTHONY D'ADAM (17:29):** On behalf of the Hon. John Graham: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Emergency Services Legislation Amendment Bill 2023. The bill has a range of proposals to amend the State's key emergency management legislation: the Fire and Rescue Act NSW 1989, the NSW Reconstruction Authority Act 2022, the NSW Reconstruction Authority Regulation 2023, the Rural Fires Act 1997 and the State Emergency and Rescue Management Act 1989. The bill makes minor changes to improve the administration of emergency services and management of emergencies in New South Wales. While minor, those changes will improve the ability for our emergency services and supporting organisations to protect the community. Those amendments reduce bureaucracy, remove ambiguity and promote consistency across legislation to drive better service delivery before, during and after emergencies and disasters.

Schedule 1 amends the Fire and Rescue Act NSW 1989 to provide that the Commissioner of Fire and Rescue NSW, in exercising the commissioner's functions, is subject to the control and direction of the Minister for Emergency Services. This change will make the Fire and Rescue NSW Act 1989 consistent with section 11 of the Rural Fires Act 1997, section 10 of the State Emergency Service Act 1989, section 10 of the State Emergency and Rescue Management Act 1989 and section 9 of the NSW Reconstruction Authority Act 2022. This change does not impact the relationship between the Minister and the Commissioner of Fire and Rescue NSW, but rather it brings consistency between the emergency services, the NSW Reconstruction Authority and the statutory positions of the State Emergency Operations Controller and the State Emergency Recovery Controller. The change also improves certainty of responsibilities, which is vital during emergencies and disasters.

Schedules 2 and 3 amend the NSW Reconstruction Authority Act 2022 and the NSW Reconstruction Authority Regulation 2023 respectively. The changes to the NSW Reconstruction Authority Act and regulations will ensure the authority can issue directions to local councils in the exercise of certain functions that are prescribed in the regulation. Relevantly, the regulation at clause 5 (b) refers to carrying out development under the State Environmental Planning Policy (Transport and Infrastructure) 2021. The language in the current Act allows for an interpretation that excludes the authority from issuing directions to local councils to take certain actions as prescribed by the regulations, and this amendment corrects this. These changes ensure clarity in the statute and consistency with the NSW Reconstruction Authority's remit to reduce the impact of disasters and to build back better after disasters occur.

Schedule 4 provides for a number of amendments to the Rural Fires Act 1997. The changes remove unnecessary administrative burdens as well as improve safety for NSW Rural Fire Service volunteers and the community. This includes amending section 7A of the Rural Fires Act 1997 to provide that, unless the Minister for Emergency Services appoints someone else, the NSW Rural Fire Service Commissioner is the local authority for the purposes of the Rural Fires Act 1997 for land within the Western Division that is not within a local government area. Local authorities have key powers relating to the administration of rural fire brigades and bushfire prevention. This ensures that there is always a local authority for the purposes of the Rural Fires Act 1997 and that, where appropriate, the commissioner may delegate the position or functions of the position to a member of the NSW Rural Fire Service.

The bill also amends section 27 of the Rural Fires Act 1997 to provide that the RFS is required to seek permission to close a street or public place to traffic under section 24 only where the street or public place is related to the provision of rail services. This addresses what appears to be an unintended consequence of previous legislative changes, as historically the obligation to seek permission was restricted to lands managed by rail authorities. This change reduces confusion and delay in emergencies when the RFS is unsure of the appropriate roads authority. The RFS will still be required to notify Transport for NSW as soon as practicable after closing the street or public place.

The bill also amends section 62 of the Rural Fires Act 1997 to remove the requirement to make bushfire management plans available in a printed format. These plans have become increasingly detailed and are most appropriately viewed in a digital format. The bill amends the Act to require the Rural Fire Service to make plans

available on the NSW Rural Fire Service website or other New South Wales Government website decided by the Rural Fire Service Commissioner.

The bill also amends section 89 (2) (b) of the Rural Fires Act 1997 to require applicants for fire permits to confirm that all necessary approvals, consents or other authorities under the Environmental Planning and Assessment Act 1979 have been obtained before an appropriate authority may issue a fire permit. This ensures that the burden of ensuring that all relevant environmental and planning approvals have been obtained falls on the person seeking the permit rather than the authorised officer.

Schedule 5 amends the State Emergency and Rescue Management Act 1989—or the SERM Act—to strengthen governance arrangements and promote administrative and operational efficiency around emergency and rescue arrangements. The bill amends the definition of "functional area" at section 3 to clarify that additional functional areas may be included in the State Emergency Management Plan or the EMPLAN. Functional areas are a category of services involved in the prevention of, preparation for, response to or recovery from an emergency. They include, for example, health, transport and welfare services. The ability to incorporate additional functional areas into the EMPLAN will allow the emergency management arrangements to adapt over time to include additional functional areas and reflect shifts in government service delivery.

The bill also amends section 28 to permit the Minister to appoint representatives from relevant organisations to the local emergency management committee. For example, the Minister would be able to appoint a representative of a local Aboriginal land council to a local emergency management committee to improve the decision-making process. This is similar to the power the Minister already possesses at section 22 (2) (d) to appoint representatives of organisations to regional emergency management committees. The bill makes changes to part 3 to clarify that rescue units may comprise persons from and be managed or controlled by more than one agency or non-government agency. This will ensure there is no legislative barrier to the formation of multi-agency rescue units. This is an important change that will provide more options to provide rescue service delivery, particularly in regional and remote locations.

The bill amends section 60D to empower the Minister to make orders to protect volunteers from victimisation by their employers. The change will enable the Minister to issue an employment protection order for a period of up to 14 days. The change reflects the need for a "middle ground" between a Premier's order, which may be unlimited in duration, and the 48-hour "authorised officer" order, authorised officers being the commissioners of the Rural Fire Service and the State Emergency Service. The bill also repeals section 60, as the provision is no longer used. The Government has funded and will continue to fund non-government emergency services organisations like VRA Rescue NSW through separate arrangements. The bill makes a series of practical changes that, while minor, will provide real and tangible benefits for emergency and rescue service workers by clarifying legal ambiguities, streamlining administrative and operational processes, and strengthening existing governance arrangements. I commend the bill to the House.

### Second Reading Debate

**Dr AMANDA COHN (17:36):** The Greens support the Emergency Services Legislation Amendment Bill 2023 and propose two amendments. The bill makes miscellaneous amendments to the Fire and Rescue NSW Act 1989, the NSW Reconstruction Authority Act 2022, the NSW Reconstruction Authority Regulation 2023, the Rural Fires Act 1997 and the State Emergency and Rescue Management Act 1989, with the intent to streamline emergency and rescue management arrangements.

Firstly, regarding the changes to the State Emergency and Rescue Management Act 1989, I know from my own experience of 10 years as a volunteer in the State Emergency Service that in small communities, such as Menindee, and many cross-border communities along the Murray River, such as Cobram, individual units of emergency services can be extremely small, and a single unit may not have the capacity to train for and respond to emergencies of people requiring rescue. In some cases there is a small group of extremely dedicated volunteers who are members of more than one emergency service. They are affectionately referred to as cross-dressers. They are the people who turn up week after month after year in different uniforms, be it SES, RFS, the Volunteer Rescue Association or their interstate counterparts.

In small communities with extremely limited resources, a rescue team and a rescue unit should be able to be made up of whoever has the skills, resources and availability, regardless of which agency individuals represent, and it is important for this to be enabled. Importantly, the formation of such units would require the consent of the local emergency management committee as well as each agency involved. The bill will also allow additional representatives from relevant organisations on local emergency management committees. The Minister being able to issue volunteer employment protection orders for a period up to 14 days is reasonable, notwithstanding that it will not make a substantial difference when commissioners can already issue protection orders for 48 hours and the Premier can issue protection orders of any length.

Regarding the changes to the Rural Fires Act 1997, I am delighted that in 2023 we are finally requiring bushfire management plans to be published online rather than in a printed format. This is a welcome improvement from the perspective of public engagement. The bill will require applicants to confirm that necessary environmental and planning approvals have been obtained before a fire permit may be issued. This is extremely important when fire conditions are changing substantially due to climate change and we are seeing more and more runaway hazard reduction burns and back-burns. The bill makes the NSW Rural Fire Service Commissioner the local authority for the Western Division for the purposes of the Act if no-one else is appointed by the Minister. It provides that the NSW Rural Fire Service requires Transport for NSW's permission to close roads or public places only in relation to land or property affecting rail services but must advise Transport for NSW as soon as practicable when closing a road.

Notably, in amending the Rural Fires Act 1997 today, the Government has opted not to deal with the red fleet issue. It is ridiculous that local councils are required to account for the depreciation of firefighting assets that they do not control. The RFS has substantially professionalised in the past 26 years and should be vested with rural firefighting equipment under legislation as well as the responsibility for bushfire-prevention works on public land, with the exception of national parks, which is a discussion for another day. The Act as it stands has had a substantial impact on the books of local councils and requires urgent amendment, which I understand the Legislative Assembly Public Accounts Committee is currently considering.

While I am speaking to the challenges impacting local government in New South Wales, I note that the bill does not deal with the Emergency Services Levy Act 2017, which places an unsustainable burden on local government to fund emergency services that communities reasonably expect to be provided by the State Government. The role of the insurance industry also needs to be carefully considered. The proposed change to the Fire and Rescue NSW Act 1989 intends to clarify that the commissioner, in the exercise of the commissioner's functions, is subject to the control and direction of the Minister, which is consistent with the equivalent provisions in the Rural Fires Act 1997 and the State Emergency Service Act 1989. As a paid emergency service, Fire and Rescue NSW should be managed in a similar way to other professional departments—the NSW Police Force, for example—rather than in the same way as our volunteer emergency services. The Greens amendment seeks to provide the Minister with direction over the Commissioner of Fire and Rescue, but not control, which mirrors the language in the Police Act 1990.

The language in the Reconstruction Authority Act 2022 allows for an interpretation that excludes the authority from issuing directions to local councils to take certain actions as prescribed by the regulation. The Greens amendment corrects that. It is critical that representation of local government is involved when decisions are made that result in directions being issued to local councils. The Greens will seek an amendment to the bill to that effect. There are significant issues impacting our emergency services that are not being addressed today. Volunteer emergency services such as the Rural Fire Service, the State Emergency Service and the volunteer VRA Rescue NSW are struggling with the broad decline in formal volunteerism.

Paid emergency service workers have raised the serious implications of pay and conditions that are worse than other States. We need to make every possible effort to detect ignitions quickly and extinguish fires early, rather than trying to contain large fires to protect people and property. The implications of climate change on preparedness for a variety of emergencies is not fully understood, and we cannot rely on the same models we always have to keep communities safe. Finally, I thank Councillor Darriea Turley from Local Government NSW and the Fire Brigade Employees Union members for their valuable and constructive engagement with the bill.

**The Hon. WES FANG (17:41):** As the shadow Assistant Minister for Police and Emergency Services, I lead in debate on a bill for the first time in this place. It is perhaps for that reason that I have managed to not attract your attention, Mr President, and I am not on a call. Let's see how I go. I can indicate from the outset that the Opposition supports the Emergency Services Legislation Amendment Bill 2023. The bill introduces a number of miscellaneous amendments to emergency services management legislation in New South Wales with the aim of improving the administration of emergency management and emergency services.

The bill seeks to reduce bureaucracy and promote legislative consistency. The bill is reasonably short, and as my colleague in the other place Gurmeh Singh, the shadow Minister for Emergency Services, indicated in his speech, we will keep our comments reasonably short as well. Schedule 1 to the bill provides that the commissioner has the ability to exercise their functions subject to the control and direction of the Minister under the Fire and Rescue NSW Act 1989, which brings it in line with other emergency Acts. It ensures consistency between the emergency services and enhances the clarity of the roles and responsibilities for the two positions, which is crucial in emergency situations. Schedules 2 and 3 to the bill amend the NSW Reconstruction Authority Act 2022 to change the way the Act deals with local government. Instead of telling councils how they can perform their functions under the Environmental Planning and Assessment Act 1979, it can prescribe additional functions to the council.

Schedule 4 to the bill amends the Rural Fires Act 1997. A number of small amendments in the schedule remove administrative issues and red tape. The schedule amends section 7A of the Act to clarify the local authority in the Western Division. The most substantial part of the bill is the modification of section 27 of the Act to clarify the issues around permissions for road closures. It tidies up legislative changes that were made some time ago. Schedule 4 [6] updates section 62 of the Act and provide for the bushfire management plans to be displayed in a digital format online, bringing the plans into the twenty-first century. The amendments to section 89 ensure that a person confirms that they have all the consents and approvals required under the Environmental Planning and Assessment Act 1979 with regard to fire permit applications.

Schedule 5 amends the State Emergency and Rescue Management Act 1989 and provides for the strengthening of governance and promotion of operational efficiency by expanding the definition of what a "functional area" means in emergency management planning. It enables the Minister to appoint additional members to local emergency management committees. It also introduces protections for employers, and volunteers for up to 14 days, which is at the discretion of the Minister. These are relatively minor changes that are often seen in a miscellaneous bill, and it is for those reasons that the Opposition will support the bill. I thank my colleague in the other place Gurmesh Singh, the shadow Minister for Emergency Services. I also thank the Minister, the Hon. Jihad Dib, for his work on the bill. I can foreshadow that the Opposition will oppose the amendments that were indicated by The Greens. I will speak further on that in the Committee of the Whole. With those short remarks, I commend the bill to the House.

**The Hon. EMILY SUVAAL (17:47):** I speak in support of the Emergency Services Legislation Amendment Bill 2023. The bill contains important changes to the NSW Reconstruction Authority Act 2022 and the NSW Reconstruction Authority Regulation 2023 to assist the NSW Reconstruction Authority to achieve its primary objective. The NSW Reconstruction Authority was established in response to the inquiry into the preparation for, causes of, responses to and recovery from the flooding events of 2022 and was commissioned and led by former NSW Chief Scientist and Engineer Professor Mary O'Kane, AC, and former NSW Police Commissioner Mick Fuller, APM. Recommendation 15 of the inquiry's final report was to create the NSW Reconstruction Authority, modelled on the Queensland Reconstruction Authority established in 2011.

The primary objective of the NSW Reconstruction Authority Act 2022 is to promote community resilience to the impacts of disasters in New South Wales through disaster prevention, preparedness and adaptation, and reconstruction following disasters. The structure, functions and powers conferred on the NSW Reconstruction Authority under the NSW Reconstruction Authority Act 2022 provide a single point of reference for rebuilding infrastructure, strengthening the New South Wales Government's recovery response and rebuilding communities to be more resilient in the face of incredible adversity. The authority has the responsibility and power to facilitate the protection, recovery and reconstruction of affected communities following a disaster, implement mitigation measures against the impact of potential disasters and improve the resilience and adaptation of communities against future disasters.

The NSW Reconstruction Authority has a range of powers and functions under the NSW Reconstruction Authority Act 2022 to achieve that. They include the power to direct local councils and other relevant entities to take action in certain circumstances. That power exists to remove red tape when urgent and immediate action is necessary to facilitate disaster prevention, preparedness and adaptation, as well as recovery and reconstruction following disasters within New South Wales communities.

The direction power conferred under section 13 (1) in part 2 of the NSW Reconstruction Authority Act 2022 therefore serves an important purpose that is essential to the NSW Reconstruction Authority achieving its primary object. However, the current construction of section 13 (1) of the Act precludes the NSW Reconstruction Authority from directing local councils to undertake actions prescribed under clause 5 of the NSW Reconstruction Authority Regulation 2023. I am advised that that is an unintended consequence of drafting. The power to direct councils, including to undertake actions outlined in the regulation, was intended to be a key function of the NSW Reconstruction Authority. Schedule 2 to the bill thus amends section 13 (1) (b) to provide that the NSW Reconstruction Authority may, by written notice given to a relevant entity, direct a local council to take certain actions in the exercise of:

- (i) the council's functions under the *Environmental Planning and Assessment Act 1979*, or
- (ii) other functions of the council as prescribed by the regulations ...

The bill also makes consequential amendments to the NSW Reconstruction Authority Regulation 2023 to give effect to that amendment. The bill makes it clear that a direction given to a relevant entity to act in the exercise of the relevant entity's functions, as prescribed by the NSW Reconstruction Authority Regulation 2023, may also be given to a local council. The functions prescribed by the regulation are providing an essential service such as public transport, energy supply, water or garbage services; and carrying out development under State

Environmental Planning Policy (Transport and Infrastructure) 2021 such as the construction of flood mitigation work, public roads, stormwater management systems, and electricity transmission and distribution networks.

I understand that the NSW Reconstruction Authority will only use that direction power sparingly and will only resort to using it when immediate action is required to respond to a disaster or a likely disaster. While it is likely that the NSW Reconstruction Authority will rarely need to rely on that power, it is an essential element in its ability to respond to a disaster or an impending disaster quickly and efficiently. The NSW Reconstruction Authority intends to work in cooperation with local councils and relevant entities. Notably, looking at the Queensland experience, I am advised that the Queensland Reconstruction Authority has used its equivalent direction power only once, and that was at the request of the entity involved. This sensible and important amendment will enhance disaster recovery in New South Wales. I commend the bill to the House.

**The Hon. ANTHONY D'ADAM (17:54):** On behalf of the Hon. John Graham: In reply: I thank the Hon. Wes Fang, Dr Amanda Cohn and the Hon. Emily Suvaal for their contributions to the debate. I address a few issues raised in the debate. Dr Amanda Cohn raised the issue of the red fleet vesting. Her contribution referred to the current inquiry by the Public Accounts Committee in the Legislative Assembly, and it is appropriate for the Government to await the report of that inquiry. We will consider the findings of the report once we receive them, as is appropriate. Regarding the emergency services levy, the Government accepts that councils are struggling and has committed to working with them to try to address questions around financial sustainability.

Dr Amanda Cohn also asked about consistencies in how professional emergency services relate to the relevant Minister. Section 8 (1) of the Police Act 1990 provides that the Commissioner of the NSW Police Force "is, subject to the direction of the Minister, responsible for the management and control of the NSW Police Force". That language is slightly different from that in the bill, which proposes that the Commissioner of Fire and Rescue be subject to the "control and direction" of the Minister. In the emergency services portfolio, the use of the word "control" is commonly understood. The State Emergency and Rescue Management Act 1989 defines control as the "the overall direction of the activities, agencies or individuals concerned".

The amendment is being proposed to ensure consistency with the Rural Fires Act 1997, the State Emergency Service Act 1989 and the State Emergency and Rescue Management Act 1989. The proposed amendment also aligns with section 9 of the NSW Reconstruction Authority Act 2022, which provides:

The Authority is subject to the control and direction of the Minister in the exercise of the Authority's functions.

The amendment will ensure there is no ambiguity as to the role of the Minister across all the agencies in the emergency services portfolio. The wording in the Police Act 1990 is a matter for the Minister for Police. I am advised that there is little material difference in the operation of the relevant provisions.

Dr Amanda Cohn also referred to a decline in volunteerism, and I welcome that contribution. The Government has commissioned a review into volunteering, and multi-agency rescue units also seek to address that decline. Dr Amanda Cohn also raised the question of representation of local councils in relation to schedule 2. I foreshadow that the Government also has an amendment that goes part of the way to addressing that concern, but it is obviously not consistent with the proposal from The Greens on a similar issue. With that, the Government believes the bill provides sensible and practical measures to improve the delivery and coordination of emergency services and rescue management in New South Wales. I commend the bill to the House.

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

**Motion agreed to.**

### In Committee

**The CHAIR (The Hon. Rod Roberts):** There being no objection, the Committee will deal with the bill as a whole. There are three sheets of amendments. I have The Greens amendment No. 1 on sheet c2023-103, The Greens amendment No. 1 on sheet c2023-101 and Government amendment No. 1 on sheet c2023-100B. I propose to deal first with The Greens amendment No. 1 on sheet c2023-103. I invite Dr Amanda Cohn to move that amendment.

**Dr AMANDA COHN (18:00):** I move The Greens amendment No. 1 on sheet c2023-103:

No. 1      **Commissioner subject to direction of Minister in exercising functions**

Page 3, Schedule 1, lines 3–7. Omit all words on the lines. Insert instead—

#### **Section 5A General functions of Commissioner**

Insert ", subject to the direction of the Minister," after "Commissioner" wherever occurring in section 5A (1) and (2).



In his second reading speech, the Minister stated that the bill does not impact on the relationship between the Minister and the commissioner, while also stating that improving certainty of responsibilities is vital during emergencies. That statement was contradictory, and the Fire Brigade Employees Union has raised concern about the bill as proposed. Frontline professional firefighters have said that an arrangement giving the Minister direction but not control would best enable their critical work on the front line fighting fires. For that reason, The Greens propose this amendment. The language that we propose mirrors the language from the Police Act 1990, which is appropriate as that is another professional emergency service, as distinct from the Rural Fire Service and State Emergency Service, which use different language in their Acts.

**The Hon. ANTHONY D'ADAM (18:01):** The Government opposes the proposed amendment. The Greens amendment would remove the word "control" from proposed section 5B of the Fire and Rescue NSW Act. Currently the bill contains the words "control and direction". That language is consistent with the Rural Fires Act, the State Emergency Service Act and the State Emergency and Rescue Management Act. The language also aligns with section 9 of the NSW Reconstruction Authority Act, which provides that the authority is subject to the control and direction of the Minister in the exercise of the authority's functions. However, The Greens amendment would make the Fire and Rescue NSW legislation inconsistent with that of other emergency services like those I have mentioned. There is no clear reason why that should be the case.

The Government acknowledges, however, that the language proposed is somewhat similar to the Police Act. Section 8 (1) of the Police Act 1990 provides that the Commissioner of the NSW Police Force is subject to the direction of the Minister responsible for the management and control of the NSW Police Force. It is not clear why The Greens think that Fire and Rescue NSW is more like the NSW Police Force than it is like the Rural Fire Service—another firefighting agency. I am advised that there is little material difference between "control and direction" and just "control". "Control and direction" is a commonly used term in legislation, and I am advised that a power of control implies a power of direction. On that basis, we oppose the amendment.

**The Hon. WES FANG (18:06):** Schedule 1 to the bill would insert into the Fire and Rescue NSW Act 1989 a provision that the commissioner, in exercising the commissioner's function, is subject to the control and direction of the Minister. Two contradictory statements were made in the second reading speech. On the one hand, we were told:

This change does not impact the relationship between the Minister and the Commissioner of Fire and Rescue NSW ...

That seems clear until we were told in the very next sentence:

The change also improves certainty of responsibilities, which is vital during emergencies and disasters.

Is there a current uncertainty? In that case, the amendment would change the relationship by removing that uncertainty. If there is no uncertainty, then the amendment is purely cosmetic and of no urgency. While Opposition members have some sympathy for The Greens amendment—and we are very critical of the Government for making contradictory statements about the effect of an amendment during a second reading speech—on balance, we will not support the amendment.

With the bushfire season approaching, if there is any uncertainty about the responsibilities between the Commissioner of Fire and Rescue NSW and the Minister, it should be removed. To pick up on the contribution of the Parliamentary Secretary, I note in passing that there is uncertainty about the relationship between the Minister for Police and Counter-terrorism and the Commissioner of the NSW Police Force. The uncertainty would certainly be fixed if we replaced that Minister.

**The CHAIR (The Hon. Rod Roberts):** Dr Amanda Cohn has moved The Greens amendment No. 1 on sheet c2023-103. The question is that the amendment be agreed to.

**Amendment negated.**

**The CHAIR (The Hon. Rod Roberts):** For the benefit of members, I understand that there has been some conversation between the Government and The Greens. I believe the Opposition was also involved. There has been some agreement to deal next with The Greens amendment No. 1 on sheet c2023-101. I invite Dr Amanda Cohn to move that amendment.

**Dr AMANDA COHN (18:05):** I move The Greens amendment No. 1 on sheet c2023-101:

No. 1      **Membership of NSW Reconstruction Authority Advisory Board**

Page 4, Schedule 2. Insert after line 8—

[2]      **Section 26 Membership of Advisory Board**

Omit "4" from section 26(1)(b). Insert instead "3".

[3]      **Section 26(1)(b1)**

Insert after section 26(1)(b)—

(b1) 1 member nominated by Local Government NSW,

[4] **Section 26(3A)**

Insert after section 26(3)—

(3A) If the office of a member mentioned in subsection (1)(b1) becomes vacant and Local Government NSW does not nominate a new member within 3 months after the vacancy occurs, the Minister may nominate a person for appointment to the office.

When the NSW Reconstruction Authority Act was passed last year, the Minister stated in the second reading speech that the advisory body for the Reconstruction Authority would include a local government representative, but that was not legislated. Unfortunately, a local government representative has still not been appointed to the advisory body. The Greens amendment is what councillors across New South Wales are asking for through their peak body, Local Government NSW. It is obviously critical that when State agencies are making decisions that impact local government, there is a local government voice as part of that process. That is what we are seeking to ensure in the legislation.

**The Hon. ANTHONY D'ADAM (18:05):** The Government opposes the proposed amendment. While the Government agrees that an advisory board should include someone with significant local government experience, it does not agree with the approach of The Greens. Accordingly, the Government will move its own amendment. The Government's preferred position is that, other than two identified Commonwealth-nominated positions, the Minister for Emergency Services and the Minister for Planning and Public Spaces remain best placed to nominate advisory board members. The Government's own amendment will also ensure that at least one board member must have significant experience in a local council—experience from which the board and the authority would benefit.

**The Hon. WES FANG (18:06):** As previously indicated, the Opposition will not support the amendment. However, I indicate that, on balance, the Opposition would be prepared to support the Government's amendment, which deals with a similar issue.

**The CHAIR (The Hon. Rod Roberts):** Dr Amanda Cohn has moved The Greens amendment No. 1 on sheet c2023-101. The question is that the amendment be agreed to.

**Amendment negated.**

**The CHAIR (The Hon. Rod Roberts):** That leaves Government amendment No. 1 on sheet c2023-100B. I invite the Parliamentary Secretary to move that amendment.

**The Hon. ANTHONY D'ADAM (18:07):** I move Government amendment No. 1 on sheet c2023-100B:

No. 1 **Membership of NSW Reconstruction Authority Advisory Board**

Page 4, Schedule 2. Insert after line 8—

[2] **Section 26 Membership of Advisory Board**

Insert after section 26(2)—

(2A) Also, at least one of the members of the Advisory Board must be a person who, in the Minister's opinion, has considerable experience in a senior role with a local council.

**Example**—experience as a senior manager of a local council

During discussion with other members of this House, it became apparent that a statement of the previous Government relating to local government representation on the NSW Reconstruction Authority Advisory Board was not properly reflected in the NSW Reconstruction Authority Act. I am advised that during debate on the NSW Reconstruction Authority Bill, the member of the former Government with carriage of the bill in this House said:

Local government representation on the advisory board will be critical to ensure that local voices and solutions are woven into the authority's strategic vision and the deliverables for New South Wales.

This Government agrees that local government representation on the authority's advisory board will make the authority more effective. On that basis, we have moved this amendment, which seeks to establish a new requirement under section 26 (2) of the NSW Reconstruction Authority Act 2022.

The amendment will require that at least one member of the advisory board must be a person who, in the Minister's opinion, has considerable experience in a senior role with a local council—for example, experience as a general manager of a local council. There is no doubt that a significant proportion of the Reconstruction Authority's work involves or impacts local councils. It is important that the authority works closely with and

supports local councils in disaster mitigation and recovery. The amendment—which the Government is happy to make—ensures that the authority's advisory board would be appropriately advised on the needs of local councils and will assist in guiding the authority's strategic direction to ensure that it maintains a close and supportive relationship with local councils.

The proposed member will be one of seven members of the advisory board. The Minister for Emergency Services and the Minister for Planning and Public Spaces share joint responsibility for the nomination of the chair and four other members. A further two members are to be nominated by the Commonwealth. The inaugural advisory board members include chairperson Stephen Murray, Charles Glanville and Professor Mary O'Kane, who have been appointed for a term of three years until 1 March 2026. I am advised that all outstanding appointments, including a member with considerable experience in a senior role with a local council, are expected to be considered by Cabinet and put to the Governor for approval before the end of the year.

**The Hon. WES FANG (18:09):** As I have already foreshadowed, I indicate the Opposition's support of the Government amendment. Obviously, the Opposition would have preferred that the Government had this in place when it brought the bill to the House; however, it is better late than never. On that basis, the Opposition supports the amendment.

**Dr AMANDA COHN (18:10):** The Greens thank the Government for taking on board our feedback about the need to legislate local government representation. I thank Minister Dib for his constructive engagement on the proposal. It is certainly a less democratic approach than The Greens were proposing, but we support increased local government representation on the advisory board and will be supporting the amendment.

**The CHAIR (The Hon. Rod Roberts):** The Hon. Anthony D'Adam has moved Government amendment No. 1 on sheet c2023-100B. The question is that the amendment be agreed to.

**Amendment agreed to.**

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

**Motion agreed to.**

**The Hon. ANTHONY D'ADAM:** I move:

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

**Motion agreed to.**

### Adoption of Report

**The Hon. ANTHONY D'ADAM:** On behalf of the Hon. John Graham: I move:

That the report be adopted.

**Motion agreed to.**

### Third Reading

**The Hon. ANTHONY D'ADAM:** On behalf of the Hon. John Graham: I move:

That this bill be now read a third time.

**Motion agreed to.**

### Adjournment Debate

### ADJOURNMENT

**The Hon. JOHN GRAHAM:** I move:

That this House do now adjourn.

### EUGENICS

**The Hon. DAMIEN TUDEHOPE (18:13):** Just over 100 years ago, in his 1922 book *Eugenics and Other Evils: An Argument Against the Scientifically Organized State*, G. K. Chesterton savaged schemes to eliminate the "degenerate", the poor and the disabled in England by applying the old Lunacy Act to detain and sequester such undesirable human beings, as well as by prohibiting them from marrying. In the same year, Margaret Sanger, in her book *The Pivot of Civilization*, warned that "the lack of balance between the birthrate of the 'unfit' and the 'fit'" was "the greatest present menace to the civilisation" due to the over-fertility "of the feeble-minded, the mentally defective, the poverty-stricken".

In 1927 the Supreme Court of the United States, in the notorious decision in *Buck v Bell*, supported the sterilisation, without consent, of an allegedly "feeble-minded" woman, stating that "three generations of imbeciles are enough". From 1939 to 1945, under Aktion T4, up to 300,000 children and adults with physical or intellectual disability or mental illness were killed in hospitals in Germany, Austria, Poland and Czechoslovakia by order of the Reich Committee for the Scientific Registering of Serious Hereditary and Congenital Illnesses. The doctors involved in that eugenics program were indicted at Nuremberg for crimes against humanity in that they "were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the execution of the so-called 'euthanasia' program of the German Reich".

After a brief hiatus, eugenics re-emerged from the shadows in 1956, when amniocentesis was first used for prenatal screening for spina bifida. Since then, new techniques have been added and a broader range of disabilities targeted in a brutal search-and-destroy screening program that pressures parents to agree to the abortion of any unborn child identified as or suspected to be disabled. This search-and-destroy screening program extends both before and after pregnancy. Nearly all human embryos created in the laboratory for IVF are screened in various ways, and those suspected of having undesirable characteristics are simply discarded. If a child aborted for disability inconveniently survives the abortion, it is usually left to die. Babies born with disabilities may be placed on sedation and demand feeding, with all medical treatment withheld, with the intention of ending their lives.

At the other end of life, legalised euthanasia encourages those who have a disability—whether from a terminal illness, a congenital condition or an injury—to ingest or be administered a lethal substance to cause their death. In Belgium, euthanasia has been carried out for blindness and deafness. In Canada, disabled veteran and Paralympian Christine Gauthier was offered euthanasia as an alternative to providing her with a chair lift for her home. The new eugenics, unlike the old eugenics, pretends that it is based on choices made by individuals—or, in the case of unborn or born children, by their parents—that they are better off dead. However, disability activists rightly call out this pretence. It is evil, they say, to boast of opposing discrimination against those with a disability while promoting laws and programs that endorse the idea that it is better to not be born, or better to be dead, than to be living with a disability. G. K. Chesterton set out to slay the old eugenics; we need to slay the new eugenics. Sharpen your swords!

#### PILL TESTING

**The Hon. CAMERON MURPHY (18:17):** I call for an urgent trial of pill testing in New South Wales. As someone who comes into this place with a 30-year-long history of advocating for drug law reform, I am proud of the recent initiatives of the Labor Government in that area. I am particularly proud of the Government's diversionary programs to keep drug users away from the criminal justice system and its long-time commitment to holding a drug summit to reform drug policy in New South Wales. A trial of pill testing should be undertaken in New South Wales prior to the drug summit, for two important reasons. Firstly, tainted, high-dose or otherwise particularly dangerous drugs are currently circulating and causing harm or even death to the people of New South Wales. That includes the tragic deaths of two men, aged 21 and 26, after attending the Knockout Outdoor festival in Sydney earlier this month.

Pill testing is a direct action that can be taken in the short term to directly reduce the harm drugs do in the community and to likely save lives. Moreover, pill testing fosters open and honest conversations about drug use. It provides an opportunity for individuals to engage with healthcare professionals who can offer advice on harm reduction, addiction treatment and the consequences of drug use. That approach shifts the focus from punishment to education, helping people to make safer choices. Of the limited Australian data available on pill testing, a trial undertaken in the Australian Capital Territory revealed that pill testing caused behavioural change that effectively reduced the risk of patrons experiencing drug-related harm and reduced the consumption of drugs. The case for the life-saving and harm-minimising effects of pill testing is compelling.

Secondly, we need more data for the drug summit to be its most effective. In order to make evidence-based, long-term decisions about drug policy that serve health outcomes, we must gather evidence. In particular, we need data about how pill testing could work in the New South Wales context and how it changes the behaviour of people here. While we do have a good base of evidence from other jurisdictions such as the United Kingdom, Portugal and a small trial in the Australian Capital Territory, we need to expand this with information specific to New South Wales.

I propose that we undertake a pill testing trial in New South Wales over the period of the 2023-24 summer at major music festivals such as Field Day, Lost Paradise, Laneway Festival and Spilt Milk. To do so would not require new legislation and, in fact, could be achieved through existing frameworks. Using the existing licensing scheme, NSW Health could issue licences to drug-checking service providers for possession of illegal drugs for the purpose of analysis. Existing providers like Pill Testing Australia and The Loop Australia could then deliver pill testing services at festivals alongside other stakeholders, such as peer-based harm reduction programs.

A university research centre or similar organisation could then be commissioned to evaluate the implementation pilot and provide a report to the drug summit. By running such a pill testing trial, we can likely save lives during the upcoming festival season and gather much-needed data to inform long-term drug policy. My immediate fear is that more people will die this summer if nothing is done. It is morally wrong not to act when we know this and have the chance to protect people in New South Wales.

### CONSTITUTIONAL MONARCHIES

**The Hon. JOHN RUDDICK (18:22):** Today the campaign for an Australian republic may not have died, but it is entering a long, cold hibernation. Prime Minister Albanese had said he would hold a referendum on a republic in his second term. He even appointed an Assistant Minister for the Republic, Matt Thistlethwaite, who today told Sky News that the republic is on pause until "Australians aren't struggling with cost-of-living pressures". But we all know that the real reason was the heavy defeat of the Voice referendum, which marked Labor's twenty-fifth loss out of 26 attempts. Regardless, it is a welcome development. Can we expect street protests demanding this decision be overturned? Hardly.

Constitutional monarchy is an odd form of government that the English stumbled into in the seventeenth century. But it has proven to be the world's most successful form of government and the best protector of our civil liberties. I once considered monarchy an anachronism and thought that Australia would be better off with an American-style republic with an elected president. I then read a line attributed to Winston Churchill: "The significance of the Crown is not the power it possesses but the power it denies others." All political systems require an individual to sit atop the power structure.

In a republic, that is a president. But with no-one above them, ego too often feeds their sense of unlimited destiny and they are susceptible to morphing into dictators. In a constitutional monarchy, the most powerful person is the Prime Minister or Premier, but those offices know there is another power above them. The Crown has the power to dismiss a Prime Minister or Premier. That happens very rarely, but just having that power in place limits the private ambitions of elected leaders. The fact the custodian of the Crown gets the job from something as meritless as birth is the key. It cannot be disputed, so no-one bothers spending their life angling to wear the crown.

In 1932 the Crown's representative in this State dismissed Premier Jack Lang and in 1975 Gough Whitlam was dismissed. Both deserve credit for gracefully accepting the umpire's decision and not calling for an uprising. That often happens in republics when there is a high-stakes political impasse. A dismissal results in a fresh election. It is a gloriously democratic system. In 1932 and 1975 voters emphatically endorsed the decision to dismiss. Most of the nations with the longest records of political stability are constitutional monarchies. Australia, Britain, Canada, New Zealand, Netherlands, Belgium and the Scandinavian nations are leading examples, but other good examples are found in the Caribbean and the South Pacific. Those nations are not wealthy, but they are peaceful, because their leaders are unable to become tyrants.

However, there are two republics in the Caribbean—Cuba and Haiti—and both are miserable nations run by despots. When a monarchy is overthrown, a power vacuum is created, and this often quickly devolves into a bloodbath. Germany, Russia, China, Cambodia, Vietnam, Iraq and Iran are just some examples. The foolish royal families of those nations were absolute monarchs who failed to learn from the British royal family and give power away to a parliament.

There is a wide spectrum of views amongst libertarians on the subject, but my view is that constitutional monarchy is entirely consistent with libertarianism because it dilutes power. After the defeat of the republic in 1999, the Australian Republican Movement [ARM] agreed to pause until the passing of Queen Elizabeth II. The ARM had over two decades to come up with a new republican model, and it released the Australian Choice Model in 2022. It fell flat. It was a convoluted model expecting 11 eminent citizens would contest a presidential election. The ARM failed to recruit eminent constitutional law academics to assist in developing the model, but they did use focus groups to re-engineer a constitution. In response, none other than Paul Keating said that the country would be better off remaining a constitutional monarchy than experimenting with a United States-style presidency and that "Australia is safer and better with the diffuse and representative power structure it currently enjoys."

I would like to pay tribute to Professor David Flint, AM, the convenor of Australians for Constitutional Monarchy. David is the finest individual I have met in public life. For decades he has kept aflame the torch of constitutional monarchy. He is always at the barricades of one good cause after another. He is a perfect gentleman, a compelling columnist and endlessly entertaining company. Despite today's good news, we must never let our guard down. We should continue to educate Australians about the underappreciated but sound intellectual principles which underpin constitutional monarchy.

### COUNCILLOR MISCONDUCT FRAMEWORK

**Dr AMANDA COHN (18:26):** In Parliament, we are allowed to voice our opinions. When we think the government of the day has acted poorly, we are allowed to point this out and, indeed, we should. We can say whatever we like about anyone and anything under the protection of parliamentary privilege. But a level of government that we control is not afforded the same rights. I am speaking of local government and the councillors in 128 councils across New South Wales. I have firsthand experience of this inequity, because I spent five years as the deputy mayor of Albury.

The current code of conduct for councillors in New South Wales is ineffective. Instead of providing justice, it is used to gag, intimidate and shame political rivals. It is slow and expensive, lacks transparency, is inconsistent with the principles of natural justice and is frequently used for vexatious complaints over political disagreements. Its capacity to gag elected representatives has been augmented by a media policy from the Office of Local Government that would make a dictator proud.

I will give some examples. Councillor No. 1 brought a notice of motion to adopt a community group's petition to allow general access to a section of a local park rather than having it fully reserved by sporting clubs. The community group spoke at the meeting and was accused of gaining a private benefit by the receipt of the petition. The councillor was said to have a close personal relationship because they were Facebook friends with a member of the group and was slapped with a code of conduct complaint alleging that they had failed to declare an interest. How ridiculous. In this case, the conduct reviewer claimed that a conflict of interest exists regarding a public interest issue. How are councillors expected to do their job if they cannot raise public interest issues?

Councillor No. 2 discussed their opinion of the general manager's performance with other councillors. The councillor was accused of bullying. A full investigation and censure were thought warranted. This is clearly a waste of money. A councillor's role includes monitoring the performance of the general manager. This is cronyism, gagging and intimidation, paid for by the community under the pretence of the code of conduct.

Councillor No. 3 declared a pecuniary interest under a special interest disclosure and remained in the chamber during consideration of the item, which is allowed under special interest provisions. The Office of Local Government conducted a valuation of the councillor's property both before and after a fictitious subdivision to determine if the interest was pecuniary. It found that the property would be worth the same subdivided and that the interest was therefore non-pecuniary and the councillor was not able to use a special interest exemption. They were thus found guilty of misconduct. It is a pretty reasonable assumption that subdivision would result in a financial benefit, but apparently that property is unique.

The matter did not end there. Despite the Office of Local Government stating in its findings that the matter should not be referred back to council, the councillor's political opponents moved a no-confidence motion, retried the matter in a public council meeting, denied the councillor any right of reply, repeatedly and viciously attacked their motives—despite the Office of Local Government finding that the councillor had not acted for personal benefit—and went to town over social media in a response entirely disproportionate with the findings. They continue to do so, including via the mayor's official Facebook page, in an effort to damage an opponent's career and good name. The councillor has no right of appeal or review under the code.

Councillor No. 4 is a well-regarded disability advocate who disagreed with a decision their council made. They made a statement to a media outlet that the council had made a backward step, and they were hit with a code of conduct that found they had brought council into disrepute. They were subject to public censure and verbally in the media, accused of using a slur frequently directed at people with a disability. That has been deeply hurtful and damaging in the small community they live in. Of course, they have limited recourse because to speak out would be to bring council into disrepute. How ironic.

The code is clearly not serving councillors or the communities they represent. Councillors do their work for very low rates of remuneration, usually after hours, with no staff, and with accessibility to constituents that would terrify most State and Federal MPs. The good ones do it because they genuinely care about their local communities. The Office of Local Government conducted a review of the councillor misconduct framework and promised that review panels would be set up by June and that we would have new legislation on the table by September. It is now October, and councillors are still waiting for a system that provides them with justice, cannot be politically weaponised and allows their communities to trust local government. When will the New South Wales Government support councillors as elected representatives at an important level of government and not anything less?

### GAZA CONFLICT

**The Hon. ANTHONY D'ADAM (18:31):** We are witnessing a human catastrophe unfold in Gaza. In retaliation for the Hamas attack on 7 October, Israel has let bombs, bullets and white phosphorus rain down upon

the Palestinian people in an unjustifiable act of collective punishment. Let me be clear: I condemn the heinous actions of Hamas, and I feel deep sorrow for the senseless loss of innocent lives and for those who have been kidnapped and held hostage. This is a terrible tragedy. But one atrocity does not justify another. Hamas deserves no sympathy. However, no Palestinian civilian deserves to be killed for the crimes of Hamas. Israel must exercise restraint, and its response must be proportionate and compliant with international law and convention. Collective punishment is a war crime, and it can never be an appropriate response. Israel's actions have resulted in avoidable civilian casualties, and it should be condemned for that. Hamas does not represent the people of Palestine, and innocent civilians are not responsible for its actions. The reprisal killing of Palestinians, many of whom are children, is indefensible. Since the fighting erupted, over 3,000 Palestinians have been killed and around 12,000 Palestinians have been wounded.

The siege of Gaza must be lifted. Cutting off food, water, fuel and medical supplies in Gaza is a death sentence for thousands of innocent people. Hamas has been preparing for this moment and will have ample water and food. The real victims will be ordinary Palestinians, half of whom are children. Forcing one million people—half the population of Gaza—to move south, in conjunction with the siege, defies the rules of war and will result in massive devastation. The United Nations agency for Palestine refugees has reported that over 423,000 people have already been displaced. The Gaza Strip is one of the most densely populated places on the planet. Half of its residents are children. With nowhere safe to go and essential resources running out, only time will tell how many lives will be needlessly lost. The illegal occupation of Palestinian territories undermines any hope of long-term peace and security.

The Australian Government must take a stronger stand. It must call for an immediate ceasefire and seek the intervention of the international community to prevent the situation deteriorating further. It must use whatever influence it has over Israel to urge it to exercise restraint. All parties must put the protection of civilian lives at the forefront of their advocacy. There can be no doubt that this crisis is straining community cohesion in Australia. We must be mindful of the language being used around the issue, to ensure that it does not fuel antisemitism, Islamophobia and violence, which have no place in our society. I stand in solidarity with the Jewish and Palestinian communities who want the opportunity to mourn their loved ones and call for peace.

The conflict must not be used as a political wedge or an opportunity to incite tensions. Some of the language in the media and from some politicians has been dangerously inflammatory. It has been so inflammatory that the Director-General of ASIO, Mike Burgess, was compelled to make a rare public statement warning that "words matter" and that some of the language we have heard in this debate may fuel community tensions. As a result of the conflict, we have already seen a rise in antisemitic and Islamophobic incidents across the world. In one harrowing example in Chicago, a six-year-old Muslim boy, Wadea Al-Fayoume, was stabbed 26 times by his family's landlord. He said to the boy's mother, "You Muslims must die", as he attempted to choke her. In Australia, reports of Islamophobia have increased fourfold since the beginning of the current war. Just yesterday a man from Glenwood was charged after repeatedly harassing the Parramatta Mosque.

We must reject the weaponising of the conflict for cheap political pointscore, as we have unfortunately seen at times in this Parliament over the past two weeks. Governments and politicians on all sides must be careful to ensure that they use balanced language and avoid stoking tensions. One human life is not worth more than another. Palestinian lives matter just as much as Israeli lives. The people of Israel and Palestine both deserve the most basic right—the right to live. Israel must adhere to international law to ensure that the conflict does not escalate further and lead to more deaths of innocent people. Compassion, justice and humanity must guide the decisions of leaders towards a resolution of the conflict.

## HOUSING SUPPLY

**The Hon. CHRIS RATH (18:36):** I am an unapologetic yimby, and no amount of criticism of my speech last week will deter me. It has always been good policy to be a yimby, but it is also increasingly good politics. My party, the Liberal Party, faces a demographic wave of voters who are not shifting to conservatives as they get older. One key reason is that they do not own their own home. One cannot become a conservative if one has nothing to conserve. Robert Menzies understood that challenge in the 1950s when he successfully championed and encouraged home ownership during his long tenure in government. In 1949, when he was first elected to government, home ownership in Australia sat at around 50 per cent. When he left office, it had increased to over 70 per cent.

Home ownership rates among gen Z and millennials are rapidly approaching levels not seen since the 1940s. My generation is inherently aspirational, but the extraordinary cost of housing is crushing the housing dream of young people. Many have given up the aspiration of owning their own home altogether. The crisis requires urgent reform. Density, and amenity and beauty, are not mutually exclusive. We can work towards building quality dense developments. Street Level Australia, Building Beautifully and Sydney YIMBY do an excellent job at highlighting transit-orientated development done well and organising against selfish nimby

opposition to quality developments. In fact, in his excellent research, Dr Peter Tulip from the Centre for Independent Studies—a well-known yimby—found that house prices near big developments typically move at the same rate as they do in other suburbs, so there does not seem to be any serious damage to the neighbourhood amenity. No doubt the main reason that reasonable high-density projects are often rejected is the ancient and cumbersome New South Wales planning system.

I highlight some of the excellent comments by the Minister for Housing in question time yesterday. She said, "The current planning system in New South Wales is not fit for purpose", and, "We have already started the process of reforming the planning system". The Minister is absolutely correct. I like the Minister. I like that she is a yimby just like me. But I do not like that, in this very place, Labor rejected the Coalition's attempt at wholesale reform of the New South Wales planning system in 2013. If Labor had offered a bipartisan approach to planning, we would not have had 10 years of inaction.

Labor's hypocritical approach to housing supply and planning does not end there. Minister Kamper's chief of staff, a councillor on Bayside Council, voted to defer a planning proposal to redevelop public housing in Mascot. When asked about it in Parliament on 29 June 2023, Minister Kamper gave vague support for his chief of staff's decision on council by stating:

... my chief of staff ... was not happy with the actual scheme because it was not adequate. That is who I support. I support his position.

I was elated when Minister Jackson called out Bayside Council for their nimby approach to planning by stating on 29 June 2023 that she was:

... disappointed at the decision to defer the application made by the Land and Housing Corporation to develop more housing in Mascot. I consider it to be a suitable location.

I encourage Minister Jackson to continue to hold her ministerial colleagues to account when they preference nimbyism over adequate supply of housing in their communities. Likewise, the Premier on Tuesday commended my approach to housing and planning. However, may I remind him that when he was a humble Opposition MP in 2019, he sent a letter to the then Berejiklian Government urging it to stop a 19-storey overdevelopment above Kogarah train station. He complained that Kogarah had been "inundated with major residential developments right along the rail corridor" and it was wrong to force residents to deal with "the negative externalities of such an increase in population". Furthermore, the Minister for Transport, the Hon. Jo Haylen, stood with nimbys in her area in March 2019 to oppose the development of additional housing in Carrington Road, Marrickville. She said:

I'm proud to have stood shoulder to shoulder with local residents opposed to this mass rezoning and will continue to work with residents to grow our suburbs in a way that nurtures everything we love about the inner west.

What is disappointing is that Carrington Road, Marrickville, is situated between not one but three heavy rail stations, including Marrickville, Tempe and Sydenham stations. Creating a nation of home owners and mini-capitalists is not only good policy, it is also good politics.

## INDUSTRIAL MANSLAUGHTER LAWS

**The Hon. MARK BUTTIGIEG (18:41):** In the remaining time, I want to make special mention and congratulate the Minister for Industrial Relations who last night announced a landmark reform that will be brought to this Parliament next year; that is, the offence of industrial manslaughter. This is on top of significant industrial relations reforms that this Government under that Minister has already brought to the Parliament, such as the Work Health and Safety Amendment Bill 2023, the State Insurance and Care Governance Amendment (ICNSW Board) Bill, the Explosives Amendment Bill, the Crimes Legislation Amendment (Assaults on Retail Workers) Bill 2023, and the State Insurance and Care Governance Amendment (ICNSW Governance) Bill.

The bill that the Government will bring to the Parliament next year after consultation is very important. The catalyst was, of course, the tragic death of young Christopher Cassaniti in 2019 when scaffolding collapsed. The companies were found liable but the fines were collectively \$900,000 for GN Residential Construction, the principal contractor, and the company that was employed to design the scaffolding, Synergy Scaffolding, was fined only \$2 million. The value of these laws will be that if a company director or office holder is found to be culpable or negligent, they will be prosecutable and can go to jail.

This is an extremely important reform, which other jurisdictions have brought in. We on this side tried to have it introduced in the last Parliament, but that was objected to by those opposite. I am very proud to be the Parliamentary Secretary for Industrial Relations under this Minister in a government that is bringing legislation to this Parliament to finally make these crimes prosecutable. No-one should go to work and not come home safely because a boss or a company feels as though they can get away with it as part of the business model and the normal cost of doing business. I congratulate Christopher's parents, Patrizia and Rob Cassaniti, in particular for



campaigning on this and being the catalyst for very important legislation that will hopefully stop these deaths in the future.

**The DEPUTY PRESIDENT (The Hon. Emma Hurst):** The question is that this House do now adjourn.

**Motion agreed to.**

**The House adjourned at 18:43 until Tuesday 21 November 2023 at 12:30.**