LEGISLATIVE COUNCIL

Thursday 21 March 2024

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.

Bills

CONVERSION PRACTICES BAN BILL 2024

First Reading

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

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

Statement of public interest tabled.

The Hon. PENNY SHARPE: 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. PENNY SHARPE: 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.

Motions

AUDITOR-GENERAL MS MARGARET CRAWFORD

The Hon. DANIEL MOOKHEY (Treasurer) (10:03): I move:

(1) That this House thanks the Auditor-General, Ms Margaret Crawford, for her service to New South Wales since being appointed in April 2016.

(2) That this House notes that Ms Crawford:

(a) was the first woman appointed as Auditor-General for New South Wales;

(b) worked extensively across a range of public sector areas;

(c) oversaw the expansion of the Audit Office's mandate to include audits of local and county councils, "follow the dollar" powers, and access to confidential information for the purposes of audit; and

(d) led numerous initiatives to increase inclusivity and diversity at the Audit Office.

(3) That this House wishes Ms Crawford the best in her future endeavours.

Motion agreed to.

TRIBUTE TO JOHN TAYLOR

The Hon. ROBERT BORSAK (10:03): I move:

(1) That this House acknowledges the significant and lifelong contribution to New South Wales and world karate of Hanshi John Taylor, who died on 27 September 2023.

(2) That this House notes that:

(a) Mr John Taylor was born on 6 June 1941, he emigrated to Australia in 1963 and settled in Burwood, Sydney;

(b) Mr Taylor commenced karate training in Sydney in 1963, and continued his training at the world headquarters in Japan in 1970 to 1971 where he trained as an uchi-deshi (live-in student) for an incredible and challenging 395 days, and upon returning to Australia he was elected Chairman of the Australian Kyokushin Karate Association, a position that he held until his death;

(c) in 1974 Mr Taylor was a founding member of the Australian Kyokushin Karate Association when it was established;

(d) in 1975 Mr Taylor was a founding member of the Federation of Australian Karate-do Organisations [FAKO], now known as the Australian Karate Federation, a government-sponsored group, and Mr Taylor:

(i) was elected president of the New South Wales branch;

(ii) was one of the foundation members of the federation of the Australian Karate-do Organisations and was elected the New South Wales president in 1977;

(iii) was responsible for organising the first Australian Full-Contact Karate Championships in 1977;

(iv) in 1977 he was elected as the coach of the Australian team for the World Kyokushin Open Karate Championships and held the position until retiring from the post in 1987; and

(v) by 1977 he had obtained the rank of 7th dan, making him one of the five highest grades in the world in this karate system;

(e) in 1988, as part of the Australian Bicentenary, Mr Taylor organised the first Commonwealth Kyokushin Championships in Sydney;

(f) in 1988 he was elected the vice-president of the World International Kyokushin Karate Organization, and:

(i) in 1999 he was promoted to 8th dan hanshi;

(ii) in 2000 he was awarded the Australian Sport Medal for karate by Queen Elizabeth II;

(iii) in 2004 he was nominated for Australian of the Year; and

(iv) in 2007 he was promoted to 9th dan by the International Karate Organization, Kyokushinkaikan Matsushima, which today has 160 branches in 60 countries, in which Mr Taylor was the second highest grade master in this significant world organisation.

(g) despite his very high grade and position with all its demands Hanshi Taylor always made time to attend and support training, gradings for all levels and tournaments from elite level world championships to kids AMAC tournaments here in Sydney; and

(h) Hanshi John Taylor was a family man, a karate master, a teacher and mentor to many in the martial arts world from beginners to senseis and even kanchos or martial arts grand masters here in New South Wales, Australia and around the world, including Kancho Ino Maquirang of Jin Sei Ryu Karate International, who drew Hanshi Taylor's significant achievements and contribution to the attention of the Hon. Robert Borsak.

(3) That this House acknowledges that Mr John Taylor, a Hanshi 9th dan karate master, made a significant contribution to New South Wales, Australia and world karate over 60 years, and that Hanshi John Taylor's spirit will forever dwell in the shinzens of the dojos fortunate enough to have him visit or train in—gassho and Osu!

(4) That this House extends condolences for the significant loss to Mr Taylor's family, extended budo family and karate community here and around the world from his passing on 27 September 2023.

Motion agreed to.

PETER MYLONAS

The Hon. ROBERT BORSAK (10:04): I move:

(1) That this House notes:

(a) that on 17 March 2024, the International Karate Organisation Kempo Genbu Ryu, run by Mr Peter Mylonas will host the Twenty-eighth Sydney Junior Games and All Australia Karate Championships at The Rocks in Sydney; and

(b) the significant and ongoing contribution that Mr Peter Mylonas has made to Australian and world martial arts over the past 46 years through his training, instruction, leadership as the Kancho or head of school and the establishment and development of the International Karate Organisation Kempo Genbu Ryu, the Australian Martial Arts Championships and the World Martial Arts Championships.

(2) That this House notes that:

(a) Mr Mylonas started training in the kempo dojo of Mr Bob Wright in Sydney Australia in October 1978;

(b) in 1985 Mr Mylonas was an Australia Karate Champion and gained his karate black belt in June 1986;

(c) in 1986 his karate teacher Sensei Wright relocated away from Sydney and a very young Mr Mylonas began teaching karate while still competing in championship tournaments, taking second place in Ed Parker's IKKA Championships and also again winning in the Australia Karate Championships;

(d) in 1993 the Kempo Genbu Ryu International Karate Organisation was established with Mr Mylonas as the chairman and chief instructor with the official Hombu Dojo for the organisation in Sydney;

(e) in 2005 Mr Mylonas built the new and current Hombu Dojo for the Kempo Genbu Ryu International Karate Organization at its current location in Blacktown, Sydney;

(f) in 2006 Mr Mylonas was appointed as an International Karate Organisation judge/referee, the first non-Kyokushin stylist for the International Kyokushin Matsushima Organisation. He was also invited to partake in the International Karate Organisation Kyokushin World Cup held in Sydney;

(g) in 2009 Mr Mylonas was invited to attend the Twenty-ninth Shidokan All Japan Karate Championships on behalf of Kancho Soeno and Shihan Ryuitchi Mizutani;

(h) in 2010 Mr Mylonas established the Japan Karate Organisation Kempo Ryu, the Japan Martial Arts Championships in Tokyo and in 2011 he hosted the first All-Japan Karate Championships Kempo Ryu, also sanctioned by Japan Martial Arts Championships, with athletes from Australia, New Zealand and Asia partaking in this event;

(i) in 2023 Mr Mylonas was awarded the 8th dan grade and the title of Kancho, by industry and organisation head instructors in Japan and Australia;

(j) Mr Mylonas represents Australia in various countries around the world, namely in Japan, at various karate and martial arts competitions as a VIP or official (judge/referee); and

(k) Mr Mylonas is acknowledged in Japan as Australia's senior instructor and leader and is respected as the "western" Samurai and known as the "small brother" to Japan's living karate legend Mr Yoshiji Soeno, 10th dan.

(3) That this House further notes that:

(a) the Australian Martial Arts Championships is the Australian branch and flagship of the World Martial Arts Championships [WMAC], which has been in operation since 1993 and across Australia since 2008;

(b) the WMAC is currently running over 20 tournaments throughout the year in four Australian States, namely New South Wales, Queensland, Victoria and Australian Capital Territory, which includes a number of regional tournaments; and

(c) Mr Mylonas organises and runs 17 tournaments per year with over 3,500 children and adults competing from ages five to 70 from a number of karate styles and martial arts systems.

(d) Mr Mylonas's commitment to continue his work teaching Kempo Genbu Ryu and spreading the "Spirit of Osu" (the Karate Spirit) in his teachings and bettering people's lives via the principles of the Budo way; and

(e) Mr Mylonas's commitment to establishing and developing the WMAC organisation in countries around the world, uniting the spirit of competition with the spirit of the martial way and demonstrating to the general community the power of positive martial art influences in people and society.

(4) That this House acknowledges the very significant contribution to New South Wales, Australia and the karate world over 46 years and the positive benefit to the physical and mental health, and the lives of thousands of people over that time. Gassho and Osu!

Motion agreed to.

TRIBUTE TO CHRISTOPHER PRATTEN

The Hon. ROBERT BORSAK (10:04): I move:

(1) That this House notes Mr Christopher Hugh Pratten's significant lifetime contribution to the preservation and conservation of the natural, historical and built environment in New South Wales.

(2) That this House further notes that:

(a) on Thursday 7 March 2024 Mr Christopher Pratten died in Royal Prince Alfred Hospital, aged 89 years;

(b) Mr Pratten made a significant contribution to the preservation and conservation of New South Wales' cultural, social, built and environmental heritage over a period of 70 years;

(c) Mr Pratten was born at St Luke's Hospital in Darlinghurst in September 1934 and was the youngest of three Pratten boys;

(d) Mr Pratten loved taking holiday trips on the train to Amaroo, the family property near Orange;

(e) Mr Pratten graduated from the University of New South Wales with a Bachelor of Science in wool and pastoral science in the mid-1950s;

(f) after leaving university the family property Amaroo was split with his brother Geoff and Chris took on ownership and management of his part of the property, Koolewong, where he was an owner-occupier farmer for 30 years on this mixed grazing and cropping farm;

(g) from an early age, Mr Pratten was enthusiastic about conservation, be it conservation of native plants, animals, birds, soil, buildings, antiques, et cetera;

(h) he fenced off hundreds of acres of Koolewong from stock in the 1960s to form his arboretum, built dams for ducks and planted trees for native birds and wildlife;

(i) in 1974 Mr Pratten and several other people established the Orange Field Naturalists and Conservation Society due to growing concerns over impacts of development on the natural environment on the Central Tablelands, and was the initial president, holding that position for 10 years;

(j) while living in Orange he taught at Orange TAFE, getting a wildflower course established;

(k) he also presented a TV program in Orange, *Lament of the Rural Gum*, with the late Peter Andren, and during this time also joined the Ashfield and District Historical Society [ADHS];

(l) in 1984 Mr Patten accepted a position with the National Trust and moved to Sydney, where he oversaw the environmental section of the trust;

(m) he found and purchased a historical house to restore in Summer Hill and joined the Summer Hill Action Group in 1984 and was a very active member, campaigning and lobbying for conservation and preservation of the local cultural, historical and natural environment;

(n) in 1990 Mr Pratten commenced working as a heritage consultant and over the next 10 years worked mainly in the south-west of Sydney on significant historical industrial and mine sites as well as the large North Sydney gasworks site;

(o) during his time in Sydney, Mr Pratten worked for the Nature Conservation Council, the National Trust and the Australian Conservation Foundation, where he joined Jack Mundey to stop developers demolishing significant buildings around Sydney;

(p) Mr Pratten was a member of the Ashfield and District Historical Society for half his life, becoming its president in 1993;

(q) it was whilst he was a member of the ADHS that in 1972 they managed to have a preservation order placed on the villa named Northridge in Victoria Street, Ashfield, which saved the 1885 property, and that the Hon. Robert Borsak, MLC, subsequently purchased in 1991, in a very poor and dilapidated state of repair;

(r) over the next 30 years Mr Pratten wrote numerous journal articles as well as several historical books on the Ashfield and Summer Hill areas, including an historical journal on Northridge in Ashfield and books about his grandfather, his family's brickworks and cordial works, Ashfield and his beloved Amaroo;

(s) in 2005 Mr Pratten was awarded an OAM for service to the environment and to the conservation of natural and built heritage areas as a grazier, educator and administrator; and

(t) in October 2023 Mr Pratten took his last trip to Orange to launch the book *Orchids of Central Western NSW*, and his speech at the launch at the age of 89 was nothing short of brilliant.

(3) That this House acknowledges the significant lifelong contribution Mr Pratten has made to the preservation and conservation of the cultural and historical environment of New South Wales and did not shy away from controversy in his pursuit of this in an age when development and demolition of important sites and historical buildings was an everyday occurrence, for which all citizens of New South Wales are in his debt.

(4) That this House extends condolences for the significant loss to Mr Pratten's family from his passing on 7 March 2024. May he rest in peace.

Motion agreed to.

EILEEN O'CONNOR SCHOOL

The Hon. SUSAN CARTER (10:04): I move:

(1) That this House congratulates Catholic Schools Broken Bay and the Catholic Diocese of Broken Bay on the establishment of the Eileen O'Connor School.

(2) That this House notes that the Eileen O'Connor School:

(a) provides inclusive education for all students;

(b) will provide specialist education at a base school at Tuggerah; and

(c) will also include a network of support classes throughout Catholic Schools Broken Bay.

(3) That this House notes that one in 12 school-age children have a disability.

(4) That this House recognises that every student has ability and that the Eileen O'Connor School will provide the additional support needs experienced by some families and children, focusing on developing student strengths, and allowing all children in a family to be educated together.

Motion agreed to.

TAIWAN ELECTION

The Hon. JACQUI MUNRO (10:05): I move:

(1) That this House congratulates the people of the Republic of China (Taiwan) on successfully conducting their eighth democratic presidential election on Saturday 13 January 2024.

(2) That this House notes that the Republic of China (Taiwan) conducts elections manually, including casting and counting votes on paper and where:

(a) counting takes place publicly;

(b) each ballot is held aloft for public scrutiny and declared aloud by a poll worker; and

(c) counting can be videoed by members of the public to encourage fact-checking.

(3) That this House acknowledges the value of increasing public participation in vote counting to combat misinformation and strengthen the legitimacy of democratic elections.

Motion agreed to.

SHARE DIWALI CELEBRATION

The Hon. MARK BUTTIGIEG (10:05): I move:

(1) That this House notes that:

(a) on 17 November 2023, SHARE held a Diwali celebration in Chatswood, which the Hon. Mark Buttigieg, MLC, was honoured to attend, make a speech and light a lamp at the invitation of Ku-ring-gai councillor Barbara Ward, representing the Minister for Small Business, Minister for Lands and Property, Minister for Multiculturalism, and Minister for Sport, the Hon. Stephen Kamper, MP;

(b) SHARE has been working for decades to provide affordable exercise and specialised wellbeing classes to people over 50;

(c) the work of SHARE spans across 55 local government areas and services around 4,500 people in New South Wales;

(d) the Diwali celebration offered an opportunity for the SHARE community to connect and celebrate Diwali, the Festival of Lights; and

(e) many parliamentarians, councillors and community leaders attended the event.

(2) That this House congratulates SHARE, including its president, Councillor Barbara Ward, for working so hard to put on the great event.

Motion agreed to.

BOWEN COMMUNITY TECHNOLOGY CENTRE

The Hon. SAM FARRAWAY (10:06): I move:

(1) That this House notes that:

(a) the Bowen Community Technology Centre is a not-for-profit facility overseen by the Bowen Residents Action Group;

(b) the centre is a community-run facility for the benefit of Orange residents who require assistance with letter writing and reading or who need help with their computer needs; and

(c) in 2007 Ms Paula Townsend, with the support of Orange City Council, was able to secure two computers and a dedicated room where local children were able to visit after school for assistance with their homework and use modern technology to support their study.

(2) That this House acknowledges that:

(a) since the Bowen Community Technology Centre was first established, the centre has assisted over 40,000 residents, including disadvantaged children; and

(b) Ms Townsend has worked tirelessly for over 15 years to improve outcomes for marginalised residents who do not have access to computer technology for the Bowen community.

(3) That this House congratulates Ms Townsend on being awarded the 2024 Orange Woman of the Year for her ongoing commitment to the local community.

Motion agreed to.

Committees

REGULATION COMMITTEE

Reports

The Hon. NATASHA MACLAREN-JONES: I table the report of the Regulation Committee entitled *Delegated Legislation Monitor No. 2 of 2024*, dated 21 March 2024.

Documents

AUDITOR-GENERAL

Reports

The CLERK: According to the Government Sector Audit Act 1983, I announce receipt of a Special Report of the Auditor-General entitled *Regulation insights*, dated 21 March 2024, received out of session and published this day.

TABLING OF PAPERS

The Hon. DANIEL MOOKHEY: I table the following papers:

(1) AGL—Sale and Purchase Agreement (Macquarie Generation Assets), dated 12 February 2014.

(2) AusGrid—

- (a) Sale and Purchase Agreement, dated 20 October 2016;
- (b) Sale and Purchase Agreement – Amendment Agreement, dated 7 April 2017; and
- (c) Sublease Deed, dated 1 December 2016.

(3) Endeavour Energy—

- (a) Sale and Purchase Agreement, dated 11 May 2017;
- (b) Sale and Purchase Agreement – Amendment Agreement, dated 7 June 2017; and
- (c) Sublease Deed, dated 14 June 2017.

(4) Energy Australia—

- (a) Sale and Purchase Agreement (Delta Western Assets), dated 25 July 2013;
- (b) Schedule 6 of Sale and Purchase Agreement, dated 28 August 2013;
- (c) Schedule 8 of Sale and Purchase Agreement, dated 27 August 2013;
- (d) Schedule 10 of Sale and Purchase Agreement, dated 25 July 2013;
- (e) Schedule 12 (part 1 of 3) of Sale and Purchase Agreement, dated 28 August 2013;
- (f) Schedule 12 (part 2 of 3) of Sale and Purchase Agreement, dated 28 August 2013;
- (g) Schedule 12 (part 3 of 3) of Sale and Purchase Agreement, dated 28 August 2013;
- (h) Schedule 15 of Sale and Purchase Agreement;
- (i) Schedule 16 of Sale and Purchase Agreement, dated 25 July 2013;
- (j) Schedule 17 of Sale and Purchase Agreement, dated 22 July 2013; and
- (k) Schedule 18 of Sale and Purchase Agreement, dated 29 August 2013.

(5) NSW Ports—

- (a) Port Botany Port Commitment Deed, dated 31 May 2013;
- (b) Port Botany Sale and Purchase Agreement (excluding annexures), dated 12 April 2013;
- (c) Port Kembla Port Commitment Deed, dated 31 May 2013; and
- (d) Port Kembla Sale and Purchase Agreement (excluding annexures), dated 12 April 2013.

(6) Origin Energy—

- (a) Contamination Liabilities Deed, dated 1 July 2013;
- (b) Sale and Purchase Agreement (Eraring Energy), dated 1 July 2013;
- (c) Schedule 6 of Sale and Purchase Agreement (Eraring Energy), dated 1 August 2013;
- (d) Schedule 9 of Sale and Purchase Agreement (Eraring Energy), dated 1 August 2013;
- (e) Schedule 10 of Sale and Purchase Agreement (Eraring Energy), dated 1 August 2013;
- (f) Schedule 12 of Sale and Purchase Agreement (Eraring Energy);
- (g) Schedule 13 of Sale and Purchase Agreement (Eraring Energy), dated 1 August 2013;
- (h) Schedule 14 of Sale and Purchase Agreement (Eraring Energy), dated 23 July 2013;
- (i) Schedule 15 of Sale and Purchase Agreement (Eraring Energy), dated 31 July 2013;
- (j) Schedule 16 of Sale and Purchase Agreement (Eraring Energy), dated 31 July 2013; and
- (k) Schedule 17 of Sale and Purchase Agreement (Eraring Energy), dated 30 June 2013.

(7) Port of Newcastle—

- (a) Port Commitment Deed, dated 30 May 2014; and
- (b) Sale and Purchase Agreement (excluding annexures), dated 30 April 2014.

(8) Snowy Hydro—Sale and Purchase Agreement (Colongra Assets), dated 29 December 2014.

(9) Sunset Power TA Delta Electricity—

- (a) Purchaser Guarantee Deed, dated 19 November 2015;

(b) Sale and Purchase Agreement (Vales Point Assets), as amended and restated, dated 17 August 2018; and

(c) Vales Point Post Closure and Put and Call Option Deed, as amended and restated, dated 17 August 2018.

(10) TransGrid—

(a) Sale and Purchase Agreement, dated 25 November 2015;

(b) Sublease Deed, dated 16 December 2015.

Ministerial Statement

ASSET PRIVATISATION

The Hon. DANIEL MOOKHEY (Treasurer) (10:07): I wish to make a ministerial statement. Honesty, transparency and freedom of information allow for scrutiny, accountability and fairness. They are principles of good government and they were commitments Labor gave to the people of New South Wales at the last election in respect to privatisation. Today I am proud to meet those commitments and to release the contracts which spell out details about the privatisation of the Port of Newcastle, Port Botany and Port Kembla, and the sale of five power stations, including Eraring and Vales Point. The four boxes of contracts which I provide to the people of New South Wales and their Parliament reveal what the former Government chose not to release for more than a decade. Presenting these documents meets a commitment that the Labor Party made to the people of New South Wales at the last election.

It should not have taken a change of government for the public to know the full terms of the sale of its assets. Upon our election, I wrote to the owners of the three ports and five power stations privatised by the former Government and asked them to cooperate in this exercise in transparency. I thank them for their cooperation. When it comes to transparency, corporate Australia has indeed outpaced the former Government. These documents are unfortunately not just historical; they reveal future payments which the next generations of citizens may have to bear.

I want to take members through some of the details, especially of the ports contracts, in respect to the State's liability exposure. According to preliminary analysis by Treasury and Deloitte Access Economics, New South Wales potentially faces between a $600 million and as much as a $4.3 billion liability going out to 2063, should some of the terms of sales of our ports be triggered. That is on top of the fact that the State no longer owns, receives revenue from or controls these vital assets. I remind members that the previous Government sold Port Botany for $4.3 billion and Port Kembla for $760 million, as well as Port of Newcastle for $1.75 billion. These sales took place in May 2013 and May 2014.

The contracts include clauses which require New South Wales to compensate the owners of NSW Ports if Port of Newcastle ever builds capacity above 30,000 containers per year, with that number escalating. Port of Newcastle is also contractually required to compensate the New South Wales Government for the same. Members would recall that the Parliament enacted the Port of Newcastle (Extinguishment of Liability) Bill 2022, which provides a process for which Port of Newcastle can terminate these clauses of its contracts in exchange for a payment to be determined. However, the New South Wales Government remains liable to compensate NSW Ports.

The Independent Pricing and Regulatory Tribunal is undertaking its work and will shortly complete its determination, as required by that legislation. That is an independent process and, of course, I make no comment about it. But it is fair to say that should the liability under the contracts entered into by the former Government and the owner of Port Kembla and Port Botany be triggered, then Deloitte modelling shows that the potential liability is between $600 million and $4.3 billion to 2063. I turn to some of the details that are contained in these documents as they apply to electricity sales. During the previous Government's decade of privatisation, it sold five power stations. These contracts reveal that the former Government also allowed them to be structured so that stamp duty was either hidden, discounted or otherwise written off. Had stamp duty applied to the transaction values in the normal way, as much as $129 million would have been due.

When Macquarie Generation was sold for $1.725 billion, the stamp duty that could have been payable was as much as $94.8 million; when Delta Energy sold Colongra for $234 million, the stamp duty that could have been payable was as much as $12.9 million; when Delta Energy's western assets were sold for $160 million, the stamp duty that could have been payable was as much as $8.8 million; when Eraring was sold for $50 million in 2013, the stamp duty that could have been payable was as much as $2.735 million; and when Vales Point was sold for $1 million, the stamp duty that could have been paid was $40,490. It is unclear how much, if any, of this stamp duty the buyers of these assets paid. It is for the former Government to explain whether or not that stamp duty was included in the value of the contracts. It is equally incumbent upon the former Government to explain why it never revealed at the time whether the sale price included stamp duty.

I turn to toll road privatisations. From its first term until its last term, the previous Government embarked upon a series of road privatisations, making Sydney the most tolled city in the world. The public no longer owns all or either part of the M2, the M4, the M5 East, the M5 South-West, the M7, the M8, the M4-M8 link, NorthConnex, Lane Cove Tunnel, the Cross City Tunnel and the Eastern Distributor. All were either partially or fully privatised. The interim toll review report released this month revealed that Sydney's toll road network is a patchwork of price structures that will cost motorists $195 billion in nominal terms over the 3½ decades to come. The report shows that the high price of tolls in New South Wales discourages the efficient use of toll roads and states that our road system was designed to deliver financial returns to toll road operators ahead of managing traffic in the most efficient way. The report arose from the deals that the previous Government entered into. This Government has already flagged the reform process that it is embarking upon so that it can deliver a better outcome for families and better utilisation of the State's road network.

Though these contracts have been hidden for more than 10 years, the public has seen the pain that they have led to every day. In New South Wales the cost-of-living crisis is worse because of a decade of privatisation. The sale of tens of billions of dollars' worth of public assets has turned families into the prey of private monopolies. It is why New South Wales is home to the most tolled city in the world, why New South Wales families are paying more for their power and have less control of their energy future than families living in States like Queensland that still own their electricity assets, and why the people of the Hunter and elsewhere have not been able to make decisions about the future use of their ports without constraints imposed upon them through contracts. Privatisation may have temporarily propped up the former Government's budget, but its results are clear for all to see today: It is draining family budgets.

This weekend will mark one year since the people of New South Wales voted to end privatisation in favour of transparency. In the year since, the Government has introduced a $60 weekly cap on tolls; provided energy bill relief; given more stamp duty relief to more first home buyers who need it, not power companies that do not; and brought down State debt for the first time ever without privatising any more public assets. Now it is reviewing the information that surrounded these transactions. I make it clear that it should not have taken a change in government for the people of New South Wales to have the full facts available to them to make their minds up as to whether or not these were good deals. Privatisation has set the State back. We can plan for a future where public investment in innovation can once again thrive in New South Wales, but it requires the Government to be transparent about what governments do and do not do. The Government tables these documents to meet its election commitment. The people of New South Wales should have been able to see these documents a decade ago. They can see them now, and it is for them to judge whether or not the previous Government got the State value.

The Hon. DAMIEN TUDEHOPE (10:17): I acknowledge that the Treasurer has made good his stunt. In many respects, it is offensive to the House that he gave a briefing to the media before he made a statement in this place about the rationale behind how he fulfills what he sees as his obligations for disclosing contracts. Why would we be surprised that any government enters into contracts with other parties in good faith, with a view to ensuring that we get the best deal for the people of New South Wales?

The PRESIDENT: Order! The Treasurer was heard in silence; the Leader of the Opposition will be too.

The Hon. DAMIEN TUDEHOPE: It is not surprising that any government seeks to enter into a contract to get the best deal for the people of the State. When contracts are entered into, the protection for releasing documents is generally not the Government's decision; it is the contracting party's decision. I acknowledge that the Treasurer has accepted and sought—probably under duress, but that is for another discussion—to release the documents, which he says was an election commitment. Now here they are and the people will be able to see. But what do people see every day? They see the product of good government when the Coalition was in government.

Every day people drive on the roads that we built and see the hospitals that we constructed. We were able to deliver quality of life for the people of New South Wales and they see it. The Treasurer talks about looking after families, but the former Government renovated the hospitals, delivered the schools and the railway lines, and delivered the infrastructure to renovate the State. Those opposite would never ever be able to do that because they have no vision to enhance the quality of life for the people of this State.

What have we received from the Government in the 12 months that it has been in office? It has cut benefits for families: Active Kids rebates go out the door, Creative Kids rebates go out the door and regional travel cards go out the door. This Government is committed to impacting on the lives of families. Electricity prices have gone through the roof because those opposite have no plan for bringing them down. This has been a year of disgrace; a year when the people of New South Wales have seen their standard of living go backwards. Those opposite have no idea about what they want to see for the people of this State in the future.

What have they done? All that those opposite have done is open projects, which we delivered but they cut the ribbon on. That is all the infrastructure they have delivered for the people of this State. The problem we have

with members of the Government is epitomised by the fact that they attack our health system and attack dying people by cutting palliative care for them at the end stages of their lives. It is emblematic of the way in which Government members view the lives of the people in this State. Rather than seeking to improve health services, they cut services for the people who deserve them and who are impacted by it the most.

When the Treasurer comes into the Chamber, does his stunt and says, "We have been elected to get rid of privatisation," he should get Treasury to model the benefits that the people of New South Wales have received for every contract that the previous Government entered into. Those benefits are manifold. Ask commuters on the North West Rail Link about the train lines that are currently being delivered. This Government has no idea how it will fund them and no vision about how it will deliver them.

What projects has the Government announced that is has funded and is proposing to deliver? Tell me one. What has the Government done in the past 12 months that has been for the benefit of the people of this State? In many respects we have had a litany of incompetent Government members. Look at the performance of the police Minister and the scandals that have beset her. Look at the performance of Tim Crakanthorp. Those are the things that are emblematic of this Government. It is the same old Labor. When Labor was last in government and privatised assets, what did it do? It had Ministers who put the money in their pockets. At least when the former Government privatised assets, it delivered assets for the people of the State.

The PRESIDENT: Order! There are too many interjections by members on both sides of the Chamber.

The Hon. DAMIEN TUDEHOPE: Government members worry about this, don't they? They put the money in their pockets. They had Ministers who said, "We will sell an asset because there is a benefit we can put in our pocket." That is the nature of the way in which these people operate. The former Government had a history of delivering for the people of the State. Every one of those documents states that the former Government delivered improvements to this State's asset holdings. When the Treasurer does his Treasury modelling, he should include the benefits that the people of New South Wales have received—all the times that they get home to their families earlier because the former Government built new roads. The housing policy that the Government is now seeking to implement is predicated on the delivery of our infrastructure. That is how those opposite deliver housing policy. But they cannot deliver housing policy unless they have the infrastructure to support it. The Treasurer knows that, but he has no plan to implement it.

The Treasurer delivered his boxes of documents today and assured those people who are party to the contracts that there will be consequences if they do not deliver. The Government delivered copies of the contract and it is happy for people to see it. But when it tells people that it is happy for them to see the contract it should tell the full story. The story is a good one because the former Government's record is worth supporting. It delivered assets for the people of this State. Every hospital we renovated and every school, road and railway line we delivered went to the people of this State. Those opposite have no plan for the future. I thank the Treasurer for his little stunt this morning; it is all part of his election commitment. I am proud of the things that the former Government delivered for the people of this State.

The Hon. Natalie Ward: Point of order: Mr President, I was reluctant to interrupt the ministerial statement and stunt by the Treasurer, but I draw your attention to the fact that the Hon. Courtney Houssos was taking photographs of the stunt in the Chamber. I note that taking photographs is prohibited in the Chamber. I draw your attention to the ruling of the Hon. Amanda Fazio that members must not use mobile phones to take or receive calls. The taking of photographs in the Chamber with a mobile phone is prohibited under the ruling. I ask you to remind members of that. It is going to be a long day and I ask you to remind the Hon. Courtney Houssos that taking photos of the stunt and her obsession with TikTok must stop.

The PRESIDENT: Order! I did not see the suggested activity. Nonetheless, I acknowledge the point of order taken by the Hon. Natalie Ward. I remind members that utilising their phones to take photographs in the Chamber is inappropriate and unparliamentary.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. PENNY SHARPE: I postpone Government business notices of motions Nos 1 to 3 until a later hour of the sitting.

SUSPENSION OF STANDING AND SESSIONAL ORDERS: HARD ADJOURNMENT

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (10:41): I move:

That Standing Order 34 relating to the hard adjournment at 10.00 p.m. be suspended for Thursday 21 March 2024 only.

I will not speak for long on this matter. I am seeking to suspend the hard adjournment for today. We have a significant amount of business that we wish to progress. I am seeking the support of the House so that we can get that work done before we go on a five-week break.

The Hon. DAMIEN TUDEHOPE (10:42): It is an astonishing request that the Government is bringing by way of this motion. Let us start by looking at the performance of the Government over the past five sitting days. On Tuesday 19 March we finished at 6.30 p.m. On Thursday 14 March we finished at 4.16 p.m. On Tuesday 12 March we finished at 5.54 p.m. On Thursday 8 February we finished at 8.08 p.m. On Tuesday 6 February we finished at 6.40 p.m. This House should not be forced to sit through the night because the Government is incapable of organising its legislative agenda. The number of hours the Government wasted by going home early could have given us ample time to deal with the bills before us today. The sun was still up last Thursday when the Government decided that it had no business. They were out in time for happy hour, but most bars had not even opened.

It is a discourtesy to this House to schedule significant matters and then seek to tear up the rules that members opposite put in place in 2019. This is after the Government rejected a short committee referral on one of the bills—a bill that does not even commence until one year after its passing. Where did the sudden urgency come from? It has been a year since the election and the Government has brought practically no bills of significance to this Parliament. Most are just ideas sitting in the bottom of drawers of public servants across various departments. But all of a sudden, today, there is something very serious to be dealt with, and the Government does not want to give this Parliament appropriate time for consideration. They would rather we sit through the night. In many respects, that is the scandal of this. A bill comes before this House today that the Opposition first saw last Friday. We are asked to debate it to completion tonight, it having been debated in the other House until 11 o'clock last night.

The Government is seeking to ram this bill through the House today and to lift the hard adjournment to satisfy its own political ends. When the rules of the House are subverted for a political outcome is when there is a problem. If there was some driving issue of urgency then, clearly, the rules of the House should have flexibility for it to be able to be dealt with. But in bringing this motion, the Leader of the Government has not demonstrated any urgency attached to it. If the Leader of the Government had said, "This is why I need to lift the hard adjournment, and this is why it is urgent", and given cogent reasons to establish the rationale behind the urgency, then, in those circumstances, we would be hard pressed as a rational opposition—as we are, and always willing to accommodate—to oppose it. We would never play political games.

But the Leader of the Government offers no reason why it is so urgent other than to say, "It is part of the Government's agenda." Really? What is that agenda? We are left aghast. Look at the Government's record; it has no agenda. Members opposite have no agenda that we can point to, but all of a sudden part of their agenda is to get these two bills through today. I say that the House should respect its own rules. The rules are in place for a purpose. The rules are in place to make sure that people debate issues in circumstances where they are able to concentrate, they have had the full number of hours of sleep and those sorts of things and are not making decisions at 11.00 p.m., midnight, 1.00 a.m. or whatever time it is we will be doing this tomorrow morning. The case has not been made out for the hard adjournment to be suspended today and, in those circumstances, the House should reject the motion.

The Hon. MARK LATHAM (10:47): I oppose the motion. I support the hard adjournment. I support everything said by the Leader of the Opposition but would add one important aspect, and that is the shameful political tactic the Government is deploying to back-end load, on the last day of the session, controversial matters. This happened at the end of last year when we had the net zero bill and then the Russell Balding matter, which was going to be contentious. On the very last sitting day of this session, the Government is trying on the politics of exhaustion. They think, "We will put all of the controversial things on the last day. The MLCs are reluctant to stay up until three o'clock or four o'clock in the morning."

The Hon. Wes Fang: I'm not!

The Hon. MARK LATHAM: "They'll collapse." This is what the Government is saying. Wes, they have underestimated your resilience and tenacity, as they do every single day.

The Hon. Wes Fang: That's right. Quite a few times, Mark.

The Hon. MARK LATHAM: I should not encourage you. The Government is back-end loading controversial matters in a wretched political tactic. They think, by the politics of exhaustion, they can get their bills through faster. It happened at the end of last year, with the net zero bill and Russell Balding issues, and it is happening today with the bail laws, which are opposed by The Greens, and the conversion practices ban, which is problematic for other members. What sort of tactic is that?

How is it that the Government has us leaving at 6.00 p.m. on most days but today, to serve its political tactic of back-end loading, it will not be until 3.00 a.m. tomorrow? It is an abuse of the Chamber and, quite frankly, the Leader of the Government should be ashamed that this type of management and wretched sneaky political tactic is being used in the Legislative Council. The motion should be rejected. If all of these things were so important, they could have been debated last Tuesday night. What happened last Thursday afternoon? What happened to the Tuesday night before that and the other days that the Leader of the Opposition has mentioned?

I came here in 2019 and all the talk was about family-friendly hours. That should have been respected. We could have family-friendly hours with a hard adjournment at 10.00 p.m., which is its very purpose, if we sit up to that time on a regular Tuesday and Thursday of Government business. But do not have the tactic of back-end loading controversial matters and the politics of exhaustion to try to get them through, thinking that MLCs will not debate them and give them proper consideration, and that those matters will go through faster because members do not want to stay here until 3.00 a.m. What sort of political tactic is that?

It is a shame on this Chamber that it is happening. It is not good for our democracy, and it is not good for the people of New South Wales. I remember Chris Minns promising a higher standard of government and a higher standard of integrity in the way we do things. Yet the Leader of the Government in this Chamber has this sneaky tactic of back-end loading the controversial matters and trying on the politics of exhaustion. What happened to a better way? Wasn't that Labor's slogan: "A better way for New South Wales"?

The Hon. Damien Tudehope: "A fresh start."

The Hon. MARK LATHAM: A fresh start, a better way—whatever it was. Minns was fresh as a daisy, but he is now trying on the politics of exhaustion. It is just plain wrong. The other thing about the conversion bill is that it is not urgent. It has been around a while and does not start for 12 months. As for the bail laws, that could have had further consideration on Tuesday night and the Parliament sitting through to 10.00 p.m. If we are going to have family-friendly hours, we should actually implement them. They have been forgotten. Maybe it is okay for the Ministers who have children who will be paired out, but crossbench members, who do not have the pairing system, and others are stuck with this. It is just plain wrong. When people ask me, as they do from time to time, "How are you going in the upper House?" I say, "Under the Minns Government, the upper House has become the best part-time retirement club in the country on most Tuesdays and Thursdays, because apparently there is no legislation and no sitting."

The Hon. Mark Buttigieg: Well rested, more like it.

The Hon. MARK LATHAM: What's your problem with that? The Hon. Mark Buttigieg is not arguing for longer hours, is he? He is the shop steward who knocks off at 6.00 p.m. He's happy enough with it. He will probably be paired out tonight and straight off to Rockdale, keeping nightclub hours, while we are slaving away in this Chamber. That is the truth of it. On a regular Tuesday and Thursday sitting of Government business, we have become the best part-time retirement club in the country—back to the traditions of the Legislative Council when they used to wander over to Phillip Street, have a few ports and whiskies. We do not even do that now; we are gone by 6.00 p.m. The Leader of the Government has to be fair dinkum about this. The gig is up. She has been busted with this wretched tactic. It is unsustainable. The hard adjournment should remain in place tonight.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (10:51): In reply: I thank members for their contributions. These are fair discussions to be having. I put a couple of things on record so that members are aware. In 2023, 67 bills were passed by this place, which is an average of 5.15 bills a week. In 2019, when members opposite were in government, only 30 bills were put through—an average of 2.31 bills. The second point that I make is that we have passed 15 bills in the first two weeks of sitting. This House is passing more bills, and it is much quicker than it has been. We can talk about this for a while if we want to, but I will not go into the reasons for that. I make the point that those opposite barely speak in debate on bills.

The PRESIDENT: Order!

The Hon. PENNY SHARPE: We no longer have Lee Rhiannon, David Shoebridge or John Kaye, who used to move about 50 amendments for almost every bill that went through this place and so the debates went for longer. That is a matter for members, and there is no criticism of that. However, the idea that we are not sitting and not passing bills is incorrect. I also make the point that some members who contributed to debate seem to want it both ways. Some members want family-friendly hours, but then when we say we are not going to sit late, they say they do not want to do that.

When we were in opposition, we allowed the Government to do its business when it was required. There were times when the government of the day asked us to lift the hard adjournment, and we agreed to that. I understand that the now Opposition chooses not to make those decisions, and that is a matter for members

opposite. Finally, in terms of the legislative program, we have dealt with more bills than this House has done before. Yes, there are controversial bills and, yes, sometimes it does back up at the end. That has happened in nearly every year with every government since I have been in this place, which is now 18 years. I accept that there is a back end of legislation, which does happen, and it particularly happens when we have controversial legislation. The Government has its agenda. There has been a lot of discussion relating to these bills and we wish to have them completed. I ask the House to lift the hard adjournment for that to be done.

The PRESIDENT: The question is that the motion be agreed to.

The House divided.

Ayes 21
Noes 20
Majority.....1

AYES

Boyd	Graham	Mookhey
Buckingham	Higginson	Moriarty
Buttigieg	Houssos	Murphy (teller)
Cohn	Hurst	Nanva (teller)
D'Adam	Jackson	Primrose
Donnelly	Kaine	Sharpe
Faehrmann	Lawrence	Suvaal

NOES

Banasiak	MacDonald	Rath (teller)
Borsak	Maclaren-Jones	Roberts
Carter	Martin	Ruddick
Fang (teller)	Merton	Taylor
Farlow	Mihailuk	Tudehope
Farraway	Mitchell	Ward
Latham	Munro	

Motion agreed to.

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

Questions Without Notice

STATE BUDGET AND GOODS AND SERVICES TAX

The Hon. DAMIEN TUDEHOPE (11:01): My question is directed to the Treasurer. Given that the New South Wales Treasury made submissions to the Commonwealth Grants Commission in response to its discussion paper on using 2021 census data for assessing urban characteristics and its proposed treatment of coal royalties, why did the Treasurer's half-yearly review not accurately reflect the likely outcome of the 2024-25 GST determination for New South Wales and still predict a surplus for 2024-25 that he ought to have known would not be achievable once the determination was made?

The Hon. DANIEL MOOKHEY (Treasurer) (11:02): I thank the shadow Treasurer for his second question to me this week.

The Hon. John Graham: He is on a roll.

The Hon. DANIEL MOOKHEY: He is on a roll. I appreciate very much that he has asked me another question this week. I look forward to getting more from him in the future. In respect of the specific question, the simple answer is this: December comes before February in a financial year. A half-year review is released in December. The Commonwealth Grants Commission makes its determination in March. There is a four-month gap. That is why a Commonwealth Grants Commission determination in March cannot be reflected in a half-year review delivered four months earlier. That is the first point. The second point I make is that we did disclose that there is always inherent uncertainty under GST determinations. In fact, that is the basis of the criticism the shadow Treasurer now levels.

The third point I make in response to his question is this: He is quite right to say that the process is absurd and it would be much better if the suggestions put forward by the New South Wales Government this week were

adopted by the Commonwealth Grants Commission to ensure that at least that absurd practice is administered slightly more competently. Earlier in the week the finance Minister and I said that, firstly, the Commonwealth Grants Commission could improve its process by providing treasuries with a draft determination; secondly, that it would be well equipped and well advised to equally provide a four-year forecast with each annual determination; and, thirdly, that it should allow States to share with each other and the Commonwealth Grants Commission the costs of service delivery within each respective State so that they can keep each other honest about what it costs to give a service.

Those suggestions arose from the 2018 Productivity Commission review into the entire system. That was undertaken whilst Mr Morrison was Prime Minister. I believe Ms Berejiklian was the Premier at the time. I make that point not to be partisan but simply to say that that position has been shared by both sides of politics for a number of years. Within my first 12 months as Treasurer, I have been proud to agitate again for those suggestions. I would have much preferred if the Commonwealth Grants Commission had already adopted them before we came into government, but nevertheless that is the situation that we have inherited. It would make it a lot easier to manage the risks that the shadow Treasurer points to if we had a slightly more transparent process from the Commonwealth Grants Commission. We have put forward practical suggestions and I hope the Commonwealth Grants Commission takes them up.

The Hon. DAMIEN TUDEHOPE (11:05): I ask a supplementary question. Will the Treasurer's 2024-25 budget reflect a realistic assumption about the 2025-26 determination or will he continue to predict surpluses he knows to be imaginary in circumstances where Treasury is telling him that the GST impact could potentially be different?

The Hon. DANIEL MOOKHEY (Treasurer) (11:05): I thank the shadow Treasurer for his supplementary question, because it also gives me the opportunity to inform him that June comes before December and, as a result of the fact that the budget is delivered in June, we cannot take account of a determination that is given nine months later. That is the first point. The second point is that he is quite right to talk about routine forecast risk. I point out that the manner in which the New South Wales Treasury undertakes its forecast is modelled on the process that was previously employed by finance Minister Tudehope and Treasurer Kean and, prior to that, employed by finance Minister Tudehope and Treasurer Perrottet. It is identical to the reforms that were adopted by Treasurer Perrottet after he found himself confronted with a similar shock in 2018.

Treasurer Perrottet was wise to revise how New South Wales undertook some of the forecasting when he was having to manage the forecast risk. We have not changed that practice, but I absolutely assure the House that that practice will come under scrutiny between now and the 2024-25 budget, as it should. That is not us reflecting on the fact that it was a bad process. But clearly it is a process that now requires serious examination. We will do that and we will provide an update in the budget in respect of the forecasts on GST. We will equally do so in respect of the other revenue bases, but all of that could easily be avoided if the Commonwealth Grants Commission simply provided four-year forecasts.

The Hon. MARK LATHAM (11:07): I ask a second supplementary question. Will the Treasurer elaborate on his comments about his very active campaign for Commonwealth Grants Commission reform? Has he been able to persuade his Commonwealth counterpart, Dr Chalmers, of the virtue of the New South Wales reform package, and will it be supported by Dr Chalmers?

The Hon. DANIEL MOOKHEY (Treasurer) (11:08): I thank the member for his second supplementary question. It is fair to say that in our conversations with Dr Chalmers about various parts of our reform propositions he has always been as professional and frank as you would expect a person in his position to be. As I disclosed to the House last week, it was my intention to go to the Council on Federal Financial Relations last Friday and make it clear that New South Wales would be advocating for two categories of reform. The first is a shift to a per capita model. It is fair to say that that system would see Victoria, Queensland, New South Wales and Western Australia better off than they are in this year's determination.

I equally made clear that it would be the responsibility of all States and the Commonwealth to protect the State interests of South Australia, Tasmania and the Australian Capital Territory in that reform. But I also made it clear it is a long-term reform. In the meantime, it is fair to say that the practical suggestions I just made reference to—how the existing absurd system could be administered better—did get a bit of support. I am proud that a few of the other Treasurers did come on board and make the same point that they would benefit if such things were to be adopted.

Of course, there is further work to do to see whether or not such reforms can be implemented ahead of this year's annual determination. But today I make the point—I will make the point again in June; I will make the point again in December and next March, when the Commonwealth Grants Commission issues its next determination—that New South Wales needs its fair share. New South Wales now donates more money to every other State than

it ever has before. For every dollar Victoria gives to a smaller State, New South Wales gives seven. We expect the capacity to be able to get consummate results in our per capita share for health, education, housing and infrastructure. Those are the bases of the conversations between us and Dr Chalmers.

ASSET PRIVATISATION

The Hon. ANTHONY D'ADAM (11:10): My question is addressed to the Treasurer. Will he explain what the privatisation contracts tabled today mean for the people of New South Wales? Is the Treasurer aware of any alternative policies?

The Hon. DANIEL MOOKHEY (Treasurer) (11:10): I thank the Hon. Anthony D'Adam for his question. I am aware of an alternative policy, which was articulated today by the shadow Treasurer as he replied to the Government tabling his privatisation deeds. It was his view that privatisation is excellent and should come back. That is exactly what he articulated today. There is no doubt that a vote for Damien Tudehope as shadow Treasurer is a vote to return to the era of privatisation.

That comes as quite a shock to members on this side of the House. Just yesterday we thought that there had been a road to Damascus conversion by the shadow Treasurer. We thought that he had comradely seen the light, storming the picket line while swinging the red flag screeching "Solidarity forever" and enrolling in every left-wing course he could. We thought that perhaps he had seen the error of his ways and realised that if we take privatisation and add wage suppression, we end up robbing working families of what they deserve. We thought that there was repentance, but it lasted less than 24 hours. Today he is back in Parliament defending the bankers and consultants of New South Wales and signing up to protect more of these privatisation agreements. He is saying to families that he is willing to sacrifice their budgets in the name of his outdated ideology. That is what he committed to in the House today. That is what members could expect if he were to come back.

Today we learned specific details of more of these deals, in which cities like Newcastle cannot make decisions about their future as a result of secret arrangements. There were more of the cover-ups and more withholding of information from the people of New South Wales. That is what we can look forward to if the shadow Treasurer finds himself once more responsible for the financial levers of the State. Here is the issue: The only way the Hon. Damien Tudehope says he can deliver trains and hospitals and the like is to sell more public assets. He has either got to rack up the State's credit card or sell off the State's assets. He refuses to see the world changing around him. He continues to be stuck in the past when it comes to these outdated policies.

The PRESIDENT: Opposition members will come to order.

The Hon. DANIEL MOOKHEY: Having sold off $93 billion of assets in 12 years, what are those opposite going to sell next? It will be goodbye to the rest of the electricity assets, goodbye to the rest of the tollways and goodbye to Sydney Water. That is precisely what we can look forward to. If he is going to go out there and promise people more rail—those opposite say privatisation is the "golden key"—then he should make it clear that is his policy and seek a mandate.

RURAL AND REGIONAL NEW SOUTH WALES

The Hon. SARAH MITCHELL (11:13): My question is directed to the Minister for Regional New South Wales. Given that *The Land* newspaper reported today her Government has scored just 36 per cent from its readers when it comes to delivering on issues impacting the bush, what is her response to community concerns, including those from CWA President Joy Beames, who said, "We're not seeing cut through by the Government and, even more concerning, at times we are seeing a complete dismissal of rural communities' concerns"?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:14): I thank the Hon. Sarah Mitchell for her question. I have seen the article in the newspaper today. Let us be clear: This was not a professional survey conducted by this newspaper. This was more likely 300 National Party members opening their laptops, filling in the survey and venting their frustration about being in opposition, which is exactly where they deserve to be.

The PRESIDENT: The Minister will resume her seat. There is too much audible conversation in the Chamber. Hansard staff cannot do their job if all members are yelling at the same time. I know it is the end of a long sitting fortnight, and I know that tonight is now likely to be late. However, members need to think of Hansard. The Minister has the call.

The Hon. TARA MORIARTY: Thank you, Mr President. I hope Hansard caught that: It was 300 National Party members opening their laptops and venting their frustration about the election results. I know those opposite hate being in opposition, but it is exactly where they deserve to be. The only survey I care about is the New South Wales election—and guess what? People across New South Wales voted—

The PRESIDENT: Order! We will try this one more time. I will call members to order if they continue to interject. There is too much audible conversation in the Chamber. The Minister will be heard in silence.

The Hon. TARA MORIARTY: As I was saying, the only survey I care about is the New South Wales election. People had their say at the State election last year and voted for us to form a government. The Opposition, and particularly the National Party, should be asking questions of the Leader of the Opposition, Mr Speakman, who I think in his term as Leader of the Opposition—

The Hon. Sarah Mitchell: Point of order: My question was very specific in relation to the report in *The Land* newspaper and, in particular, the direct quote from the CWA president. Making comments about the Opposition is not at all related to the question. I would like the Minister to respond, particularly, to what the CWA is saying about her Government, because it is not good.

The PRESIDENT: I do not uphold the point of order. The question was about the Minister's response to community concerns. The Minister is giving her response. The Minister has the call.

The Hon. TARA MORIARTY: The National Party should be asking the Leader of the Opposition, Mr Speakman, how many times he has even bothered to leave Sydney to travel to regional New South Wales. Recently I have seen reports of visits I could maybe count on two fingers, if I am lucky. Those opposite do not care about regional New South Wales. They are not standing up for regional New South Wales, and the people of New South Wales understood that very clearly when they voted for change at the election last year. I engage with all kinds of stakeholders across the regions. I am proud of the Government's record.

The PRESIDENT: The Hon. Sam Farraway will cease interjecting.

The Hon. TARA MORIARTY: For the benefit of members and readers of *The Land*, I will give a couple of examples of what we are doing for regional New South Wales that might be of interest. Who promised to build a dog fence across western New South Wales? It was the National Party, and for four years it did nothing—but we have got on with the job. The fence is well and truly underway and being built. We are getting on with dealing with biosecurity issues, like taking out wild pigs. The National Party did nothing about that. We put $13 million into dealing with wild pest animals. There is plenty more to say.

PILL TESTING

The Hon. TANIA MIHAILUK (11:18): My question is directed to the Leader of the Government, representing the Premier. Given the Government is yet to announce a date for its promised drug summit and given the Premier was recently quoted as saying, "It'd be far better if these illicit substances weren't taken before people entered these music and rock festivals," is the Government still opposed to pill testing?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:19): There was a bit in that question. I thank the honourable member for her question on pill testing. The Government took to the election that it would be holding a drug summit, and it will do that.

The Hon. Natalie Ward: There's the note.

The Hon. PENNY SHARPE: I am really happy to have the note. Let us be honest, we all have notes and we all read from them. There is no shame in that. I have no shame in having a note. It is totally fine, and I welcome the good work from our agencies and our ministerial officers who provide such notes.

The Hon. Tania Mihailuk: Point of order: My question was specifically asking if the Government is still opposed to pill testing.

The PRESIDENT: I instruct the Minister to answer the question. However, the Minister was responding to inappropriate interjections about the presence of notes. The Leader of the Government is right. It is not appropriate to chide Ministers if they are relying on written material. It is also not appropriate if Ministers read from a script and do not engage with the Parliament, as the Hon. Mark Latham has said from time to time. The Leader of the Government has the call.

The Hon. Jeremy Buckingham: Point of order: The question is out of order because the questioner is seeking an announcement of Government policy.

The PRESIDENT: I do not uphold the point of order. The Leader of the Government has started answering the question. The Leader of the Government has the call.

The Hon. PENNY SHARPE: I am happy to report that I now have many notes, and I like all of the notes. I thank the Ministry for Health for their excellent notes.

The Hon. Tania Mihailuk: I want the Premier's notes.

The Hon. PENNY SHARPE: I get those sometimes as well; all notes are good. Whether I use them or not is a totally different matter. The New South Wales Government is going to have a drug summit. Issues like pill testing will be considered at that. The Government is not intending on making changes in this matter because of the commitment we have made to the drug summit to work on that. As we know, the drug summit will bring together medical experts, police, drug-user organisations, people with lived experience, families and other stakeholders to provide a range of perspectives.

Members may not realise but I was at the drug summit in 1999; I am very old. I was the Hon. Carmel Tebbutt's excellent youth adviser at the time and I witnessed what happened at the drug summit in 1999. It was the coming together of a very diverse range of stakeholders. Time and effort were put in to thinking about the scourge of drugs on our community, the impact that it has on families, on individuals, on policing and on frontline services. It was a long discussion. If I recall correctly, one of the co-chairs was Ian Sinclair. I am trying to think who the second one was.

The drug summit is an important process that the Government is committed to. We need to have a full and frank discussion about the impact of drugs in our community, what they do for crime and, most importantly, what they do to families. I have had the privilege of working with many families, particularly from Family Drug Support, who have lost their children. They want to have this conversation and find a better way. This Government is serious about drugs. We believe we need to bring people together to have a discussion and we need to try to build consensus rather than division. That is the approach we are taking and that is why we will be doing the drug summit.

ROYAL NATIONAL PARK PLATYPUS POPULATIONS

The Hon. MARK BUTTIGIEG (11:23): My question is addressed to the Minister for the Environment. Will the Minister update the House on how the platypuses are doing 10 months into their historic return to the Royal National Park?

The Hon. Scott Farlow: Platypi!

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:23): It is not platypi. To clarify, because this is very important, I have asked the ecologists and the scientists, who know what they are talking about, and they usually call them "plats" but it is actually platypuses not platypi. Platypi is not a thing. I have good news. It is Thursday and this is very good news.

The Hon. Sarah Mitchell: Are you going to sing?

The Hon. PENNY SHARPE: No, I am definitely not singing; everyone will be pleased. Last year in the Royal National Park, 10 platypuses were released into the Hacking River. I was very fortunate to be there and I helped release them; it was a very exciting day. We are 10 months on. I spent some time with the scientists and researchers on Saturday night at the Hacking River when we went to check on how the platypuses are going. I saw the incredible work of the University of New South Wales, the Taronga Conservation Society Australia and WWF-Australia, with the support of National Parks and Wildlife, as they laid nets in the river in the hope of catching some platypuses to see how they were going. The very good news was that the HMAS *Platypus* tinny, which I was in, was able to capture some of the platypuses that were released and could see how they were going. The good news is that they are all still alive and have moved up and down the river, but the better news is that two of them have gotten together and we have a baby puggle.

The Hon. Bronnie Taylor: You should name it after Mr President.

The Hon. PENNY SHARPE: Luckily, I do not get to name the puggle.

The Hon. Sarah Mitchell: It's a puggle!

The Hon. PENNY SHARPE: They are called puggles. They are very beautiful. I am glad everyone loves this answer because it is terrific. I saw the dedication and partnerships that have been created through this program. This is the first translocation of platypuses in New South Wales. I give a nod to the previous Government which was involved in getting the program started as well. It also did a good thing and funded the platypus rescue at Taronga Zoo in Dubbo. We need to understand that platypuses in New South Wales are not yet listed as threatened or vulnerable but they are in pretty difficult straits. This translocation program shows that the Royal National Park is in great nick; it is predator free for platypuses and the water quality is good enough that they are now breeding. But it also shows that when we get into difficult times with platypuses across the State, we have a way of capturing them, rehabilitating them and releasing them back into the wild so everyone can see them. I encourage everyone

to try and see them. They are just around the corner from the Audley Weir. Everyone should go for a picnic and be really quiet, and at dawn or dusk they might see a platypus.

The Hon. Bronnie Taylor: Or Bombala.

The Hon. PENNY SHARPE: Yes, they can be seen there too.

Ms SUE HIGGINSON (11:25): I ask a supplementary question.

The PRESIDENT: Ms Sue Higginson cannot ask a supplementary question because the Hon. Mark Buttigieg did not ask a supplementary question.

MEMBER CONDUCT

The Hon. MARK LATHAM (11:26): My question is directed to the Treasurer. Given the Premier's statement that integrity is an everyday practice of government and not something that can be turned on and off like a tap, what action is the Treasurer taking about the carefully documented allegations of The Greens party members that Ms Abigail Boyd has deliberately misused her electoral allowance and avoided her tax liabilities? As a guardian of public expenditure in New South Wales and recognising that the Parliament failed to conduct an investigation into this serious matter and Ms Abigail Boyd has failed on her promise to—

The Hon. Dr Sarah Kaine: Point of order: It is my understanding that if there are allegations or imputations to be made about a member, the appropriate way to do that is through a substantive motion and not through a question.

The Hon. MARK LATHAM: To the point of order: I am not making an allegation. I am asking a question on what the Treasurer is doing about a misuse of public money. That is what question time is for and that is the Treasurer's job. These are not matters that I have raised. They come from The Greens party members. I am representing them; they are my constituents. I am asking questions to get information; that is the purpose of question time.

The PRESIDENT: Are there any further contributions to the point of order? The Leader of the Government.

The Hon. Penny Sharpe: I have a different point of order.

The PRESIDENT: This is an important issue, and I appreciate the point of order being taken. I rule the question out of order for the following reason. As President Johnson said in 1991, reflections and imputations of improper motives on members are highly disorderly, unless by way of substantive motion. That includes in the course of debate but also in questions. The member has the opportunity to make his allegations and bring this issue before the House for its consideration but must do so by way of substantive motion.

The Hon. MARK LATHAM: Point of order: There was a second part of the question that was not even allowed to be asked.

The PRESIDENT: I understand that.

The Hon. MARK LATHAM: In the past when the first part of a question has been ruled out of order, the second part is still allowed to stand.

The PRESIDENT: I was about to make exactly that comment. The part of the question that relates to Ms Abigail Boyd is ruled out of order. However, if there is any further part of the question that is appropriate and does not refer to Ms Abigail Boyd then the member is welcome to ask it.

The Hon. MARK LATHAM: I was partway through the second part of the question, which I will try to finish. As a guardian of public expenditure in New South Wales, recognising that the Parliament itself failed to investigate the matter that was raised, has the Treasurer seen the transcript where a promise was made to Portfolio Committee No. 1 that relevant documents would be tabled and made available to me—that is, invoices and bank accounts? Accordingly, given that the promise has not been fulfilled, will the Treasurer ask officials of his department who are expert in public accountability to investigate?

The Hon. Anthony D'Adam: Point of order: A matter of public importance in the name of the Hon. Mark Latham relating to this is already on the *Notice Paper*. The question anticipates a matter that is set to come before the House later today and is therefore out of order.

The PRESIDENT: I do not uphold the point of order because the matter of public importance in the member's name does not refer to Ms Abigail Boyd. He may wish to raise issues around Ms Abigail Boyd in that debate, but as the motion does not refer to her there is no point of order. That being said, because of my first ruling the second part of the question is also out of order.

RENEWABLE ENERGY

The Hon. DAMIEN TUDEHOPE (11:31): My question is directed to the Leader of the Government.

The Hon. John Graham: Is this about the platypus?

The Hon. DAMIEN TUDEHOPE: No, it is not. Given the commitment to transparency made by the Treasurer in the House this morning, will the Minister guarantee that all contracts between the Government and private entities in relation to renewable energy projects are tabled in the House when they are made?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:32): I thank the honourable member for his question. The short answer is that I need to take some of the detail on notice. The question is very broad and there are many different contracts, so I would need to understand exactly which ones the member means. I would also need to seek advice on which ones are available, because in the renewable energy sector there are many, many contracts, because the Government is doing so much work in this area. Whether it is renewable generation, transmission, firming or the excellent work that is being done in relation to—

The Hon. Jeremy Buckingham: Batteries?

The Hon. PENNY SHARPE: Yes, the Waratah Super Battery is coming online really soon, which I acknowledge was started under the previous Government. It is about to come online and it is working really well. So there are a lot of different contracts. I am not sure whether the member is asking for all of them, but I would be happy to work that through. Members would know that the Government's approach is that if it can be made public then it should. There are of course caveats to that, and we talk about those issues all the time. I am not going to mislead the House or make promises that I cannot keep in relation to this matter, so the Government will look at which contracts are able to be made public. Some have already been made public; others, for a variety of reasons, may not have been. Types of contracts may be coming forward—for example, work that the Government is doing with the Commonwealth where it is not in my purview to decide whether or not they are made public. I will take the question on notice.

TEACHER WORKFORCE

The Hon. PETER PRIMROSE (11:34): My question without notice is addressed to the Minister for Finance, representing the Minister for Education and Early Learning. Will the Minister update the House on how the Government is providing greater job security for teachers and support staff?

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (11:34): I am delighted to update the House on the very important work that the Deputy Premier, and Minister for Education and Early Learning, has been doing to fix the schools that she was handed almost a year ago. New South Wales has started the new school year with a 20 per cent drop in the number of teacher vacancies compared with the same time last year. This is an issue that has been debated in this place, and the House has commenced an inquiry into it. I am delighted to say that the New South Wales education system began term one of 2024 with 460 fewer teacher vacancies than the same time last year.

This shows incredible progress in just 12 months. In the first week of the school year this year there were 1,782 teacher vacancies, compared with 2,242 at the same time last year. I am also happy to share with the House that the significant fall in vacancies was higher in rural, regional and remote New South Wales, which dropped by almost 25 per cent from 1,241 to 938 this year. That is the result of an incredible amount of work by this Government, particularly by the Deputy Premier, and Minister for Education and Early Learning, to ensure that we have more teachers in our classrooms. The Government has done this in a range of ways, most importantly—and the previous Government promised to do this but this Government has actually done it—by providing 16,000 teachers and support staff with permanent roles. That is a really important step forward.

At six months those opposite had not employed a single teacher or any support staff; within this Government's first 12 months it has been able to not only meet its election commitment but go further. The Government has also used a range of other methods—including reducing the admin workload by introducing more admin support staff, removing unnecessary tasks, streamlining accreditation requirements and cutting the volume of policy documents—to reduce the out-of-classroom pressures on our teachers. The department has implemented a range of recruitment measures, including re-engaging with teachers who recently resigned or retired by saying, "It's going to be different now. Come back, please. We need you and your valuable skills." This all comes off the back of taking our State's teachers from being the lowest paid in the country to being the highest paid, and the results are there for the community to see. There are more teachers in classrooms and fewer teacher vacancies, and the community knows it.

QUEENSLAND STATE BUDGET

The Hon. JOHN RUDDICK (11:37): My question is directed to the Treasurer. In a recent letter to Queensland Treasurer Cameron Dick, the Treasurer wrote:

> The people of NSW are owed $105 million by the Queensland government to cover services provided to more than 18,000 residents of Queensland who stayed in NSW hotels.

This issue has been going on since 2021 and the so-called pandemic. Did the Treasurer get a response from the Queensland Treasurer? What steps is he taking to retrieve this debt and will he consider taking the Queensland Government to court?

The Hon. DANIEL MOOKHEY (Treasurer) (11:38): I thank the honourable member for his question and for his ongoing interest in this matter. The question provides me an opportunity to make reflections on other governments, which obviously everyone knows I love. The member is quite right to say that those Queenslanders owe us money and they should pay up. There is an old principle that this Government follows: Pay your bills. My message to my good friends in Queensland is: Pay yours. If Victoria, South Australia and Tasmania have managed to make payments on their bills, then it is only fair that Queensland does the same.

I am pleased to tell the Hon. John Ruddick that the amount of collection we received from Victoria, South Australia, Tasmania and the Australian Capital Territory did increase in the last financial year. Such information is available if the member pays close attention to the Treasury annual report where we did provide an update on the collection of quarantine costs and debt outstanding to us. The second part of the question asked about charging interest on this debt—or maybe not; maybe the member will be asking me that question. But I simply say that he is quite right to point out that my predecessors had in fact written off this debt and it has already been accounted for. We are making the point that we are still seeking it, despite the fact that its accounting treatment is a bit different as a result of my predecessor's decision to write the debt off.

I have made it clear that New South Wales reserves all its rights to deduct the money Queensland owes us from bills we owe them. We can engage in that form of debt recovery. Of course I will give the Queenslanders some time to pay their bills but all such options remain available to us in the future. As for the member's final point as to whether or not I am intending to sue the Queensland Government, such questions involve important constitutional matters around the Crown suing the Crown, which I am sure barristers amongst us would all love to feast on should such a case be brought. But it is fair to say that we will engage in all opportunities to ensure that those Queenslanders stop cheating in State of Origin and pay their bills.

ROAD TOLLS

The Hon. Sam Farraway: Mr President—

The Hon. Natalie Ward: Mr President—

The PRESIDENT: I will let Opposition members work out who will ask the next question.

The Hon. NATALIE WARD (11:41): Mr President, of course you know that I really am a Nat.

The PRESIDENT: The Clerk will reset the clock.

The Hon. NATALIE WARD: Thank you. I now understand that you can do that with your discretion. My question is directed to the Minister for Roads. By refusing to rule out new tolls and higher tolls for up to 40 per cent of trips, has the Minister abandoned his election commitment that no drivers will be worse off under his toll reform?

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) (11:42): I thank the member for her question. Before answering it, I note that I am intrigued as to what the Hon. Sam Farraway was going to ask. I am happy to take that by way of a point of order if he gets the chance to take one any time during my answer. I welcome this question from the shadow Minister. I am pleased that the Opposition is asking about tolls. I indicate that the Government will certainly be fulfilling all its election commitments. I do not accept the premise of the question. People should make their own inquiries as to what the Government's election promises were, rather than accepting the word of the Opposition.

We have committed to this plan: toll relief, then toll reform. The important $60 toll cap, which is still, unbelievably, opposed by the Opposition, was up and running from 1 January. Help for drivers with this cost-of-living measure is already in place, and it is still opposing it. I was genuinely surprised. I thought Opposition members would have backed this measure in by now, but they are still opposing it. It was promised at the election, delivered on 1 January and is now in place. The same goes for the truck toll multiplier. It was promised, and then in place and delivered on 1 January.

Reform is on the way. We promised serious reform and I can confirm that we will deliver—if there is any doubt on the other side of the Chamber. Just as we have delivered on toll relief, we will deliver on toll reform. I ask for help from the Opposition for what they should have done on toll relief. I ask them to get involved in this discussion and back this important change. If we leave the current patchwork in place, it matters not only to people under pressure around the kitchen table but also for the city. It is true that it was left by both sides of politics, but a substantial part of it is the terrible WestConnex deal that is excoriated in the toll reform report. Leaving that deal in place will hold back the State's economy. It has that level of impact. So we are asking the Opposition to help. It did not help us with toll relief, but we charged ahead and delivered anyway. But members opposite could extend the hand of help on toll reform given it is in the interests of the State.

The Hon. NATALIE WARD (11:45): I ask a supplementary question. I thank the Minister for his answer in relation to toll relief and the recommendations. I ask that he elaborate on that part of his answer about toll relief. Given the $2 million toll review called for all toll relief that delivered free trips to be abolished, will he commit to rejecting this recommendation?

The Hon. John Graham: Could the Hon. Natalie Ward repeat the last part of the question? I was distracted by the first part.

The Hon. NATALIE WARD: The Minister talked about toll relief in his answer and I ask him to elaborate on those recommendations, given that the $2 million toll review by Mr Allan Fels called for all toll relief that delivered free trips to be abolished. Will the Minister commit to rejecting that recommendation in his toll relief?

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) (11:46): We have not only asked for help from the Opposition—

The Hon. Damien Tudehope: You asked for Mr Fels to give you help. He's told you.

The Hon. JOHN GRAHAM: We have asked for help from Allan Fels—Australia's toughest customer—who has stood up for consumers over generations. Imagine quibbling over the price of getting Allan Fels to help after leaving the public with $123 billion of tolls to pay! We are paying for Allan Fels to help, but we are paying because of the bill that drivers have been left with.

The PRESIDENT: Order! The Hon. Natalie Ward will come to order.

The Hon. JOHN GRAHAM: I was distracted by the first part of the question, and I apologise for that. But given the bill that was left, we have had to ask for help and we had to pay for it. That is the truth. This is a very difficult public policy question to unwind. I have been clear that the Premier has ruled out scrapping cashback. We have not expressed a view about the rest of the interim report. We have not formally responded to it. We certainly will. These are complex issues. This will be a fascinating reform. I know the shadow Minister wants to know how the story ends, but the story has to unfold a bit more before the Government will respond. That is appropriate. That is how the Government should deal with this complex policy problem. I will be really clear that if we do not tackle it, we will hold back the State's economy. We will be holding back the city. It will impact on families. That is why we should, as a Parliament, sort through this difficult reform problem.

WHITE BAY POWER STATION

The Hon. BOB NANVA (11:48): My question is addressed to the Minister for the Arts. Will the Minister outline to the House the significance of public spaces like the White Bay Power Station?

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) (11:48): I thank the member for his question. I am pleased to update the House that after four decades of being closed, the doors at the White Bay Power Station have swung open to the public for the first time to welcome them in to see the Twenty-fourth Biennale of Sydney. Members know that New South Wales has been losing creative spaces. We lost half our music venues in a decade. With the opening of the White Bay Power Station as a cultural venue, we finally win one back. I thank a number of people for it, and I will come to that.

The power station was built to power Sydney's tram network. It was fully operational in 1917. At the time, it was a radical workplace and its workforce almost immediately went on strike. That was part of the great rail strike of 1917 that formed the modern Labor movement. The strike started in Eveleigh, Randwick and the White Bay Power Station. At the heart of that radical workplace, right from the start, were arts and music. The amenities room hosted bands and concerts and even flower shows for the workers in those early days.

The building could have been knocked down or turned into office space but, instead, it has the potential of the Barbican in London, the former power station that is the Tate Modern, or the former train station that is the Musee d'Orsay in Paris. It could be a magical marriage of industrial heritage and culture. There are many people to thank for their work on the project, particularly Anita Mitchell from Placemaking NSW, who worked nonstop to get the project off the ground. I acknowledge my former ministerial colleagues arts Ministers Ben Franklin and Rob Stokes. I acknowledge Create NSW, Transport for NSW, Placemaking NSW and the whole Biennale team, along with Barbara Moore. In response to questions that the Opposition might ask me:

Well you ask me why I like to dance
And you ask me why I like to sing
And you ask me why I like to play
I got to get my kicks some way
And you ask me what I'm all about—

this part is for the Hon. Jeremy Buckingham—

Come on let me hear you shout high
I said high
High voltage rock 'n' roll.

As we come to the end of another sitting week, or perhaps the start of a long sitting day, to who else could we turn to celebrate this new space but Sydney's own culture generators AC/DC and their song *Thunderstruck*.

WOOD SUPPLY AGREEMENTS

The Hon. MARK BANASIAK (11:51): My question without notice is directed to the Minister for the Environment. Wood supply agreements for red gum are due to run out by 30 June this year. Government Information (Public Access) Act documents show that they have been sitting in limbo within the Minister's department since 2019, with many workers and businesses in the areas of north and south-west New South Wales contemplating job security and uprooting their family due to that uncertainty. Will she direct her department to finalise the renewal of that agreement in earnest so that people and communities can plan for their future?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:52): I thank the member for his question. I was not aware that the documents have been sitting there since 2019; however, I am not surprised, given the failures of the previous Government to finalise almost anything. They did not finalise water-sharing agreements, they did not report in the way they were required to report, they decided to do a whole bunch of reviews that just sat there or disappeared, and they never finalised the National Parks Establishment Plan. There is a long list of failures, and none of them are good. I will find out what is going on and I will come back to the member.

GREAT KOALA NATIONAL PARK

The Hon. SAM FARRAWAY (11:52): My question is directed to the Minister for Regional New South Wales. In budget estimates the Minister's department secretary, Rebecca Fox, commented on the map of the Great Koala National Park that was shown at a steering committee meeting. She said:

I don't recall the detail, but we could certainly provide on notice the map that was presented to the steering committee.

However, in answers supplied on notice received this week, the map was not provided. Did the Minister's office, or the Minister, intervene to stop the department secretary from providing the map as she promised?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:53): I thank the member for the question. I understand that my supplementary answers for budget estimates were supplied this week. I am not sure about the specifics of that question. It has not been drawn to my attention until now. I am happy to look into it and see what was said and where the issue is up to. I am not familiar with it off the top of my head, but I will take it on notice and come back.

The Hon. SAM FARRAWAY (11:54): I ask a supplementary question. Will the Minister commit to the House that she will supply a copy of the map?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:54): I thank the member for the supplementary question. The original question, as I understand it, was about evidence provided by the secretary of the department. I will check that detail and come back to the House like I said I would. I will have to take anything else into consideration with my colleague the Minister for the Environment because we are working on this project together. The question asked was about evidence given by the secretary, and I will take that on notice.

LOCAL LAND SERVICES GRADUATE PROGRAM

The Hon. EMILY SUVAAL (11:55): My question without notice is addressed to the Minister for Agriculture. Will the Minister update the House on workforce opportunities in land management?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:55): I thank the honourable member for her question and her ongoing interest in all things Local Land Services [LLS] and regional New South Wales. The Government is committed to investing in agriculture and putting future frontline workers on the ground to support our farmers. I am proud to update the House that Local Land Services welcomed 13 new graduates as part of its LLS graduate program. The 2024 cohort will begin their careers across New South Wales, supporting local communities and farmers, and will provide a welcome boost to services across veterinary, agriculture and natural resource management. The LLS graduate program provides graduates a chance to kickstart secure and skilled careers in regional New South Wales.

The 12-month program sees highly skilled and qualified graduates working side by side with experienced LLS staff. They are mentored by local leaders who are passionate about the services that they provide to farmers. There are many benefits for young graduates entering the program: The LLS offers a competitive salary; ongoing professional development; extensive mentoring and networking activities; and a chance to live, work and raise a family in one of our many beautiful rural and regional communities across the State. The graduates will be based right across New South Wales, in the Murray, south-east, Riverina, west, Greater Sydney, north-west and Central Tablelands regions. The program invests in the future of our frontline workers and the future of the State's land management.

I love to see women involved in the agriculture sector, particularly young women. I am proud to say that, of the 13 graduates, 10 women are part of this year's program. Joined by a diverse group of graduates, LLS links land management principles with diversity and cultural learnings from our First Nations communities, which is important. LLS plans to employ another cohort of graduates in January 2025. I encourage all university students who are passionate about agriculture and land management to apply. Being a part of New South Wales land management is a crucial contribution to the State economy. I applaud the 13 graduates for taking up a career with our much-valued Local Land Services. I had the opportunity to meet with a number of the graduates and they are impressive young people who are at the beginning of their careers. We need more people working in this sector, particularly in veterinary services. I was delighted to meet some of the young people who are kicking off that work in our regional communities and I am excited to see what they do with their careers in the future.

GOULBURN RIFLE RANGE

The Hon. ROBERT BORSAK (11:58): My question is directed to the Hon. Tara Moriarty, representing the police Minister. In 2018 the Goulburn rifle range was closed to high-powered centre-fire usage. Range user groups have been stalled for 5½ years, trying to get the requirements in writing from the Firearms Registry for the return of centre-fire shooting. Will the Minister provide a written checklist of requirements so that users of Goulburn rifle range may fulfill those requirements and have the range approved for centre-fire rifle use?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:58): I thank the honourable member for the question, which I was asked in my capacity representing the police Minister. I appreciate the detail of the question. I will be honest—I am not across the specifics of the rifle range in Goulburn. I will seek some further information from the police Minister and bring it back to the House.

The Hon. ROBERT BORSAK (11:59): I ask a supplementary question. Will the Minister provide a written checklist to be given to all shooting ranges across the State so that they can fulfil the requirements each time their reapproval comes up. If not, why not?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:59): I thank the member for his supplementary question. The question was asked to me in my capacity representing the Minister for Police and Counter-terrorism. I give the same undertaking as I did in my answer to the previous question, to get further information and advice from the Minister and bring it back to the House.

NSW POLICE FORCE APPOINTMENTS

The Hon. AILEEN MacDONALD (11:59): My question is directed to the Minister for Regional New South Wales, representing the Minister for Police and Counter-terrorism. What communications did the Minister for Police and Counter-terrorism have with the police commissioner prior to the most recent appointment of the Executive Director, Public Affairs Branch, NSW Police Force?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (12:00): I thank the honourable member for her question to me in my capacity representing the Minister for Police and Counter-terrorism. I understand the interest in this matter. Matters of staffing and employment within the NSW Police Force are matters for the police commissioner, but I will seek some further information from the Minister and bring it back to the House.

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

GREAT KOALA NATIONAL PARK

The Hon. SAM FARRAWAY (12:01): My supplementary question for written answer is directed to the Minister for Regional New South Wales. Will the Minister supply to the Parliament a copy of the map of the Great Koala National Park that was shown and presented at the steering committee meeting?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. SAM FARRAWAY: I move:

That the House take note of answers to questions.

GREAT KOALA NATIONAL PARK

RURAL AND REGIONAL NEW SOUTH WALES

The Hon. SAM FARRAWAY (12:01): I take note of the answer given today by the Minister for Regional New South Wales to my question regarding evidence given at budget estimates. There is something up here. Let me be clear: At the budget estimates hearing on 21 February 2024, my colleague the Hon. Bronnie Taylor and I posed questions to the Secretary of the Department of Regional NSW, Rebecca Fox, about a map of the Great Koala National Park. I read from the transcript of that hearing:

> **The Hon. BRONNIE TAYLOR:** To be really clear, Secretary, have you also seen the map that states that now the Great Koala National Park will extend north of Coffs Harbour?
>
> **REBECCA FOX:** I have only seen one map, which was part of a steering committee meeting. I don't recall the detail, but we could certainly provide on notice the map that was presented to the steering committee. I'm pretty sure Mr McPherson and I attended that meeting together, so we would've seen the same map at that point in time.
>
> **The Hon. BRONNIE TAYLOR:** I have to get the clarity on this. Were you both at the same meeting where you saw this map? But your recollection is not as detailed, Ms Fox? And that is not meant to be offensive in any way whatsoever.
>
> **REBECCA FOX:** I can picture it. I can picture the map in my mind. I just don't know where Coffs Harbour was on that map, but we could certainly provide on notice the map that was presented to us. That was the first map that I'd seen as part of that whole-of-government steering committee. Mr McPherson is likely to have been involved earlier.

There is something a bit fishy here. This is the Secretary of the Department of Regional NSW. We are not talking about some junior staffer. We are not talking about an executive director. We are talking about a secretary of a government agency who commits twice, under oath during budget estimates, to "certainly provide" to the committee a copy of the map presented at the steering committee meeting. No map is supplied. The answer provided to the question taken on notice is:

> The question should be directed to the Minister for the Environment.

What we have discovered is that the Leader of the Government in this place runs a complete protection racket for Minister Moriarty's office. Clearly not much happens unless the Leader of the Government approves what goes on in the office of the Minister for Regional New South Wales. There is a common theme here.

I note the answer that was given by the Minister to the Hon. Sarah Mitchell's question regarding *The Land* article. It is embarrassing for the Minister for Regional New South Wales, and agriculture Minister, to dismiss readers of *The Land* by saying they are all National Party voters. It is shameful, to be honest. It says a lot about the Minister's competency—or lack of. Clearly she did not like the headline. The bush gives the Government a 36 per cent report card and the— [*Time expired.*]

WOOD SUPPLY AGREEMENTS

The Hon. MARK BANASIAK (12:04): I take note of the answer given by the Minister for the Environment to my question about the red gum wood supply agreements. I appreciate that she agreed to take the details on notice. Having had the benefit of viewing the documents provided under the Government Information (Public Access) Act, I can better inform the House and the Minister of what has gone on. The documents show

that, despite the rhetoric of Ministers stating they want a sustainable forestry industry, people within their own departments, whether by design or ineptness, do not support this view. The documents show active defiance of the Minister's public statements and people within the department exercising personal biases towards an industry or against an industry.

They show that in 2019, when Minister Kean referred this to the chief scientist and the department, it went around in circles for two years. They show the chief scientist and Environment Protection Authority forestry regulator Jacquelyn Miles working hand in glove to obfuscate and delay the process, because they rightly know that industry needs certainty and a threat to that certainty pushes an industry to the brink of closure. They insisted on things that were physically impossible to achieve, and they knew that. They insisted on things being black and white, when they knew they never could be. The documents show that anything regarding this process stopped to a grinding halt when it reached Jacquelyn Miles' inbox, and nothing happened unless a Minister asked what was going on.

Further, they show that DPI Forestry was being bullied by the EPA, and DPI's David McPherson was ineffectual in achieving a resolution to this issue. To be completely frank, DPI Forestry were sitting on their hands. The fact is, there is currently a thinning contract on the table, but it contains a clause that says if EPA arbitrarily decides there is to be no thinning, then the contract is void. This is not certainty for an industry and, hence, the industry will not sign that contract. A healthy forest requires, as a bare minimum, thinning to occur. Without thinning it is not a healthy forest; it is a fire hazard. If Ministers do not get their departments under control, crucial businesses in our regions, like Gelletly Red Gum Firewood, will disappear. This company is entwined in the fabric of its community. During the most recent floods, the Gelletly family worked tirelessly, from dawn to midnight, with their equipment to build up levees to save towns ahead of the floodwater surge from the Murray. I urge Ministers to get control of their departments.

ASSET PRIVATISATION

PILL TESTING

The Hon. Dr SARAH KAINE (12:07): I take note of the answer given today by the Treasurer to the question about privatisation and the budget. The Treasurer's answer referred to the Hon. Damien Tudehope's response to earlier proceedings in the Parliament, where details of privatisation contracts were produced. I was very interested—

The Hon. Damien Tudehope: Point of order: The take-note debate is supposed to be about answers to questions that are raised in the Parliament and not statements made earlier in the day in relation to proceedings.

The Hon. Dr Sarah Kaine: To the point of order: The Treasurer explicitly referred to the response from the Hon. Damien Tudehope in his answer to a question, so it was directly relevant to an answer given by the Treasurer.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): I do not uphold the point of order.

The Hon. Dr SARAH KAINE: We heard that there was a bizarre parallel universe where privatisation is seen to equate to some kind of support for families. In fact, this seems to be a mantra that we are hearing more often—that privatisation and the imposition of tolls, particularly on Western Sydney, is somehow supportive of families. It is quite bemusing. I invite the honourable member to peruse pages 8, 12 and 68 of the Fels toll review interim report, where he will find that what was said is:

> The current structure of tolls is producing inequitable results, with motorists from Western Sydney spending the most and having fewer alternative options.

Clearly, an inequity has been perpetrated by the imposition of those tolls and that privatisation agenda so vigorously pursued by the Opposition. I will also quickly address the question asked by the Hon. Tania Mihailuk about pill testing. While I note that the answer given was about the Government's commitment to a drug summit and I support that option, I note that there are members of the Government, including me, who very much support pill testing at festivals in order to save young lives.

ROAD TOLLS

The Hon. NATALIE WARD (12:10): I take note of the responses given by the Minister for Roads to my questions about tolls and tolling and the pre-election and post-election parallel universe that we find ourselves in. I am interested to see how the story ends, because the Opposition knows how hard it is to deliver infrastructure, that it costs money to pay for it, and tolls are a fundamental part of delivering infrastructure. If we do not deliver anything, we do not have to charge anyone. If we do not do anything, there is no outcome.

The fact is that when we were in government we delivered the biggest pipeline of infrastructure in this country—more than other States combined. It costs money to build that infrastructure and to deliver it—not just talk about it—and not have the Cross City Tunnel insolvent, which it was, twice, under the former Labor Government, and provide benefits to families in Western Sydney. In doing so, a whole load of motorways were delivered—five of which will be opened by the new Government, which opposed WestConnex and metro.

The Government was not interested in delivering this infrastructure, but it will cut the ribbons, nonetheless. It will go out to the Sydney Gateway and cut the ribbons there. It will cut the ribbons on the M6 and the Western Harbour Tunnel, and it has already opened the Rozelle interchange. Our hard work is paying off. The benefits to families, as they drive through WestConnex, is that they get home to their families sooner. Tradies can get to more jobs more often. It is fast and fabulous.

The Hon. Dr Sarah Kaine: They don't use the road. It's too expensive.

The Hon. NATALIE WARD: You don't have to drive through it then. Anyone who does not want to drive through it has the choice of driving on chaotic and congested, but free, roads like Parramatta Road. That would have been the case under the Labor Government. We will have congested roads like we used to have and they will not all be delivered. Before the election the Government promised that there would be no new tolls on old roads and no two-way tolling on the Sydney Harbour Bridge. We have seen the introduction of the discussion about the potential for two-way tolling, while the only toll that has gone up has been on the Sydney Harbour Bridge. The toll for a bridge that has been paid off—the tolling goes to maintenance—has been put up under this Government, which promised no new tolls and promised that two-way tolling would not happen. We will see where that story ends under this Government.

Today the Opposition asked about the tolls review which Mr Fels was paid $1 million to do while the other mate was paid the other $1 million. They have made their recommendations. We asked whether the toll relief that delivers free trips should be abolished—which is one of the recommendations—and we could not get a clear answer. We could not see a commitment to rejecting the $2 million recommendations. We did not hear, "No, we will rule that out because we are concerned about cost of living." We did not hear that anywhere. What we are seeing from this Government is higher tolls and no answers, despite review after review—over 30 reviews. It is simply lots of talk, lots of empty promises and increased tolls. [*Time expired.*]

GREAT KOALA NATIONAL PARK

Ms SUE HIGGINSON (12:13): I take note of the answer provided by the Minister for Agriculture relating to the map of the Great Koala National Park. It sounds very likely that if the member who pursued the question genuinely wants the map, he will be provided with the map and can get an understanding of its provenance. Given he had the map, I am sure that he could get the map again, if that is what he really wants. We need to understand that there really is not any genuine confusion about the Great Koala National Park and its creation. The proposal has been on the table and on the websites of many organisations for over 10 years now. It is a sensible proposal that involves bringing together a number of areas of public land that are not yet in a secure and protected tenure to add to the protected area network in order to do a number of clear things.

One is to make an effort to reverse the terrible, sad and tragic decline of our wild koala population on the Mid North Coast, which we know is facing a catastrophic, slippery sliding slope to extinction. That is what the project is about. That is what the map is about. Wherever it has come from, whoever is holding it and wherever it is going to, that is what it is about. Rather than getting distracted and politicising such an important project, let us just get on with the work and the job. Let us get on with supporting the Government in doing that work.

I am on the record a thousand times urging the Government to get on with the work of creating the Great Koala National Park. This park will be an incredible asset not just to us here and now and not just to my region in the north and the surrounding regions but also to the next generation and the one after that. We also know that it will contribute massively to the regional economy. It is not just a few loggers who are still running around the district on $750,000 logging machinery as they industrially change that landscape; the park is holding on for dear life. We are talking about the long-term vision of the broader regional economy. The Great Koala National Park will be an incredible asset to all of New South Wales. What I cannot believe is that the Government is still allowing logging in the park.

ROAD TOLLS

The Hon. CAMERON MURPHY (12:16): I take note of the answers given by the Minister for Roads to the questions about tolls. For the past couple of weeks of this sitting period, various members of the Opposition, including the shadow Minister, peppered away at the Minister, asking him whether he will rule this in or rule that out after the recent Fels review. We need to understand that this whole mess has arisen because of the now Opposition. When members opposite were in government, they were the architects of this problem. We have

15 roads that have vastly different, intricate and complex contracts. We have a toll network that ordinary people and ordinary families, who are looking to commute to work or come to the city, cannot afford because of its sheer expense.

This Government has put in place a toll cap of $60 a week, which is the best, most sensible cost-of-living relief measure since the toll roads were commenced under the previous Government. There is no point in building world-class roads that nobody can afford to drive on. That is the position that the Opposition left us in. It will take time, and it will be extremely difficult. Complex and difficult decisions will have to be made by this Government to unpick this mess and to try to create a long-term viable future for a toll network in Sydney that ordinary members of the public can afford to access and that works for everybody.

The architects of this problem, the Liberal-Nationals Coalition, created a toll network that does not work for families. It does not mean that people can get from one place to another. It is so expensive that they cannot access it. It is a toll network designed for the toll operators. It was designed for the owners, with secret contracts put in place that benefit and favour them. The chief privatiser in this place, the Leader of the Opposition, thinks that these privatisations are great. He wants more of them. He wants to keep privatising everything. If it were up to him, he would have sold the Harbour Bridge. He would have sold the Opera House. He would have privatised everything. There is no way that those opposite should be allowed to have anything to do with the toll network. [*Time expired.*]

RURAL AND REGIONAL NEW SOUTH WALES

The Hon. SARAH MITCHELL (12:19): I take note of the answer given by the Minister for Regional New South Wales to my question today about the article in *The Land* newspaper about the bush giving the Government just 36 per cent on its report card. The answer by the Minister was nothing short of arrogant. She should probably rethink how she responds to some of our questions. To completely disregard a poll from what is undoubtedly the most influential regional agricultural newspaper in New South Wales shows how out of touch the Minister and the Government are. It was a survey of 300 readers of *The Land* from all over regional New South Wales, who were very clear about their disappointment in this Government. As I said in my question to the Minister, those are not the words of the Opposition or the National Party; they are the words of people like the Country Women's Association president, Joy Beames. She said:

> We are not seeing cut-through by the government and even more concerning, at times we are seeing a complete dismissal of rural communities' concerns …

They know that the Government is not delivering for regional New South Wales. Ms Beames goes on to say in the article:

> … they're saying all the right things, but we are not seeing these words translate into meaningful action.

The Minister should be taking that very seriously. If I was the regional New South Wales and agriculture Minister and read that article in the newspaper that connects most with the constituency and the stakeholders that I am meant to be engaging with, I would be very concerned about what it is saying. Again, it is not coming from one individual; there are a number of quotes in the article that talk to concerns that people have. In particular, they felt:

> … the government had done a "poor job in explaining itself to rural NSW and (was) missing in action in implementing many of it's promises".

The Minister needs to be genuinely listening to regional communities and acting. Every time we ask the Minister a question, it is, "Well, I'm happy to engage. I'm happy to speak to people. I'll socialise these issues." She has been Minister for almost a year. She has to do something. She has to turn up and be accountable.

Members opposite often crow about being in government. I understand that. But it is a hung Parliament; there was not a sweeping majority awarded to those opposite in March last year. It was barely a victory, and regional people are seeing clearly once again that under Labor "NSW" stands for Newcastle, Sydney, Wollongong. That is in a direct quote from *The Land* article. Country people are not silly. They know that they are the first on the chopping block when Labor is in government. That was absolutely reiterated in the article today. The Minister should take those issues seriously and listen to what the voters of regional New South Wales are telling her. She needs to fight harder in Cabinet and in the Expenditure Review Committee to make sure that regional communities are not constantly missing out under her Government.

PILL TESTING

The Hon. TANIA MIHAILUK (12:22): I speak about the answer to my question to the Leader of the Government in relation to whether the Government is still opposed to pill testing in light of the fact that it has yet to put a date to its drug summit. The Premier announced on 25 February 2023, just before the State election, that

his then shadow Cabinet had decided on having a drug summit. I note the Hon. Penny Sharpe was also at that press conference. To date, they have not had a drug summit. Personally, I think that is a good thing because there are far more pressing issues that need to be addressed in this State. Instead of having a drug summit, it would be good to see the Government consider an energy crisis summit, for example, or a cost-of-living summit in the coming year. I take the opportunity to congratulate Premier Chris Minns on being able to hold back the Socialist Left of his Cabinet on the issue of pill testing and the drug summit.

The Hon. Dr Sarah Kaine: I have never been a member of the Socialist Left. The Socialist Left will not have me.

The Hon. TANIA MIHAILUK: The Hon. Sarah Kaine is not a member of the Cabinet, and I can assure her that, while Chris Minns is Premier, she will not be a member of the Cabinet. I congratulate the Premier. He recently said, "It'd be far better if these illicit substances weren't taken before people entered these music and rock festivals." He is dead right on that approach, because no test could ever deem a particular pill safe. No medical professional would sign off and say that the drugs being handed out or sold at a festival are safe, because ultimately it is up to the individual's physiological make-up. It is how the person reacts to that drug. There are other factors, like dehydration and heat and any other substances that a person might be taking at the time. I congratulate Premier Chris Minns on his position to hold back pill testing, despite the fact that there are members of his Cabinet and indeed the backbench from both the right and left of his party who will be nagging him day in, day out to pursue this draconian type of policy.

It is surprising that Victorian Labor is also holding back on pill testing, despite the fact that the Animal Justice Party, The Greens and a member of Legalise Cannabis Victoria have come up with some joint bill to propose a trial for pill testing there. I note that the cost, according to the Victorian budget office, of a potential short trial of just 12 festivals would be $3.7 million. Some $500,000 would be spent on assets, including buying a mobile machine, and $3.2 million on staff and general operations. That is just for a trial at 12 festivals. You can imagine the type of cost involved in wider pill testing. Somebody has to be making money out of that. I congratulate Premier Minns on holding back. [*Time expired*.]

TEACHER WORKFORCE

PILL TESTING

The Hon. STEPHEN LAWRENCE (12:25): I contribute to debate to reflect upon the answer given by the Minister for Finance on behalf of the education Minister in the other place in relation to teacher vacancies. Most members would agree that teacher vacancies was one of the most important issues in the State election. I certainly remember many concerns being raised in the Dubbo region about it. I am sure the Hon. Sarah Mitchell also recalls what a pressing issue it was in her former portfolio of Education. Some of the stories that I remember reading in the press and then investigating and speaking to community members about include things like one teacher for every hundred students at Dubbo College Delroy Campus at a certain time, and 1,400 class periods being missed in one term at that school.

Those things impact regional areas disproportionately. As a general rule, the further it is from Sydney, the harder it is to fill a job in the public service. That is probably true as a general proposition. It is definitely true in teaching, and Dubbo was hit particularly hard by it. So it was very heartening indeed to hear that the suite of policies that we have rolled out, which in my view is our greatest achievement as a government, have led to a 20 per cent drop in teacher vacancies and, even more hearteningly, a 25.6 per cent drop in teacher vacancies in the regions. That can be squarely put down to the policies of the new Government, which are still being rolled out. I believe they will continue to improve the situation.

The policies include the smashing of the wages cap, which has manifested in our teachers going from among the worst paid in Australia to among the best paid. They also include a range of retention and attraction measures, which will, in due course and as wage rises flow on, make our public schools and our systemic schools much more attractive to people and will also help prevent the flow of trained teachers interstate, which has been a significant driver of the vacancies. I also briefly take note of the pill testing answers. The Government is committed to the drug summit. I listened carefully to the Leader of the Government, who did not rule anything in or out. I suggest that is perfectly appropriate in the lead-up to a drug summit.

ASSET PRIVATISATION

The Hon. MARK LATHAM (12:28): I take note of the answers regarding privatisation. I know the Government thinks it is on a winner, but I think it is hyperbole to regard the toll contracts as privatisation. What was ever sold? These are subterranean roads where the former Government—and the Government before it, with the Lane Cove and Cross City tunnels—undertook contracts to say, "Build the road and you can collect some money from those who use it." You cannot say any asset had been sold. When a company is tunnelling under the

surface of Sydney, it is not actually a privatisation. That is massive hyperbole. Sure, the ports and the electricity grid were examples of privatisation because very distinct assets were sold. But to carry on about the toll roads, which the former Labor Government also built, and say it is privatisation is pure nonsense.

Regarding the future privatisation agenda, I say that the sale of Rosehill racecourse is the biggest privatisation in the history of Sydney—authorised, cheered on and encouraged by Premier Chris Minns. This is a clear broken promise. The Government said, "No more privatisations." At the moment, Rosehill is a community asset held by the vast membership of the Australian Turf Club. The Premier is cheering on a proposal to sell it to private land developers for 25,000 dwellings, the equivalent of 100 sixty-storey apartment blocks or sixty 100-storey apartment blocks, depending on how you construct this new Hong Kong near Parramatta. It is the privatisation of a community-held and community-owned asset for a very large private housing estate. That is what the Premier is endorsing. If he has a problem with privatisation, why is he cheering on the biggest privatisation in the history of Sydney, particularly in a context where it is a thought bubble?

It is an unsolicited proposal—none of those have any great history of success in New South Wales—and it lacks detail and feasibility, even within the New South Wales Government. At budget estimates I asked the head of the Office of Sport, Ms Jones, whether the office had worked out if it could put an alternative training facility at Horsley Park. She said, "I don't know." She said she walked over the site but still does not know if it is big enough for an alternative training facility. When I raised the objections of Australia's leading racehorse trainer, Chris Waller—a huge investor and employer in New South Wales—and said that he was talking about moving to Melbourne if Rosehill is sold, in her answer she said "that person you referred to". She is the head of the Office of Sport! She referred to Chris Waller—with his multimillion-dollar business that generates very significant employment for New South Wales; you would hate to lose him—as "that person you referred to". It was Chris Waller.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): Order! Pursuant to standing orders, debate is interrupted to allow the Minister to respond.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (12:31): Members have asked questions—and responded in this debate to answers given—about many of the election commitments that the Government made. I confirm the Government will be delivering all those election commitments, and working through them carefully to ensure that they are delivered. That includes the drug summit and the Great Koala National Park.

I do not know the individual details members were asking for about the Great Koala National Park. The Minister has appropriately committed to take it on notice and will deal with that. But this is an election commitment, and we will work through that. In doing so, of course, the Government will be sensitive to the workforce needs and community needs. These decisions have an impact on communities. I caution members asking about early details of a process. Based on how these have worked in the past, government will need to make a call. Government will need to consult deeply with the communities and make sure they are supported. I say to members who are concerned about the early views of agencies that this will be heavily supervised as the Government delivers on that election commitment.

I have been lured back into commenting on some of the contributions about tolls. We are not in a parallel universe now after the election. We are in the same universe, with more facts on the table and more transparency. I was surprised to see the Opposition ask questions about the review recommendation to scrap the $60 toll cap. Opposition members asked the Government, "Why don't you keep it?" It is not only the reviewers saying that measure may not stand; the Opposition is calling on the Government to scrap it. Literally, the position of members opposite today was, "We don't support this measure but we'd be outraged if you scrapped it." It was a total contradiction on the floor of the Chamber.

The Government's position is clear. We have received this report and we will respond in time. There are no easy answers here, but we will sort through it. We have committed to that important relief as we sort through reform. We will deliver on those election commitments. I was interested in the final comments about tolls and whether this is or is not a privatisation. To me, the most important question here is this: What are the terms of that deal? What has the public got out of that? When I look at that deal and the fact that we still owe $123 billion in today's dollars for $16.8 billion worth of roads, I agree with the conclusion of the review that it was a terrible deal.

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

Motion agreed to.

Written Answers to Supplementary Questions

FIREFIGHTERS INDUSTRIAL AWARD

In reply to **the Hon. DAMIEN TUDEHOPE** (20 March 2024).

The Hon. ANTHONY D'ADAM—The Minister provided the following response:

In October last year, the New South Wales Government delivered firefighters their highest pay rise in over a decade with a 4.5 per cent, one-year agreement. This followed their award expiring under the previous government.

Negotiations are now underway on a new, multi-year agreement between Fire and Rescue NSW and the Fire Brigade Employees Union. Fire and Rescue NSW has proposed key areas of mutual interest to underpin the bargaining process. It will take time to work through these issues and that process should be allowed to continue to ensure shared gains are achieved.

The New South Wales Government is committed to delivering a modern, fair and sustainable award for firefighters and for the community.

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

Announcements

BICENTENARY OF THE LEGISLATIVE COUNCIL

The PRESIDENT (14:01): As we look forward to the 200th anniversary of the first meeting of the Legislative Council on 25 August, I take this opportunity to outline to members a number of the bicentenary events planned for this year. Such an occasion represents a once-in-lifetime opportunity to reflect on our incredibly rich and complex journey, celebrate our successes and impact, and together imagine a robust parliamentary democracy of the future.

I am especially pleased that we are starting the year by taking bicentenary events to communities outside Sydney, with a series of regional roadshows. Beginning in Lismore on 3 April, our regional roadshows will incorporate a public speaking competition, youth forums, a historical exhibition, workshops with local school students and community groups, and other local events. We will then move to Port Macquarie, Armidale, Batemans Bay, Bathurst and Wagga Wagga to ensure that our regional communities play a significant part in the celebration of our bicentenary.

As a part of our bicentenary, we will look at the Council's complex, colourful and unique history, and through a curated seminar series we will explore those themes and provide a platform for important conversations. Starting on 18 April, our first in the seminar series will centre around the topic of "Then and Now", delving into key milestones in the bicentenary's historical arc to propel a lively discussion about the Council's strengths, achievements and impact, all through the personal insights, stories and experiences of members past and present. I am particularly excited to let members know that two of the star participants at this event will be Dr Meredith Burgmann and Dr Peter Phelps.

The subsequent seminars will provide an opportunity to focus on a range of key perspectives such as the experiences of Aboriginal people, LGBTQI and culturally and linguistically diverse peoples, and regional communities. It has always been important to me that we prioritise First Nations people as we mark our bicentenary. Yesterday we heard heartfelt contributions from members on the suffering and hurt inflicted on our First Nations people. We must acknowledge and recognise during this bicentenary year that our Parliament has a complex and varied history with Aboriginal people. Some of the decisions made in this place have had serious negative ramifications for Aboriginal communities, while others have signalled positive change and ensured that Aboriginal voices have been heard.

We have a responsibility to ensure that this bicentenary explores the difficult and challenging aspects of our history but also focuses on the future and how we as a Parliament can strengthen our connection to Aboriginal communities. To that end, we have commissioned artist Kim Healey, who members may remember featured on our Reconciliation Wall with her incredibly striking *Songlines* series, to create a lasting and important artwork that incorporates the spirit of reconciliation and the relationship between Aboriginal communities and the Parliament. The commissioning of such a significant Aboriginal artwork is a key legacy of the bicentenary program, and its unveiling will be an important moment in our commitment to building and maintaining a positive and meaningful relationship with the Aboriginal community.

We are also curating a Young Aboriginal Leaders Program that will support young Aboriginal people as they develop into leaders of the future in their communities. The program speaks to the bicentenary's aim of looking ahead to how a truly representative Parliament for the people of New South Wales can evolve over the next 200 years. To celebrate the official 200th anniversary of the Legislative Council's first meeting, we will be hosting a formal gala dinner in Parliament on 24 August to celebrate the incredible milestone in our Council's

history. Then, the following day, we will throw open the doors and welcome current and former members, staff, their families and members of the public for a full program of events centred on the bicentenary themes of "reflect, celebrate and imagine", which will include re-enactments, lectures, family fun activities and much more.

In addition to all of this we will continue our Bicentenary Concert series, hold the third in our series of Bicentenary Conferences, curate a major exhibition in the Fountain Court in October and host the Commonwealth Parliamentary Conference for representatives of 56 nations from 4 to 8 November. These events will all lead into the public centrepiece of the bicentenary activities, the commemorative ceremonial Opening of Parliament later this year. I am sure I speak for all members of this place when I say how excited we are for the upcoming year. I thank the Bicentenary Advisory Committee, which met today, for its guidance and also the excellent Black Rod team, led by Jenelle Moore, for their hard work and steadfast commitment. I also specially thank David Blunt for his wisdom and advice in preparing for this significant year. I look forward to the year ahead and recognising this momentous occasion in our State's history.

Matter of Public Importance

MEMBER CONDUCT

The Hon. MARK LATHAM (14:06): I move:

That the following matter of public importance be discussed forthwith:

The importance of integrity and honesty in the use of public money, especially by members of Parliament.

I am disappointed that the Government will not support the motion to discuss the matter of public importance. When the Premier was in Opposition, he said that integrity needed to be a full-time everyday government practice and that integrity was not something that one could turn on and off like a tap. But apparently on this matter—defending the integrity of the budget estimates process and promises made to Portfolio Committee No. 1, or PC1, and this Chamber—the tap is off, at least on the Government side.

The matter of public importance is urgent as this Chamber must defend the integrity of budget estimates, in particular the credibility and integrity of PC1 where a dispute inside The Greens party was raised, promises were given under oath about the production of documents and now those promises have been broken. That is a high principle of integrity at stake for the Chamber, budget estimates and, particularly, the reputation, credibility and integrity of Portfolio Committee No. 1. No member should promise repeatedly to do something for the benefit of a committee and this Chamber, and then in some strange parallel universe pretend that the promise had not even been made, even though it is recorded four times in the budget estimates transcripts.

I am not making allegations about financial matters. I am asking for the integrity of the promise made to PC1 relating to those issues inside The Greens party to be kept. The matter of public importance is urgent for the Chamber to make clear that it will not tolerate this kind of carefree, disrespectful behaviour from a member when an important, carefully documented matter had been raised and presented to the committee. The President was present as a witness. Those who were in that hearing, like Mr President, or who followed The Legislature budget estimates will know what I am talking about. The matter of public importance is urgent. I will read the transcript of The Legislature budget estimates hearing by PC1 on 4 March. Ms Abigail Boyd was given an opportunity to clear up the dispute inside her own party. I note there is an unusual practice that The Greens follow.

The Hon. Penny Sharpe: Point of order: This part of the proceedings of the matter of public importance should be an argument as to why the discussion should be brought on, rather than the substance of the discussion. I ask you to call the member back to the matter. The case that is supposed to be made is why a discussion should be dealt with forthwith.

The Hon. MARK LATHAM: To the point of order: Four times in less than three minutes I have said that the matter of public importance is urgent and requires the urgent consideration of the House. That is arguing that it should be brought on forthwith. We are debating urgency over the next 20 minutes.

The Hon. Penny Sharpe: Further to the point of order: Just because the member says it is urgent four times does not mean that other issues are not being brought up in the debate that are outside the standing orders that relate to this motion.

The PRESIDENT: I uphold the point of order. I quote President Ajaka's ruling on 11 April 2018, who said:

… speakers need to delve into aspects of the motion in order to determine whether it should be discussed.

I understand and appreciate that. He continued:

There must be a nexus between what is being said and why the matter is or is not of public importance.

It is true that members should not simply state that a matter is urgent but should base the urgency on public interest. The Leader of the Government is right. The member will make his case about why the matter should be brought on forthwith.

The Hon. MARK LATHAM: As I have been stating—and I will say it again—the matter is urgent, and is of critical public importance because of the question of integrity and disrespect shown to Portfolio Committee No. 1 at budget estimates. I said earlier on that no MP should promise repeatedly to do something for the benefit of a committee and this House and then, in some strange parallel universe, pretend that the promise had not even been made. If members or anyone else thinks that we are here to break our promises to the House, that is not integrity, that is not in the interests of the Legislative Council, and it is certainly not in the interests of the budget estimates process. This matter has public importance because certain promises were made that have not been kept. On page 45 of the budget estimates transcript, recorded by Hansard, Ms Abigail Boyd said:

> Mr Latham, I'm happy for you to look at my accounts. You can look at all of my bills.
>
> …
>
> You can look at all of my accounts.

Shortly after she said:

> Oh, my God. Feel free. You can look at every bank account.

In a third instance of a promise being made, Ms Abigail Boyd said:

> I'm happy to give them to you, Mr Latham. They're not a secret.

Then there was a fourth—so it was not one, not two, not three but four times. Ms Abigail Boyd said finally:

> I have said that I will give all of my information to Mr Latham.
>
> …
>
> He wants to see all my bank accounts and all of my bills. I'm very happy to give it to him, if that makes him happy.

It is not about my happiness; it is about the credibility of the process and what happened thereafter. These publicly important matters were raised at The Legislature budget estimates hearing and these commitments were made, as recorded in the transcript. I say to members that this issue needs to be debated as a matter of public importance because I wrote to the Clerk suggesting an SO 52 type of process for the inspection of these documents. The Clerk informed me that Ms Abigail Boyd rejected this and was taking legal advice about the disclosure of documents.

Naturally I raised it with the Hon. Jeremy Buckingham, chair of Portfolio Committee No. 1, who had been promised these documents as well. I raised it with him. He said that he had spoken to Ms Abigail Boyd and she said that she would produce the documents directly to me. The matter needs to be considered in full urgently by the House because there is nothing worse than an MP making commitments on an important matter like this at budget estimates and then breaking them. It is critically important to the integrity and credibility of the committee that did the budget estimates. I wrote to—

Ms Sue Higginson: Point of order: The member seems to be making the point that the matter is important, but I am not hearing anything about urgency, which is what we are trying to establish.

The PRESIDENT: I understand the point that the member is making. That is a subjective point rather than a point of order. I do not uphold the point of order.

The Hon. MARK LATHAM: Before I was interrupted mid-sentence I was saying that I wrote to Ms Abigail Boyd, cc'ing the committee chair. She replied on 16 March, "Please encourage Mr Latham to come and speak to me about it when I'm in Parliament." I did this on Tuesday morning.

The Hon. Penny Sharpe: Point of order: My point of order is under Standing Order 206, which relates to matters of public importance. Mr President, after your first ruling that the member should constrain his comments to what we should be debating, which is whether this motion should be brought on forthwith, he strayed into what I believe is the substance of the issue that he wishes to raise, which is not part of the current debate on the matter of public importance.

The PRESIDENT: This is always a challenge, because clearly in order to establish urgency there needs to be some context given to any issue in a matter of public importance. Therefore, there will always be a question of balance. The member will be mindful of that balance. He can continue his contribution but will save the substantive matters for debate on the motion itself.

The Hon. MARK LATHAM: Thank you, Mr President. I need to provide some background to persuade my friends opposite—and, indeed, your good self—as to the urgency of this matter of public importance. I will

not go into the full details, but the bottom line is that, in front of other MPs, Ms Abigail Boyd denied several times that she had made any promise to Portfolio Committee No. 1. She said that the promise had not been made, even though it was recorded four times in the transcript. I am not moving a motion about misleading the House, the lack of good faith and the terrible disrespect shown to the committee; I am saying that the Parliament should consider this as a matter of public importance.

It is a very serious matter for an MP under oath to promise one thing to a committee of the House and have it recorded four times in the transcript and to then not only refuse to comply but also deny that the promise had even been made. I could not believe what I was hearing. This is of such critical importance. Why raise matters at budget estimates to do with finances and have commitments like this made, which were recorded four times in the transcript, only for a member of Parliament to then turn around and say, "Oh, no—I'm breaking the commitment. I don't believe that was actually said"?

We need to hold MPs to account in the matter of public importance of financial integrity and the very workings of this House. This matter is urgent. I do not think there is anything more urgent than the integrity of a member of Parliament who made commitments to a committee on a financial matter very clearly and confidently, interrupting me and brazenly saying that it was all going to be sorted out as soon as the documents were presented, who then said that the commitments had never been made, despite being recorded four times in the transcript. We see some strange things in public life, but none more peculiar than this. That is what makes this urgent and publicly important and why it should be before the House.

Maybe there is some unusual green-light excuse or explanation for why this has happened this way, but I know one thing: Portfolio Committee No. 1 is taking this seriously and the chair, the Hon. Jeremy Buckingham, is undertaking to write to Ms Abigail Boyd to get the explanation and, more importantly, to get the documents. If matters of financial concern are raised and a commitment is given that this can all be cleared up with the production of documents, and that was said four times, should a committee take that broken commitment lying down? Should I just take it as a broken promise and wander off into the distance carefree? That is not going to happen. If a member says these things, recorded by Hansard, they have to deliver, otherwise Parliament has every right, as a matter of integrity, to ask what has she got to hide? What has Ms Abigail Boyd got to hide to behave in this manner?

The Hon. Penny Sharpe: Point of order: That is well outside the discussion as to whether or not this matter of public importance is urgent. It also makes an imputation. If the Hon. Mark Latham wants to make serious allegations against the member, he knows very well that he should do it by way of substantive motion, not through a discussion about whether we should be bringing on a matter of public importance.

The PRESIDENT: I uphold the point of order. The member's time has expired.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:17): I indicate that the Government will not be supporting bringing on this matter of public importance today. The reason for that is that we have a very full list today. We have also removed the hard adjournment in relation to the timing of this. While the matter of integrity of MPs is extremely important, this is a highly unusual way to bring these matters forward. There is a question mark over things that are said between members in a budget estimates committee hearing when neither one of them is the person who is being examined. I think that is a separate issue. Whether there are any formal motions coming out of Portfolio Committee No. 1 makes this highly unorthodox in the first place.

The second point I make is that if there are issues and concerns, the way in which they are generally dealt with is by referral to the Privileges Committee for examination. It seems to me that there is a fair way to go in the toing and froing on this matter and, to be clear, I am not across the detail of it. I was not at the committee hearing. The point I make is that this is a highly unorthodox way to raise matters like this. There is the possibility for it to go to the Privileges Committee. It sounds like some matters are being undertaken by the committee, which at this point is a matter for the committee.

The Government will not support bringing on this matter of public interest. We have a long list of important legislation today, whether it is environmental protection laws or bail and crime. We are also introducing new health legislation and we have an important debate on conversion practices. We do not believe that the time of the House today is best spent on dealing with this matter. That, of course, does not mean for a second that the integrity with which every member is required to behave, show and declare when going through all the usual processes does not need to happen. If there is a problem, it should be going to the Privileges Committee; it should not just be aired in this Chamber.

The PRESIDENT: The question is that the motion be agreed to.

The House divided.

Ayes 19
Noes 18
Majority.....1

AYES

Banasiak	Latham	Mitchell
Borsak	MacDonald	Munro
Buckingham	Maclaren-Jones	Rath (teller)
Carter	Martin	Roberts
Fang (teller)	Merton	Ruddick
Farlow	Mihailuk	Ward
Farraway		

NOES

Boyd	Higginson	Moriarty
Buttigieg	Houssos	Murphy (teller)
Cohn	Hurst	Nanva (teller)
D'Adam	Kaine	Primrose
Faehrmann	Lawrence	Sharpe
Graham	Mookhey	Suvaal

PAIRS

Taylor	Jackson
Tudehope	Donnelly

Motion agreed to.

The Hon. MARK LATHAM (14:26): I thank the Chamber for the opportunity to debate fully the substance of the matter of public interest. There is a lot of talk in the Chamber about integrity, mainly from The Greens and, more recently, of course, in the Parliament from Premier Chris Minns. He said that he wanted integrity in the DNA of his Government and that it would be an everyday practice. I welcome very much the rhetoric on this subject. I have tried in my time in this place and in other parts of the public service to always observe the rules about integrity, especially when they come to financial matters and the role of MPs.

Since the first days of European settlement, New South Wales has been notorious for corruption. Governor Macquarie famously said there are only two types of people in New South Wales: those who are convicts and those who should be. Today, it is still chilling to sit in this Chamber and realise it is also the Chamber where Obeid and Macdonald sat. On the other side of politics, the Liberals have lost three Premiers at the hands of the Independent Commission Against Corruption: Greiner, O'Farrell and Berejiklian. The Greens would agree with everything I have just said—rhetorically, at least. Indeed, they go further, lecturing the Chamber on how they alone are the only party of high moral values and integrity. Members, then, can imagine my surprise earlier this year to receive some carefully documented, credible material from two branch members of The Greens concerning one of their own, Ms Abigail Boyd. These constituents said that she claimed electoral allowance for legal costs incurred before she was even an MP in 2019.

The Hon. Penny Sharpe: Point of order: I hope that we will not have a lot these, but I am concerned on two levels in relation to this debate. First, matters are before the courts around some of this that are live and active. I do not believe that it is appropriate for these matters to be being discussed, particularly now, in this time frame. Second, serious imputations are being made against Ms Abigail Boyd. If the member wants to do that, he can, but he actually is not allowed to do so via these motions. He needs to move a substantive and direct motion. He could have given a notice of motion to deal exactly with those issues so that they could be prepared for properly. It is outside of the standing orders to make any of those imputations in relation to any member through this particular style of motion.

The Hon. MARK LATHAM: To the point of order: The question of sub judice is ridiculous. Obviously, the parliamentary electoral allowance is not before the court, so too the broken promises to Portfolio Committee No. 1 – Premier and Finance. In any case, Ms Abigail Boyd spoke openly at length during the committee about these matters. She regarded no sub judice. You were there, Mr President, as a witness. I am giving the chronology of what actually happened. I said earlier that I am not making allegations in this speech directly of financial impropriety against Ms Abigail Boyd. I am explaining to the House what happened in the lead-up to the broken

promises made during a budget estimates hearing of Portfolio Committee No. 1 - Premier and Finance. I must explain what the matter is actually about. I again point out that I have not sought those things; The Greens branch members came to me. I do not have many meetings with The Greens but this was certainly the most fascinating meeting I could imagine, and the House needs to know some of the detail.

Ms Abigail Boyd: To the point of order: To assist the House and the President, a case is being heard tomorrow and one of the arguments against me is about payments for legal costs I incurred when I was sued. That is why this is sub judice.

The Hon. John Graham: To the point of order: I support the point of order relating to a substantive motion. The Hon. Mark Latham in putting this case is actually canvassing very widely allegations against the member. I support the point of order taken by the Leader of the Government. It is impossible for a member to prepare to consider a response to the issues being raised unless it is in the substantive motion. That would have been a more appropriate way to deal with it. I support the point of order.

The Hon. Emily Suvaal: To the point of order: In taking a point of order, one should not debate the point of order.

The PRESIDENT: I will rule on the two parts of the point of order. The first part of the point of order relates to sub judice. While I do not have all the details and will continue to listen to the debate carefully, I make the comment that President Johnson ruled:

> Sub judice involves the good sense of members in not canvassing in the House matters that are before the courts. It also involves the absolute discretion of the Chair, subject to the collective will of the House. Sub judice should be treated as a convention, not a rule. The onus falls on the Chair to weigh public interest and possible prejudice, so precise information is required. The Chair should be guided by a presumption for discussion. The likelihood of proceedings occurring in the reasonably foreseeable future is an important consideration. Debate upon general background and related matters is permissible but there should be no reference to these specific issues before the court. Although it is unlikely that a judge will be influenced by what is said in the House, it is undesirable that the House should set itself up as an alternative forum.

My view is that this debate would not prejudice a judge. I do not uphold the sub judice point of order at this time, but I will listen to how the debate proceeds. The second part of the point of order relates to reflections on other members. On 20 March 1991 President Johnson said:

> … all imputations of improper motives and all personal reflections upon members are considered to be highly disorderly.

He then said:

> The practice of the House, based on the practice of the House of Commons, is that members can direct a charge against other members upon their character or conduct only upon a substantive motion that admits the distinct vote of the House.

I understand the point made by the Hon. Mark Latham; however, his construction of why the matter was urgent for discussion as the matter of public importance was extremely limited to specifics about papers being gained from a particular committee rather than specifics about an issue relating to Ms Abigail Boyd.

I uphold the point of order taken by the Leader of the Government. It is out of order for the debate to consider improper imputations against Ms Abigail Boyd. Any contribution further along those lines will be ruled out of order and will not stand. The Hon. Mark Latham has the opportunity, if he wishes, to move a substantive motion. This is not a substantive motion because, as President Johnson said, it does not admit the distinct vote of the House. In my view, and in his, a substantive motion requires the House to then come to a decision rather than there being discussion and discussion ceasing.

The Hon. MARK LATHAM: I should point out to the House that The Greens have quite an unusual practice in the reporting of MPs about their electoral allowance. I did not know this, but MPs for The Greens have to report to their party on a regular basis about how they have spent their electoral allowance. That was the material that was forwarded to me. It is there in black and white, reported, and involved quite a substantial amount of legal costs—$34,675.54—which was also established at budget estimates by the officials. It is common sense for any member who has been in Parliament for any amount of time that the electoral allowance can be used only in the efficient discharge of parliamentary duties. Members also cannot claim costs incurred before they became a member of Parliament and before they had an electoral allowance. I am not mentioning Ms Abigail Boyd in that regard but I am setting out the facts, and the facts are offensive to these people.

The Hon. Stephen Lawrence: Point of order: It is hard to see how these matters being canvassed in relation to electoral allowances and rules in The Greens are relevant to anything other than an ultimate suggestion of impropriety and, therefore, it is a personal reflection. The comments of the Hon. Mark Latham are not within the confines of your ruling, Mr President, which was that there could be discussion about what was said at the committee and noncompliance in respect of things said there. All of this is a thinly veiled attempt to suggest impropriety.

The PRESIDENT: I uphold the point of order because the specific allegation, implicitly, is about the member previously referenced. I direct the Hon. Mark Latham to come back to his original contention when he moved the matter of public importance.

The Hon. MARK LATHAM: I come back to Chris Minns' statement that the mob on the Government benches would have integrity in their DNA in the everyday practices of government. These points of order are the antithesis of that. It is an attempt to shield problems that they would rather not know about. The squeaky clean have got dirty now.

The Hon. Stephen Lawrence: Point of order—

The PRESIDENT: The Clerk will stop the clock. If members are to continue to take points of order, it is not fair to the member speaking that the clock continues to run down. I understand the convention is for the clock to be stopped only in question time. I am not suggesting that taking points of order is a political practice or inappropriate but, for the benefit of all members, that is my instruction for this debate.

The Hon. Stephen Lawrence: What the Hon. Mark Latham just said is a direct response to the point of order that I took and is now a reflection on members sitting on the Government side of the Chamber. It has nothing to do with the substance of your ruling on what was permissible.

The Hon. MARK LATHAM: To the point of order—

The PRESIDENT: I will not hear from the Hon. Mark Latham. The Hon. Mark Latham was not speaking to the point of order. He was, in fact, continuing to contribute to the discussion. The matter of public importance is quite broad and the member was being directly relevant.

The Hon. MARK LATHAM: This is a matter of public importance about integrity. Some things have been on the public record very clearly and they too should be held to account. I mention in the substance of this debate the promises that were made during The Legislature budget estimates hearing of Portfolio Committee No. 1 - Premier and Finance on Monday 4 March because this is the critical point. I know it is upsetting for members of the committee that these promises and pledges have not been fulfilled. I asked questions, as we do, at budget estimates and there were interjections and I thought that the matter was going to be sorted out pretty quickly when Ms Abigail Boyd said:

> Mr Latham, I'm happy for you to look at my accounts. You can look at all of my bills.

The chair called her to order because it was an interjection and then she went on to say:

> You can look at all of my accounts. I have nothing—

I think she was about to say she had nothing to hide, and then the committee transcript moves on to my comments. Ms Abigail Boyd went on to say:

> Oh, my God. Feel free. You can look at every bank account.

There are two commitments that were clearly made to the committee. Following the rules of integrity, the member should fulfil those commitments. The member was under oath as an MP promising certain things to a budget estimates hearing and, by de facto, this House. The third promise was made after I asked:

> Are those attachments the relevant bills that coincide with these electoral allowances expenditures claim?

I asked that question during the estimates hearing. Ms Abigail Boyd said:

> I'm happy to give them to you, Mr Latham. They're not a secret.

Ms Sue Higginson: Point of order: The member is straying from the matter he claims is of public importance. The member did not make a commitment to the committee. The words spoken were to the other member—bearing in mind that the member was not a witness in that inquiry. This is clearly unusual territory, and it does not seem to be on a matter of public importance.

The PRESIDENT: The Clerk will stop the clock. I appreciate the comment; it is a debating point, not a point of order. In terms of the original constriction of the debate, the member is, in fact, contributing to the debate as it was originally and appropriately framed, which is about the construction of Portfolio Committee No. 1 - Premier and Finance and its authority to potentially compel documents or for members to talk about documents and so on. It is perfectly reasonable for the member to continue down the line that he is currently going. The Hon. Mark Latham has the call.

The Hon. MARK LATHAM: Thank you, President. That was my understanding of the matter, exactly as you have expressed it. The fourth commitment was:

> I have said that I will give all of my information to Mr Latham … He wants to see all my bank accounts and all of my bills. I'm very happy to give it to him, if that makes him happy.

None of those things have happened. I have done everything I can—through the Clerk, through the committee by speaking to its chair, and then at the urging of Ms Abigail Boyd—to speak directly to her in this Chamber, as I did on Tuesday. My frustration, obviously, is that I have done everything I possibly can for these pledges to be fulfilled, to clear the matter up. Having failed, I have then written to the chair of Portfolio Committee No. 1, the Hon. Jeremy Buckingham, outlining my frustration. My understanding is that the committee now has it under consideration. The House will not be surprised to hear that the committee takes this as something of an insult, a broken promise that it needs to correct. Why would it not?

These were deliberations. It is true that Ms Abigail Boyd was not a witness, but the interjections and other comments that were made were added to the public record, and one would expect these promises to be fulfilled. I wrote to the Clerk. I thought a Standing Order 52 process would be appropriate—lay the documents on the table, have the Clerk sit there while I look at them to see whether the matter is cleared up or if other questions are raised. And then the Clerk informed me that Ms Abigail Boyd had rejected that and was taking legal advice about disclosure of the documents. Then the chair of the committee, the Hon. Jeremy Buckingham, following discussions with Ms Abigail Boyd, told me that she would produce the documents directly to me. I took that in good faith. The chair of the committee got involved, as we would expect him to. I emailed Ms Abigail Boyd about this, and cc'd it to the Hon. Jeremy Buckingham. She replied on 16 March, "Please encourage Mr Latham to come and speak to me about it when I am in Parliament". I did this on Tuesday morning, 19 March, in the Chamber. Ms Abigail Boyd asked what I wanted to see, to which I replied, "The legal"—

Ms Abigail Boyd: Point of order—

The PRESIDENT: A point of order has been taken by Ms Abigail Boyd. The Clerk will stop the clock.

Ms Abigail Boyd: When a member is reading from a report, under the standing orders, the context is important. They cannot just take little bits of it. The member should be directed to read that entire email.

The PRESIDENT: There is no point of order. Ms Abigail Boyd is welcome to contextualise, if she wishes, in her contribution.

The Hon. MARK LATHAM: I welcome other contributions and perhaps it can be cleared up as part of this matter of public importance. That would be welcome indeed, given the confusing things that have happened, which, I have to say, spin my head around. Ms Abigail Boyd asked what I wanted to see, to which I replied, "The legal invoices corresponding to the electoral allowance claims reported to your party, The Greens, which I've received complaints about from constituents, as you promised the PC1 Legislature estimates."

Ms Abigail Boyd then denied, in front of other MPs, several times, that she had made any such promise to Portfolio Committee No. 1 which, of course, cannot be regarded as factual. It is just not true. I am sorry to say that, but it is just not true. It is a serious matter, and I understand that Portfolio Committee No. 1, through its chair, is now taking it further, as it should. Mention was made earlier of taking it to the Privileges Committee. That would only happen if the member did not fulfil these commitments. So I strongly urge the member involved to accept the record, accept what was said—at one point she said the costs were for future legal cases, and she chipped me when I questioned that. She said she had not said that, but the transcript shows that she did, and she certainly made the four promises that I have mentioned to the House now on two occasions.

All of these things are on public record. That is the good thing. We love Hansard—they are always there to try to encourage efficiency and on the crossbench we try to help. It is all there in black and white, so it is simply a matter of Ms Abigail Boyd producing the documents she promised. It will not have to go to the Privileges Committee; it can all be cleared up as she claims. She has nothing to hide if it is all innocent, if she has a valid excuse for why this amount of some $35,000 in legal costs has been claimed. If she can explain it to the House— [*Time expired.*]

The Hon. ROBERT BORSAK (14:44): At the outset I say that this is a very unusual set of circumstances. I have sat in many committee hearings, including budget estimates hearings. I have also chaired them, obviously. I was deputy chair of the budget estimates hearing into The Legislature on 4 March. It was a very unusual day. Day after day we sit in this place, in committees and in budget estimates hearings, and are subjected to the lecturing, pontification, entitlement and outright misandry of The Greens. As deputy chair of Portfolio Committee No. 1, I was present at the budget estimates hearing for The Legislature and you, Mr President, of course, were the key witness to be examined on 4 March. I believe the Hon. Mark Latham treated the questions with the decorum and respect due to the chair, the committee members and the witnesses present. Contrasting with this was the aggressive, unedifying responses by Ms Abigail Boyd on the day. She used classic sexist and narcissist victimisation behaviours to deflect, control or stop the line of questioning—

Ms Abigail Boyd: Point of order—

The PRESIDENT: A point of order has been taken by Ms Abigail Boyd. The Clerk will stop the clock.

Ms Abigail Boyd: I think my point of order is a really obvious one. The Hon. Robert Borsak is making—I am trying to find the words—imputations, the inference in Standing Order 96 (3). He is just basically using this debate as a forum to have a go.

The PRESIDENT: I uphold the point of order.

The Hon. ROBERT BORSAK: She used victimisation behaviours to deflect, control or stop the line of questioning or debate. That is exactly what she was doing. I believe the line of questioning seeking clarification about whether it is a legitimate use of the electoral allowance to spend it on legal matters before even becoming a member of Parliament is appropriate. Later, the questioning was in relation to the possible expenditure of $35,000 of electoral allowance by Greens member Ms Abigail Boyd on legal expenses in the case *Johnston v The Greens NSW—*

The Hon. Penny Sharpe: Point of order—

The PRESIDENT: A point of order has been taken by the Leader of the Government. The Clerk will stop the clock.

The Hon. Penny Sharpe: I am taking this point of order in relation to the court case, given the issues raised by Ms Abigail Boyd earlier in debate. I do not pretend to understand the ins and outs of what is actually going on in court for Ms Abigail Boyd in relation to what happened on Portfolio Committee No. 1, but I am concerned that some of this is straying directly into what is a live court case. I ask you to consider that issue, please.

The PRESIDENT: I understand. There is validity in the point, but I am not going to rule on the sub judice issue. I suspect that it is highly unlikely that a judge would be impacted by the words that are said in this debate. That being said, I will not rule on it because I believe that the point is captured by my original ruling about imputations and reflections on other members. I remind the Hon. Robert Borsak that this debate is quite narrow, and that discussions, contentions and imputations about Ms Abigail Boyd can happen, but they need to happen in an entirely different substantive motion and not in this one.

The Hon. ROBERT BORSAK: Can I comment on that?

The PRESIDENT: No, that is my ruling.

The Hon. ROBERT BORSAK: I thought I would get away with a comment! The questioning in relation to legal expenses in the case of *Johnston v The Greens NSW*—a case heard a fair while ago with a judgement being delivered on 6 March 2019, before Ms Abigail Boyd was elected to this place—was reasonable, given that the Hon. Mark Latham had tabled documents provided by two constituents who happened to be members of The Greens. In addition to verbally attacking the Hon. Mark Latham and making statements about his masculinity, Ms Abigail Boyd said that she was happy to reveal the results of the investigation into the matter. Ms Abigail Boyd later said that it was "completely false and incorrect" that $35,000 of public money had been spent. She stated numerous times that she was happy for the Hon. Mark Latham to look at the bills, invoices and emails.

The Hon. Penny Sharpe: Point of order—

The PRESIDENT: The Clerk will stop the clock. A point of order has been taken.

The Hon. Penny Sharpe: The matter of public importance for discussion before the House is:

The importance of integrity and honesty in the use of public money, especially by members of Parliament.

Mr President, it is clear that there are very particular issues being raised in relation to one member, on which you have made several rulings already throughout this debate. The point that I again make is that if members want to raise issues in relation to a particular member of Parliament, they should do so through substantive motion. There is no vote at the end of this discussion. There is no way for the House to decide whether it agrees or disagrees with what is being said. I believe that the member is straying well outside the matter of public importance. If he wishes to raise some of those issues, he should have done so by a substantive motion.

The PRESIDENT: I uphold the point of order.

The Hon. ROBERT BORSAK: To the point of order—

The PRESIDENT: I will hear the Hon. Robert Borsak on the point of order.

The Hon. ROBERT BORSAK: It is very hard to make any contribution on this unless we deal with what actually happened on the day. It is also—

Ms Sue Higginson: So bring a motion.

The Hon. ROBERT BORSAK: Hang on, you were not there; I was. I saw the chair trying to deal with the absolute anarchy that was being created in the place. That is the reality of it.

Ms Sue Higginson: Point of order: The member is speaking across the Chamber when he is supposed to be directing his comments to you, Mr President.

The PRESIDENT: Ms Sue Higginson will resume her seat. The Hon. Robert Borsak will address the Chair.

The Hon. ROBERT BORSAK: Thank you. I will do that. It was one of the most—if not the most—unedifying day I have ever seen in a committee meeting. Again, there was another reason for it, and that was the second one on the day. It was very hard to try to work out, after I subsequently went and spoke to the Chair, how we were going to deal with this. I just find it impossible to deal with this now in this motion, unless I can actually go through the facts of what actually happened.

The PRESIDENT: I understand the point of order, and I am sympathetic to it. But there is a procedure for this issue to be dealt with in this place, and that is through substantive motion. This is not a substantive motion, and therefore comments regarding allegations about Ms Abigail Boyd are out of order and cannot be referred to in this discussion. The member is welcome to raise it as a substantive motion. If he and the Hon. Mark Latham wish to do that, that is absolutely fine, but they may not raise these matters in discussion on the matter of public importance.

The Hon. ROBERT BORSAK: Thank you, Mr President. That may well happen. The most telling statement started with her saying:

> This has nothing to do with The Legislature expenses. … I have said that I will give all of my information to Mr Latham. He is so obsessed with me. He wants to see all my bank accounts and all of my bills. I'm very happy to give it to him, if that makes him happy.

I note with some irony that it was not the Hon. Mark Latham texting Ms Abigail Boyd in the middle of the night, but, indeed, the Hon. Mark Latham had to make a complaint to the Independent Complaints Officer [ICO] about Ms Abigail Boyd texting him in the middle of the night. If you also look at Ms Abigail Boyd's repeated statements over the past year, it is indeed Ms Abigail Boyd who is obsessed with the Hon. Mark Latham. The Hon. Mark Latham has written to the chair of Portfolio Committee No. 1, stating Ms Abigail Boyd is not cooperating like she stated she would, and that is the crux of it: making undertakings, whether you are a witness or not, interfering in the processes of the committee and then seeking to backtrack and cover up. It is just not acceptable behaviour. It is now time for Ms Abigail Boyd to front up with the documents, meet her obligations and stop denying, deflecting and playing the victim. Be true to your word and do what you said you would do at the budget estimates hearing. One has to ask: What has she got to hide?

The PRESIDENT: I will call Ms Abigail Boyd, unless she defers to the Hon. Daniel Mookhey, because of the number of contributions that have referred to her.

Ms ABIGAIL BOYD (14:53): Thank you, Mr President. I must say, this feels quite surreal. Greens MPs are required to periodically report to members on a range of matters. One of these is the requirement to outline in detail our expenditure of electoral allowance [EA]. There is an expectation in our party that we do not take electoral allowance as salary, as many Independents and members from other parties in Parliament do, either in whole or in part. Instead, we use our full electoral allowance in carrying out our duties as Greens MPs.

From a party perspective, our disclosures give members assurance that we are spending as much on activities of the parliamentary office as we receive in electoral allowance. In practice, all of my colleagues and I put in far more money of our own than what we get from the electoral allowance to ensure the efficient running of our offices. No concerns have ever been raised by The Greens or any standing Greens member in relation to the expenditure of my electoral allowance. From a tax perspective—which is, of course, separate—if we have not spent our EA in full, which never happens, then the amount not spent will, of course, be subject to tax in the same way that every other member here is entitled to take their entire electoral allowance and use it as salary and have it subject to tax.

I am fortunate to have a tax accountant who is very, very clever, who handles my tax matters for me and ensures that my tax returns are accurate in that regard. If the Hon. Mark Latham had read the rest of the email that I had sent to him, where I encouraged him to go and speak to Members' Entitlements to understand tax rules around electoral allowance, then some of this might have been avoided. There is an Australian Tax Office tax

ruling, 1999/10, which sets out very clearly what you can and cannot spend your electoral allowance on. In that tax ruling, it sets out very clearly when you can and cannot use legal—

The Hon. Robert Borsak: Point of order—

The PRESIDENT: The Clerk will stop the clock. A point of order has been taken by the Hon. Robert Borsak.

The Hon. Robert Borsak: I was and am a tax agent. This is straying into the area of tax, which is not at all part of this debate. It was not raised by the Hon. Mark Latham in the reasons for having this debate. I did not address it. I think it is another exercise in obfuscation.

The PRESIDENT: I do not uphold the point of order.

Ms ABIGAIL BOYD: As I was saying, the rules are very clear in relation to the use of members' electoral allowance for legal expenses. That is what my very, very clever tax accountant has used over the past five years when she comes to look at my accounts. I would like to stand here and say that my entrance into politics was easy, but, unfortunately, that is not the case. The high of having been preselected in second place on The Greens' New South Wales 2019 ticket was quickly taken away by some in the party who were a bit cranky that their preferred candidate had not won. They then decided to sue the party, me and others in the Supreme Court, attempting to have their preferred candidate replace me on the ticket. Having put me to extreme stress and expense, compromising our election campaign, and having had their case unequivocally rejected, they then decided not to pay me.

Well, that is just not how the legal system works. If you sue somebody who is innocently going about their own business, who then has to mount an expensive legal defence, and you lose because you have no sensible case, you are going to be liable to pay their legal costs. That was the decision that the plaintiffs in that case made, and now they have to pay for that decision. That said, anyone who goes through the court system in this State will know that you never get all of your legal expenses back. You are lucky to get 60 to 70 per cent of your total costs back. So even if I recover costs against these people, I will still be tens of thousands of dollars out of pocket because of a decision that they made and that I was completely innocent in relation to. I will note that I am now up to well over $200,000 defending this case and the ones that have followed it, which is way more than my salary after tax.

Instead of paying, these men then launched an appeal against the original decision. They again lost. They launched another appeal and another and another, each time racking up more and more costs. This has now been going on for years. I do not have $200,000, by the way. This is a loan that my family has to bear. Every time they lose, because their case is ridiculous, and every time they send me threatening emails and other communications for days and days, telling me that they are going to ruin me somehow if I do not just let them off for not paying their legal costs. It is most likely a form of criminal blackmail, and I have had legal advice based on the messages and the emails that they have sent me. But at the least it is simple harassment and bullying. The judges involved in these cases have said as much. This particular allegation that is being put here by the Hon. Mark Latham today has also been specifically considered by one case already and dismissed as being ridiculous, and it is now again an allegation that is being put in the cases being heard tomorrow.

But I will not be dictated to by bullies, which is what brings us to where we are today. There is another case—the seventh—to be decided tomorrow as a last desperate attempt. These men who have been suing and haranguing me for years have now enlisted the assistance of the Hon. Mark Latham to throw some final pieces of mud at me, to avoid taking responsibility for their own actions. Their deranged argument is that somehow the cost to me of their actions has been reduced by me having paid legal sums outside of the costs order that they owe me using electoral allowance. Even if that were possible, even if electoral allowance had been used for that purpose and I had got the money back from them somehow and then not paid it back into the EA afterwards, it, of course, has nothing—nothing—to do with their liability to pay the costs in the first place. They have run this argument many times already. It has been dismissed. We looked at it when they complained to the ICAC about it. ICAC said it was ridiculous. They sent it to the Parliament. The Parliament had a good look. I provided all the documents that I had to the Department of Parliamentary Services at the time. They said it was ridiculous.

None of this has stopped the Hon. Mark Latham. We had The Legislature budget estimates hearing, where questions were supposed to be directed at witnesses, but instead they were directed at me. It seems like some members in this place just want to say my name over and over. I will comment on the point that the Hon. Robert Borsak raised about the text message. The Hon. Mark Latham has delivered two adjournment speeches in this place about me, saying that I am not fit to be in Parliament because I am a victim of child sexual assault and therefore have some motivation that is not sane or something—I really do not know what his argument is. After the last one, I thought, "This man is just hiding behind privilege the whole time. I don't need to." I sent him a

message. I think it is important for all members to hear my message, which he now claims caused him so much distress and harassment. He mentioned in the budget estimates hearing that he received multiple texts, but there is just one. I note it was not read until the daytime. After his second full adjournment speech, I said:

> Your ignorance is breathtaking. You need to get a new obsession and/or therapist. Bless.

I sent that message to him shortly after he concluded his speech. He then used that to claim harassment with the Independent Complaints Officer [ICO]. One text message in the context of someone who has been bullying and harassing me in this place for years was not deemed to be harassment. He knew it would not be. He just wanted to use it as a reason to have a go at the ICO. Enough is enough. I will add that I am very disappointed that the Coalition allowed this to go ahead. They should know better than this. I am looking at particular individuals in the Coalition who I have had a good relationship with that I will not be having such a good relationship with anymore.

The Hon. DANIEL MOOKHEY (Treasurer) (15:01): I make a very limited contribution in this matter of public importance that relates to integrity of public officials to simply say I support integrity in public officials. It is very important that we all uphold such standards. I contribute to this debate to make two points. The first point is: I am sure all of us who are—and those who have been—members of political parties know that, at times, there is controversy within political parties. I know of various members who perhaps have suggested that we debate each of them. I am always aware of the fact that we can bring such information into this House as we assess it. The second point is, at various points all of us have been subjected to various allegations from various people.

Ms Sue Higginson: I haven't.

The Hon. DANIEL MOOKHEY: Or will be subjected to allegations by certain people. I make this gentle observation to Ms Sue Higginson: Considering the party she is in, there is a reasonable chance she will be subjected to allegations as well. Nevertheless, there is a way in which this House ordinarily deals with those matters. We also have a Privileges Committee that is capable of inquiring into such matters; we do not need to bring them to the floor of the House. The reason I am speaking in this matter is because the allegations have been directed at a member who happens to shadow me, who, like others, has a professional obligation to hold me and others to account, and I make these observations: My interactions with Ms Abigail Boyd have always been professional, diligent, tough, straightforward and surrounded in a cloak of integrity.

Whilst different people have different ideas and we will throw accusations at each other, I observe that, in dealing with Ms Abigail Boyd and the Hon. Mark Latham and others, they are people of integrity. We often forget that when we get into these debates. It would be wise if we were to remember that fact. I also make the point that I have worked with Ms Abigail Boyd in many capacities over multiple causes and have disagreed with her strongly, and I still fundamentally disagree with 95 per cent of what she says. However, in the four or five years in which I have interacted with her in multiple capacities, she has always been straight, fair and decent. I am not alone in that category. I would say the exact same about other members if they were in this position. But I feel it is remiss of me not to make that point in this matter, given that Ms Abigail Boyd shadows me on behalf of The Greens. We will continue to disagree with each other for many years to come, I am sure, but I feel like we can do so in a way which is civil and that it is an example that other members in the House could follow.

The Hon. BOB NANVA (15:05): I speak against this not because the substance of the matter is unimportant but because there are pathways and processes by which members can interrogate these matters in good faith if they wish to do so. I am a newcomer to this place, but I know that this is not the forum nor the manner in which to make these inquiries. The member can do so by way of a substantive motion. The matter can be referred to the Privileges Committee. The members' code of conduct certainly leads us in the direction of the Independent Complaints Officer or the ICAC, where this matter has been. Without engaging in the substance of the issues as others have done, it appears the ICAC has had a first pass at this and representatives from the Department of Parliamentary Services and the Clerks have had a second pass at it. Maybe that should be the end of the matter; maybe it should not. But this is not the place to resolve it.

There are documented and appropriate pathways to handle legitimate concerns in a rigorous, independent and procedurally fair way. If there are concerns about failures in any of those pathways, then trying to contort a different process by bringing them up in this Chamber to overcome those failures diminishes the substance of the inquiry. If there are problems with those pathways and processes, then let this debate be about that rather than allegations about an individual, which we are not equipped to deal with methodically or fairly at this moment. They are important and serious issues and deserve to be managed more fairly than shoehorning them into a matter of public importance debate.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:07): I wish to make a short contribution to this discussion. I have made it clear throughout that the Government does not believe this is the appropriate forum. However, it raises a

number of questions. Whether a promise or commitment has been made to a committee is a matter for the committee to decide. It is my understanding that there was a fairly robust and rugged interaction across many members, as the Hon. Robert Borsak pointed to, during this particular budget estimates committee. The point is: Two members disagreeing and it going on the record does not make a promise to do anything formal in the sense of what someone can do in this place. That is the point I want to make. The backwards and forwards that has occurred—whether what Ms Abigail Boyd said is fine—in my view, to pursue that requires a direction from the committee to follow that up. That is the process that should be gone through.

It is my understanding—and I stand to be corrected—that none of that has happened. I understand that the Hon. Mark Latham may have been pursuing the issue which he believed was agreed to by Ms Abigail Boyd. To be honest, that is a matter between them that they need to resolve. If a member wishes to take it further, it needs to be dealt with through the committees. The point is it needs to go through the Privileges Committee. This is a highly unorthodox way to do it. I also do not think it is the best way we should be dealing with each other. We have some very, very robust discussions. We have visceral disagreements on things which matter greatly to all of us. But our job is to represent the people of New South Wales and to find a way through those disagreements, and to use the processes that are well established to resolve those matters.

Integrity in politics is the most important issue. The reason that members are here is because the people of New South Wales entrust us to act with integrity in the public interest on their behalf. Members differ greatly on what that looks like. We differ greatly on the way in which each of us undertakes those roles. At the end of the day, there are proper processes to go through here. I do not wish to get into the substance of the issue before the House, but I am concerned that the processes that should be followed to resolve this matter, regardless of the different views about whether or not it is there, are not being followed.

I place on the record that an interaction that ended up in the transcript is not an agreement from the committee for future action. For me, that is at the heart of this. If the member wishes to pursue that, that is entirely a matter for the committee and it may come through that process. It is also a matter for this House as to whether issues get sent to the Privileges Committee if members believe there is an issue. Doing it in the way the member has done is unfair. It undermines the processes we have and the careful conventions and practices that have developed over time.

Our job is to deal with difference and to have a fair process in the way that the differences between us as elected representatives are resolved. That is why these rules are in place. It is why the Privileges Committee exists. It is why this type of debate is not helpful in resolving any of those matters. The Hon. Mark Latham obviously has an issue with this matter, and that is fine—he is entitled to—but I would have preferred for it to come through the process that exists. We need to remember that those processes exist to manage the conflict that is inevitable in our jobs in a way that is fair to everybody, and in which we treat each other with respect.

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) (15:11): Firstly, I recognise that the Hon. Mark Latham has been a good voice for integrity in this House. When Labor was in opposition, he assisted us to hold the then Government to account on a range of issues and he has continued to do that. Sometimes I have been extremely happy with the position he has taken; sometimes I have disagreed with it. But he has consistently held both governments to account and done it in a really balanced way. This matter does not feel like one of those issues, I have to say. That was my judgement as I listened to the argument. I do not know all the details, but that is my honest reaction to the issues that have been raised.

I support the views other members have made about the appropriate processes, which potentially involve the Privileges Committee. I think the view a committee might take on this would be of interest to members. If an intense discussion has happened in a committee and a committee takes a view about that, I think members would take that seriously. But those other steps are the administrative review that the Clerk referred to in The Legislature hearing; the Independent Complaints Officer, noting the member's view about some of that process; or the ICAC, where we are talking about systematic issues. I do not support the idea that we might have a new call for papers process into each other's affairs. I think we should be very cautious about going down that path. But there are processes—the committee process being the main one—and they should be used, for all the reasons that the Leader of the Government has articulated.

I also add my experience of dealing with Ms Abigail Boyd. She has been very straightforward. I disagree with her politically on a range of things but she has always been absolutely straight up and down on the issues I have dealt with her on. I commend her for that. Finally, I will say this: I don't want to discourage the Hon. Mark Latham from representing his constituents. If other members of The Greens or former members of The Greens want to come forward and be represented by him, I encourage that—mainly for entertainment's sake, as they parade into his office and he represents their views. I do not want to discourage his constituents from coming forward. But I strongly support the position that has been articulated by the Government today.

The Hon. MARK LATHAM (15:13): In reply: Let me clear a few matters up, as well as thanking all those members who have contributed to this discussion. The House decided this was a matter of public importance. It was not just the Liberal Party and the National Party that had substantial numbers, but also strong elements of the crossbench. By majority vote, the House decided this was a matter of public importance. Those are the rules of the House. The matter of public importance is a unique forum in which matters of public importance can be debated, self-evidently, because the House deems them to be so. Nothing wrong has happened in that regard.

As for the various contributions, the Labor Party position seems to be "I don't really know much about it but we like Abigail Boyd, and on that basis we are going to whitewash what's going on here and say it was an inappropriate way to raise it." The contribution of the Treasurer was incredible, to say, "I like the person, therefore there can't be a financial impropriety." I have to say, the Labor Party has not changed one little bit. I know enough about the history of the Labor Party to tell you that is exactly the attitude that was taken year after year, decade after decade about the likes of Kelly, Tripodi, Obeid and Macdonald: "Oh, we like them! They're okay. They couldn't have done that."

The Hon. Penny Sharpe: That wasn't my position.

The Hon. MARK LATHAM: Well, that is the attitude that has been presented in this Chamber. I know this is on a smaller scale, but the ethos and the culture has not changed. It was easy for this House, on matters of propriety, to say, "Yeah, get stuck into Barilaro. Get stuck into Berejiklian in the other place." But in the club-like atmosphere here, it is "No, if we know the person and they've got a few votes, we're going to raise these points of order and then raise these whitewashing arguments" that, quite frankly, are completely feeble and pathetic. It is $35,000 we are talking about. It is not on the scale of those other characters but it is significant in itself. In terms of the contribution of Ms Abigail Boyd, I say she has not been without sin. I have listened to her say that I am a dangerous person to share a lift with or to walk down a corridor with; that I need a therapist; that I have not got a single female friend. Well, I will modestly say I surprise myself as to how many females can be friendly with me. All of those things I can take in my stride, but let us not pretend that she is some angel who has been sinned against. Those things were said that started this exchange. As I mentioned earlier on, I did not go and seek this information; it came to me through members of her own political party.

In terms of what happened in the court, my understanding is she was not sued. What happened was that her lawyers were joined to a court case on 1 March 2019 challenging The Greens upper House preselection for the 2019 New South Wales election. Messrs Harris and Johnson argued that once Jeremy Buckingham—this is all on the public record—had been excluded from the ballot as a victim of that political hit job in the other place, Dawn Walker should have been number two on the ticket and not Ms Abigail Boyd. That was the nature of the court case. Ms Abigail Boyd joined her lawyers, as did Mr Shoebridge at the time, and incurred expenses, running up legal costs that were accounted as an electoral allowance before she was elected to the Parliament.

If the Labor Party thinks that this is all right because its members know her and quite like her, and they had a discussion with her and there was an arrangement made about policy, it has not changed one little bit and its culture is all wrong. Impropriety is impropriety, no matter where it comes from. I have called it out on the information, carefully documented and reported. The other thing about the contribution of Ms Abigail Boyd that needs major reflection is that she did not say a single word about the commitments to Portfolio Committee No. 1—four times—to produce the documents and deliver them to me. Nor did she say, as she did on Tuesday, that it had not actually been said. That was left out of her contribution altogether. I think that speaks for itself.

The commitments were made. The Leader of the Government said that in the heat of battle we had an argy-bargy and it was a rugged debate—that you can make a commitment and it does not count. I say to her that this commitment was not made just once. It was not made twice. It was not made three times. It was made four times. It was a deliberate way of deflecting, in the moment, the problem that was clear to the committee: "I will deflect it by promising to deliver the documents."

Then, when I wrote to the Clerk saying, "Let's have a Standing Order 52 process", he was told, no, that would not happen. When I raised it with the chair of the committee, the Hon. Jeremy Buckingham, to ask whether the committee could play a role in getting these documents that were promised under oath four times, he was told they would be delivered directly to me. When I then said that through email to the honourable member, I was told to talk to her about it in the Chamber. When I did that, in the most surreal moment of my public life, she said, "No, none of those four commitments had even been made"—even though they are recorded in the transcript. Mr President, I may be many things, but I am no mug. I will not be deflected by that sort of nonsense and that sort of garbage, quite frankly, to say that white is black and black is white.

Ms Abigail Boyd: Point of order—

The Hon. MARK LATHAM: No-one in this place would be so stupid as to accept that.

The PRESIDENT: Order! A point of order has been taken by Ms Abigail Boyd. The Clerk will stop the clock.

Ms Abigail Boyd: The Hon. Mark Latham keeps saying things over and over that are downright lies. There must be something we can do to stop that sort of behaviour. Learn to read, Mr Latham.

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

The Hon. MARK LATHAM: She is showing her true colours now. This is the person the Labor Party has been running cover for in this particular matter. There is no sensible or logical defence of what has gone on with any of this stuff; rather that sort of contribution is all she has to offer. The judgement of the NSW Supreme Court equity division on 6 March 2019 said that the preselection could not be overturned due to the close proximity to the State election just 17 days later. Ms Abigail Boyd reported to her party a further four electoral allowance expenses for legal costs covering the original preselection. In the Australian Taxation Office ruling in 1999—I got a briefing on it earlier today—it says that one cannot claim taxation concessions for preselection matters. It certainly does not reflect on electoral allowance in the New South Wales Parliament. That again was a furphy—something that was not truthful and relevant to the debate.

None of these things have been cleared up. It might be uncomfortable for people to hear them, but I believe that what I have put to the Parliament is valid, factual, documented and truthful. It needs to be acted on in a way that will unfold in the future. As I said earlier, impropriety is impropriety. None of the things that have been said, trying to whitewash and rationalise this away, have been any form of explanation. At a bare minimum, with regard to parliamentary integrity, this place should clearly say one thing and all the friends in the Labor Party should counsel the honourable member and say, "Listen, you said that four times under oath to the parliamentary committee that you would deliver these documents to clear yourself. If you are innocent, do that. Do that straight away."

There was no investigation by this Parliament of the handing of these documents to the Clerk. That is another strange thing. Yes, ICAC received the complaints from The Greens members and said there is no systemic corruption. It notified the Parliament and this Parliament had no capacity to investigate. All that happened was a so-called administrative review that, from what I could garner at budget estimates, was to write to Ms Abigail Boyd and ask her what she thought. She wrote back and said she had not done anything wrong, and then the file was closed. It was an administrative review and not an investigation. At every turn, any independent rational mind would make a pretty clear conclusion as to what has gone on. It does require investigation. It is unbelievable in this Parliament that something like this can happen and there is no capacity here. Apparently it is outside the Independent Complaints Officer's time remit. It happened too far back, so the Parliament sort of neuters itself and is completely powerless in dealing with the matter.

But apparently I am to blame for wanting to discuss it as a matter of public importance. What was I supposed to do—file it in the office like everyone else has filed things away? I brought it here for a ventilation that should have been occurring in the forums of the Parliament itself, with an investigation rather than an administrative review, and to hold to account a member who made four promises under oath to do certain things to a committee and now is at the point of pretending—totally surreal—it was not ever said. These are basic matters of parliamentary accountability. As I said earlier, if the Labor Party does not think they matter, it has not changed one little bit.

Discussion concluded.

Documents

TRANSPORT FOR NSW TRANSITION OFFICE AND COORDINATOR GENERAL

Tabling of Documents Reported not to Contain Personal Information

The CLERK: According to the resolution of the House of Thursday 14 March 2024, I table redacted documents considered not to contain personal information in the report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, KC, dated 7 March 2024, on the disputed claim of personal information on papers relating to the Transition Office and Coordinator General, Transport for NSW.

TABLING OF PAPERS

The Hon. PENNY SHARPE: According to the Aboriginal Languages Act 2017 and Government Sector Finance Act 2018, I table a report of the Aboriginal Languages Trust entitled *Aboriginal Languages Trust Annual Report: An annual review of the Strategic Plan implementation 1 July 2022 to 30 June 2023*.

Bills

ENVIRONMENT PROTECTION LEGISLATION AMENDMENT (STRONGER REGULATION AND PENALTIES) BILL 2024

Second Reading Speech

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:23): I move:

That this bill be now read a second time.

The Government is pleased to introduce the Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024. This landmark bill is the most significant improvement to environmental regulation in this State since the Environment Protection Authority [EPA] was created in 1991. Our beautiful State is one of the most unique and precious environments in the world. We depend on our environment for our health, wellbeing, economy, sense of place and community. But issues like pollution and environmental crime are a significant threat to the places that we love and rely on. Most of industry does the right thing, but there are bad actors who give good operators a bad name.

This bill makes urgent changes to prevent environmental criminals from putting our environment at risk. As my colleague the Parliamentary Secretary in the other place spoke to last week, the bill increases penalties for those accused and found guilty of environmental crime. The recent discovery of asbestos-contaminated mulch in New South Wales has been alarming and has triggered one of the largest investigations the EPA has undertaken in recent decades. To date this has included the deployment of 130 EPA staff, support from agencies like Fire and Rescue, and testing of over 340 sites. It will cost millions. While those investigations are still underway, it is clear there are gaps that need to be addressed. These gaps have been present for many years; the asbestos situation has made them starker.

The Government went into the election with the promise of an EPA with teeth and to strengthen environmental protections. This is our first step in delivering those commitments. This bill amends several environment protection Acts to strengthen legislation, address gaps and ensure the EPA has the right frameworks and powers to deter environmental crimes and respond to pollution incidents. That includes increased penalties that reflect the seriousness of the crime; new investigation powers, notices and the ability to recall substances that pose a risk of harm; improved protections for the public, including name-and-shame provisions to address dodgy operators; and new offences and penalties to tackle illegal dumping. These changes ensure that the EPA has the right tools and powers to protect the environment and our communities.

I now turn to the provisions of the bill. The bill makes changes to the Protection of the Environment Operations Act 1997—the POEO Act—the Protection of the Environment Administration Act 1991, the Pesticides Act 1999, the Protection from Harmful Radiation Act 1990, the Dangerous Goods (Road and Rail Transport) Act 2008, the Contaminated Land Management Act 1997, the Land and Environment Court Act 1979, and the Plastic Reduction and Circular Economy Act 2021. It also makes consequential amendments to regulations to give effect to these changes.

The bill proposes much-needed increases to penalties for environmental offences. Over the past 18 months, the EPA completed 91 prosecutions, with courts imposing $5.2 million in financial penalties. While those are significant results, it is clear that some unscrupulous operators continue to cut corners when dealing with asbestos waste. Over the past five years, more than 80 per cent of EPA court matters about waste dumping, false or misleading information about waste, and failure to comply with a clean-up notice involved offences relating to asbestos. As the shadow Minister outlined in the other place, small changes were made to some penalties in 2022 by the former Government. However, those focused on improving alignment between offences rather than across-the-board increases delivered by this bill.

The penalties for the most serious environmental offences have not changed since 2005. Most penalties no longer act as a deterrent to environmental crime and lag behind other jurisdictions. Importantly, many current penalties do not reflect the seriousness of the offences. Therefore, this bill will increase the maximum penalties in the POEO Act, Pesticides Act 1999 and Protection from Harmful Radiation Act 1990. These increases are designed to ensure the maximum penalties are proportionate to the harm that environmental crimes can cause and can no longer be factored in as the cost of doing business.

Changes to the POEO Act include doubling the maximum penalty for the most serious tier 1 offences that require proof of wilful or negligent conduct to $10 million for corporations and $2 million for individuals. Tier 2 offences will also increase, including the maximum penalty for offences involving asbestos, which will increase from $2 million to $4 million for corporations and from $500,000 to $1 million for individuals. The bill will significantly increase the maximum penalties for not complying with a resource recovery order to $2 million for

corporations or $4 million if the matter relates to asbestos. Daily penalties will also apply. This bill will also increase penalty notice amounts, tier 3 offences, to further deter individuals and corporations. This will include fines for littering, which comprise around two-thirds of the penalty notices issued by local councils.

In December 2023 the Legislative Council inquiry report on the current and potential impacts of gold, silver, lead and zinc mining on human health, land, air and water quality in New South Wales found that the maximum tier 3 fine of $15,000 for corporations is often inadequate and can fail to act as a deterrent to large or multinational companies. It was recommended to increase tier 3 penalties to ensure companies are held to account. The bill will double tier 3 penalties to $30,000 for corporations and $15,000 for individuals.

The bill proposes a power to enable the EPA to issue environmental recall notices where substances may risk public health or the environment. Currently the EPA lacks the powers to issue a broad recall of material that may be posing a risk. This is relevant to a wide range of situations, including where recycled materials are produced across a broad supply chain and can be widely distributed to the public or businesses, such as in the current asbestos contaminated mulch situation. A recall notice would also have helped during the New South Wales mouse plague in 2022, where several members of the public were poisoned and hospitalised after being sold and incorrectly used commercial grade baits inside their homes. While the EPA released a media statement urging residents to register for free removal and disposal of the commercial bait and to not use it in their homes, a recall power would have been a more effective and efficient way to protect the public.

The bill will amend the POEO Act to enable the EPA, with the approval of the Minister, to issue recall notices where distributed substances pose a risk to human health or the environment. The bill introduces an offence for failing to comply with a recall notice, with maximum penalties of $500,000 for individuals and $2 million for corporations. The bill will also amend the POEO Act to give the EPA greater powers to warn the public about dodgy operators and matters of concern. Public warning powers are already available under fair trading and food safety legislation to protect the public, and it makes sense to extend this to environment protection legislation. A "name and shame" power will allow the EPA to notify the public of activities or people that are of concern. As an example of what the bill is trying to deal with, in 2017 the EPA issued $29,000 in fines for an operator that supplied asbestos-contaminated fill to a property owner after advertising it as clean fill. After failing to comply with a clean-up notice and remove the fill, the operator was issued a subsequent fine. In 2019 and 2020, the same operator was convicted in the Land and Environment Court for the unlawful disposal of 2,400 tonnes of asbestos waste that had been offered as clean fill to several properties.

Authorities also became aware of an illegal dumper in 2008, who was repeatedly unlawfully transporting and dumping building waste contaminated with asbestos at residential properties under the guise of free clean topsoil. Following multiple court proceedings by EPA and the local council over a 10-year period, the illegal dumper was eventually sentenced to three years jail. These are not isolated incidents. It is common for the public to hire the services of dodgy operators, who they believe are legitimate, that are illegally supplying contaminated material or removing it and illegally disposing of it on private land. Issuing a public warning could have raised wider awareness and prevented people from being duped into accepting any waste from these operators. This power helps to level the playing field for the majority of operators that are doing the right thing, and those are the people the Government wants to support. The Legislation Review Committee has referred for Parliament's consideration the exclusion of personal liability, including defamation, for public warning statements. This is considered to be in the public interest and reflects the position in section 10 of the Fair Trading Act 1987. The exclusion only applies when a statement is made or issued in good faith.

The bill introduces amendments to help strengthen investigation powers and support early incident response. To ensure that the EPA can quickly identify if there may be a pollution incident, the bill amends the POEO Act to introduce a new power to issue preliminary investigation notices. Currently the EPA needs to have reasonable suspicion that a pollution incident has occurred or is occurring before it can issue a clean-up notice. Sometimes this can hinder a quick response while the EPA gathers evidence. With tools to act more quickly, the potential impacts of contamination incidents can be mitigated. We do not want to have to wait until the pollution event has happened when it could have been prevented in the first place.

In an incident in 2017 a construction company engaged subcontractors to build retaining walls at a residential estate on the South Coast. One of these subcontractors arranged to fill retaining walls using approximately 3,250 tonnes of recovered aggregate waste from a recycling facility. It became apparent that the recovered waste contained asbestos and that the testing and sampling done by the recycling facility was not accurate. The EPA became involved and eventually issued a clean-up notice requiring removal of the waste from the estate. This was only after a time-consuming process of collecting enough evidence of potential contamination, during which the contaminated waste was still available for use. These are the types of loopholes the Government is trying to close. With the proposed preliminary investigation powers in place, the EPA could have required sampling and testing as soon as it became aware of the suspicious materials. This would have identified

contamination earlier and prevented disturbance of the substance while the risk to human health and the environment was established.

The complexity of matters that the EPA regulates often involves related incidents across multiple premises—asbestos mulch being the example that we are all most familiar with at the moment. To streamline the EPA's response to incidents occurring at multiple premises, the bill amends the POEO Act to make it clear that a pollution incident can relate to a single premises or multiple premises. The bill also makes it clear that the EPA can issue a single notice in these situations, which is more efficient than issuing a notice for each premises. The Legislation Review Committee has referred for Parliament's consideration that existing provisions about the extraterritorial application of notices would extend to situations where multiple notices are issued for a single incident. This is likely to have limited application and is considered reasonable in all the circumstances where a pollution incident is impacting on New South Wales. The bill will also expand the definition of "clean-up action" to include testing or environmental monitoring and providing results to the appropriate regulatory authority.

The bill will allow the EPA to apply to the Land and Environment Court of New South Wales for banning orders to prohibit an individual from applying for or holding a licence or being involved in licensed activities for a specified period. This change will help prevent serial and serious offenders from doing further harm to communities and the environment. I note that the Legislation Review Committee has referred for Parliament's consideration whether it is appropriate that an order can be of an indefinite nature. This will be a decision made by the Land and Environment Court rather than the EPA. The court would decide based on civil standard of proof, on the balance of probabilities. Additionally, banning or prohibition orders are not uncommon in New South Wales and appear in many other Acts. Indefinite bans are possible under some of these New South Wales schemes.

Rarely does a week go by without a member of the lower House raising with me the issue of illegal dumping. The bill takes stronger action on this practice. Amendments will help public land managers tackle the issue of small-scale illegal dumping. This is a significant and persistent problem for public land managers, particularly local councils but also a range of government agencies. It occurs frequently, and due to its covert nature is difficult to prevent and regulate and costly to clean up. Councils are collectively spending in excess of $20 million per year on managing illegal dumping. The bill proposes new offences to deter, clean up and hold to account illegal dumpers. Currently small-scale illegal dumping is regulated under littering laws; however, fines for littering are too low to deter small-scale illegal dumping.

The bill provides for specific illegal dumping offences and penalties that are appropriate to the harm. Maximum penalties will be $50,000 for corporations and $25,000 for individuals. On-the-spot fines will also apply. If the waste is dumped in sensitive places—such as national parks, council parks, beaches, hospitals, schools and childcare centres—corporations could face maximum penalties of $100,000 and $50,000 for individuals. The bill introduces new powers for authorised offices and expands the clean-up notice provisions so they can also be used for littering and illegal dumping. Local councils have called for reform in relation to illegal dumping. The bill answers those calls and extends these improvements to other public land managers.

I note again that the Legislation Review Committee has referred to Parliament the issue of the supporting provisions which replicate existing provisions that apply to littering and require a person relying on an exception to bear the onus of proof. This is considered appropriate, as the applicable facts about an exception would be known to the person at the time of the incident and they are best placed to bring forward evidence about this. Lastly, the bill proposes minor amendments to ensure our environment protection legislation remains best practice. They include clarifying the EPA's existing statutory duties and functions relating to the threats of climate change to reflect the court decision in *Bushfire Survivors for Climate Action Incorporated v Environment Protection Authority* [2021] NSWLEC 92 and increasing the jurisdictional limits for prosecutions for local courts.

Importantly, I note the views raised by the Opposition in the other place. I thank the shadow Minister for her consideration of the bill and for leading the charge to provide support from the Opposition for these important amendments. There is still more to do, and we accept that. This is the first tranche of legislation that I will be bringing before Parliament in this term to deal with many of these matters. We agree with the Opposition that there is much more to do, particularly on track-and-trace supply-chain issues to prevent contaminants like asbestos getting into any of the waste streams or the construction schemes at the beginning. We are working closely with industry and we are hopeful for a broad consensus across Parliament in the way that we deal with this in the future. Asbestos should not be in any of these products. It is a dangerous substance that can be very dangerous to human health.

We need to get the regulations right. The Government is committed to working with industry and communities on this issue and of course we are willing to work with those in the Parliament on this. I indicate to the House that we know this is not the end of this conversation. The bill enables regulations to be made on specific issues, including to establish a waste classifier accreditation scheme. This scheme will ensure the accurate assessment, classification and disposal of waste to protect the integrity of recycling schemes into the future. In

addition, the EPA has recently released a new integrated waste tracking solution to track the movements of hazardous and high-risk waste, including asbestos. This system can be configured to track other regulated materials and it is something the Government will actively consider.

We will also progress further reforms in this term of government to respond to the advice of the Office of the Chief Scientist and Engineer review of asbestos and to the independent review of the resource recovery framework, and to address the outcomes from the current mulch investigations. I also note that the Opposition in the other place raised concerns of lawful operators and shareholders being inadvertently caught by the changes proposed in the bill. Let me be clear: The bill makes minor changes to monetary benefit orders simply to ensure that the proceeds of crime are recovered from all those who benefit. In addition, prosecutions are only commenced in the most serious matters and are brought against those who are most culpable.

The Legislation Review Committee has referred for Parliament's consideration the new evidentiary provisions about satellite imagery. These provisions support the efficient administration of justice and are modelled on provisions in the Biodiversity Conservation Act 2016. They would remove the need for affidavit evidence on routine matters, such as the veracity of satellite images where prosecutors have had to obtain evidence from a company in France. The committee has referred for Parliament's consideration proposed changes to the service of documents by email. These provisions are appropriate and reflect the common use of email. Service by electronic communication is reflected in many other Acts in New South Wales. Additionally, the bill's reference that consent for service by email can be given expressly or impliedly reflects the meaning of "consent" used in the Electronic Transactions Act 2000 (NSW).

The committee has also referred for Parliament's consideration the estimation of monetary benefits that may lead to inconsistent results. I note that a similar approach is already used in Victoria in the Environment Protection Act 2017, where the authority may submit a monetary benefit estimate to the court in accordance with a prescribed guideline or another method the authority considers appropriate. We believe the way these matters are dealt with in the bill are also appropriate. Monetary benefit orders made by the Land and Environment Court will vary due to the individual circumstances of an offence. The court could reject the EPA's estimate if it preferred an alternative calculation method. I thank the Legislation Review Committee for its considered feedback on the proposed legislation. I hope that this addresses some of the issues that it raised.

In conclusion, this landmark bill is just the first step to strengthening environmental legislation to protect human health and, in particular, the places that we love in New South Wales. The passing of the bill will send a strong message to those who feel they can operate outside the law and will reflect the firm commitment of the Government to protecting the environment and the people of New South Wales. We will hold environmental criminals to account and ensure that we have the most effective penalties and regulatory tools to do so. I thank the EPA officials, particularly the legal team, many of whom are in the gallery today, for bringing forward the bill. The bill is partly in response to the gaps we have found as a result of the asbestos mulch issues. Many people have worked diligently over many years and thought deeply about how to improve environmental laws in the State and how to close existing loopholes—which perhaps were not even contemplated when the EPA was established.

The bill tidies all of that up and ensures that New South Wales is a best-practice jurisdiction when it comes to taking environmental crime seriously, and our determination to drive out dodgy operators and people doing the wrong thing. Most importantly, it will protect the environment and the health of everyone in the community, now and in the future. I thank them all for their work. I also thank the various industry groups that have worked so hard. The sector is deeply committed to driving us towards a circular economy and to getting recycling right. We need to help it. Part of the bill helps but there is more work to be done. We are serious about a State where nothing goes to waste, where we genuinely have a circular economy and care for our environment in every part of our law. Today is a really good step towards that.

Second Reading Debate

The Hon. NATALIE WARD (15:45): I lead for the Opposition in debate on the Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024. I acknowledge and thank the Minister for introducing the bill, which the Coalition is proud to contribute to. I welcome her foreshadowing introducing further legislation in this space. The Opposition supports the bill, which gives the Environment Protection Authority [EPA] increased powers to act on environmental crime as well as punish those who do the wrong thing. I also acknowledge and thank the shadow Minister for the Environment in the other place, Kellie Sloane, for her diligent work on this. I will make some brief comments. This is a long bill. It is 71 pages of new regulations, offered up—and the Government would expect me to say this, but it is in context—in a short time frame, in a hurry and on the run. I am sure a lot of work has been done by the staff and team, but it is the definition of policy on the run for a political purpose.

The Hon. Penny Sharpe: You started off so well, Natalie.

The Hon. NATALIE WARD: I will get there. I will loop back. You'd expect that. It started at the Rozelle interchange and spread to dozens of sites, including schools, train stations, parks and playgrounds.

The Hon. Penny Sharpe: It was 78 sites.

The Hon. NATALIE WARD: Thank you; I acknowledge the interjection. The common thread, according to the EPA, was one supplier of mulch. The bill primarily seeks to provide a political response to that through tougher penalties, which we welcome. However, it will be an interesting contrast to see whether the Government will have such a quick policy turnaround and similar harsh penalties in response to other political issues. We will watch and wait. My National Party colleagues can only imagine the Government taking such an approach to ongoing regional issues—or perhaps to providing policy solutions to Sydney's toll road network—but there is a lack of funding and, it seems, a lack of interest. But I digress. I echo my colleague in the other place when I say that it is disingenuous for Labor and the EPA to suggest, as they have in briefing papers and to the media, that this reform is required because "most New South Wales environmental penalties have not increased since 2005, including those for serious offences".

The Hon. Penny Sharpe: You did a few in 2022.

The Hon. NATALIE WARD: I listened to you in silence. The bill in fact comes just two years after the last significant environmental reforms under the previous Coalition Government, which increased penalties, added new offences and expanded the EPA's powers. The new maximum penalties will no doubt send a strong message to the public and New South Wales courts that there is a new standard against which future environmental crimes will be measured, and we welcome that. I recall dealing with the Penrith Lakes asbestos issue when we first came to government in 2011, so I understand. I feel the Government's pain and I am pleased that this has been dealt with. I welcome the great work of the EPA to respond quickly to this issue and to get across it and produce this bill. We welcome and support that. I also acknowledge its fine staff and the team.

With the passing of the bill, we will have a stronger EPA, which will be better equipped to manage any future asbestos or contamination scares. As indicated in the other place, the Opposition urges the Government to do more work, not just by policing and punishing but by addressing the real issues that cause the illegal distribution and dumping of asbestos and other contaminated materials. We have conveyed that previously. There is much to do, but the Opposition supports the bill as a first step.

Ms SUE HIGGINSON (15:49): On behalf of The Greens, I indicate our strong support for the Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024. I have wanted to read a title just like that my entire working life. The bill addresses significant gaps in our environmental laws and aims to bolster penalties and regulatory tools to hold environmental vandals, particularly corporate polluters, to account, whilst ensuring that the Environment Protection Authority [EPA] is more capable of preventing the detrimental impacts of pollution and contamination.

In response to the Opposition—and I mean no disrespect—I point out that I am certain that this legislation was not prepared completely on the run. The legislation is well conceived. I do not think I am verballing any member, but I speculate that many within the agency and the department have been chaffing at the bit, ready to introduce laws like this. In no uncertain terms, for years the good folk within the EPA have been working with very blunt tools for properly regulating pollution in the environment. Whilst there is an assertion that this started in Rozelle, I guarantee that it started before the Rozelle interchange. But we acknowledge that the recent events, including the alarming discovery of asbestos in mulch, have underscored the urgency of the need for more robust environmental regulation. The bill before the House would provide an urgent response to those emerged issues. Real action to deter environmental crimes, protect human health, preserve the precious natural environment and empower regulatory bodies like the EPA to be effective watchdogs is precisely what the State needs right now.

One of the key components of the bill is the provision to increase penalties for environmental crimes. Many of the penalties outlined in existing legislation have remained pretty much stagnant since 2005. I note in particular the pesticides legislation. We are finally issuing fines within that legislation eightfold because of the absence of that area of law being touched for a long time. Failing to keep pace with inflation and the evolving economic landscape has made many of the existing fines completely redundant and absolutely ineffective as a deterrent. By enhancing maximum penalties and penalty notices, particularly for corporations, we send a clear message that environmental negligence will not be tolerated. Those adjustments align with better practices, consumer price index increases and standards set out by other jurisdictions, both domestically and internationally.

The bill also grants the EPA the authority to issue recall notices. I am sure a bit of pain was felt from the recent experience that highlighted that we did not have a fit-for-purpose regime. That power is essential in swiftly addressing widespread issues like the distribution of asbestos-contaminated mulch. Without the ability to efficiently recall such products from the market, we risk prolonged exposure to health hazards and burdensome

clean-up costs for the Government and the community. That provision brings our environmental laws in line with existing recall mechanisms in consumer protection laws and ensures a timely and coordinated response to potential risk.

Furthermore, by increasing public awareness about individuals and matters of environmental concern, we empower communities to make informed decisions, mitigate risks and engage in their own consumer behaviour in response, whether that is through boycotts or however they choose, as they ought to be able to. The EPA will now have the ability to issue public warnings regarding unscrupulous individuals or repeat offenders, preventing further harm and reducing clean-up costs. That measure is particularly critical in cases where offenders have evaded conviction, posing ongoing threats to public health and the environment.

Additionally, the bill introduces measures to prevent serial and serious offenders from applying for an environment protection licence. By empowering the Land and Environment Court to issue banning orders, we can effectively bar unfit individuals from engaging in activities that pose environmental risks. I already anticipate my post-MP life, when I will go back to practice and apply for those banning orders. Surely we can open that up to some kind of civil enforcement. That measure streamlines the licensing process and conserves government resources, while ensuring that only responsible parties are entrusted with environmental responsibilities. I do not say this lightly; that is an important provision. There has always been a disconnect with environmental law, this notion that we separate the land and the person, what attaches to the person or what attaches to the land, and what runs with the land. We seem to have this dissonance where we let offenders keep on going. The measure is a sensible mechanism. I have no doubt that the Land and Environment Court will be unbelievably judicious about issuing such a notice. I already have some proponents and serial offenders in mind that I am sure would align.

Moreover, the bill equips public land managers with enhanced tools to combat small-scale illegal dumping. By introducing new offences, verbal directions and improved clean-up powers, we empower local councils to address this growing issue effectively. I know many council compliance officers who have lived in absolute frustration for decades. I know some who have given up in some local government areas because it is just too hard. These reforms are informed by feedback from regional illegal dumping squads and local government, ensuring that our responses are tailored to address the unique challenges faced by communities.

It is crucial to recognise that the bill must mark the beginning and not the end of our journey towards comprehensive reform of environmental protection laws. My heart jumps for joy hearing the Minister indicate to the House that this is the case and knowing that the Opposition is urging it along. Will we see another "green moon" moment in this Parliament? I am sure we will. While the bill addresses significant gaps and strengthens penalties, it must serve as a catalyst for the ongoing scrutiny and improvement of our environmental regulatory framework. At the end of the day, we are the stewards of this amazing, living, breathing planet that we all rely on and that gives us so many things that improve the quality of our lives. We have a moral obligation to continuously evaluate and enhance our environmental laws to keep pace with evolving challenges and scientific understanding.

The bill sets a precedent for proactive legislative action, but it must be accompanied by sustained efforts to monitor its effectiveness, identify areas for improvement and adapt to emerging threats. We know that we must be on a path to continuous improvement. Moreover, environmental protection is a collective responsibility that transcends partisan divides and individual interests. It requires collaboration amongst government agencies, industry stakeholders, environmental advocates and the public at large. By fostering a culture of cooperation and dialogue, we can foster innovation, promote sustainable practices and achieve meaningful progress in safeguarding our natural heritage.

In that spirit, I urge all stakeholders to remain engaged and proactive in shaping the future of environmental governance. Let us seize this opportunity to build upon the foundation laid by the bill and enact further reforms that reflect our shared commitment to environmental stewardship and sustainability. Together we can chart a course towards a cleaner, healthier and more resilient future for our planet and future generations, because times will and are getting more challenging. The bill is not the culmination of our efforts but rather the starting point for a renewed commitment to protecting our environment and preserving the beauty and diversity of our natural world. Let us embrace this challenge with determination, vision and a steadfast commitment to the common good. The bill represents a significant step forward in safeguarding our environment, protecting public health and holding environmental offenders to account. I urge all members to support this critical piece of legislation. I also say, at this point, with the passage of these laws through the Parliament, we send a strong, clear message to the EPA and all the great people who serve the EPA each day.

One of the changes to the EPA's powers is to regulate for and around climate change. We now know that this means there are absolute, undoubted, express provisions to deal with climate change. For the regulator, that means greenhouse gas emissions. I think it was 12 years ago that I sat across a table from then members of the EPA and said, "Carbon dioxide and methane are pollutants. They're terribly dangerous and they're causing a lot of harm, and we are currently not regulating them. We don't have them in EPLs. Can we start?" The moment has

come. It is time for the EPA to be fully empowered to do the good work that it does. This State now has a net-zero target, and it has targets along the way, and that law has a ratchet mechanism within it which will respond to how quickly we can take on the challenge. It is the biggest challenge of our time. It is the existential threat. It is our job to not let greenhouse gas emissions get high and to pull them down as fast as we can, and the EPA plays an incredibly important role in doing that. Let us all stand united in our commitment to a cleaner, healthier and much more sustainable future for all of us.

The Hon. CHRIS RATH (16:01): I was not intending to speak in debate on the Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024, but I have been called upon by the Hon. Natalie Ward. It is important to remember that the NSW Environment Protection Authority [EPA] was established by a Liberal government, the Greiner-Fahey Government, in 1991. It is a fantastic independent statutory authority and is doing great work. We are incredibly proud of what we did in the 12 years we were in government to support the EPA and of some of the important environmental reforms that we introduced, in particular, under the then Minister for Energy and Environment, Matt Kean, and later on under Minister James Griffin. This is an important piece of legislation, and it is important to remember where it came from: a Liberal government, all those years ago.

The Hon. BOB NANVA (16:02): I am pleased to speak in support of the Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Bill 2024. We have heard how increased penalties form a crucial centrepiece of the bill; however, it does more to crack down on environmental offenders and protect the public. Firstly, the bill introduces a new power to allow the NSW Environment Protection Authority [EPA] to publish statements to warn the public about matters, activities or persons of concern. Secondly, it makes changes that enable the Land and Environment Court to prevent persons or businesses from engaging in licensed activities or applying for a licence where they could do further harm to the environment or human health. Through the EPA's close engagement with other government agencies and the New South Wales community, the EPA often becomes aware of operators who avoid personal liability by using aliases, listing family members as the business owner or only providing contact details with no name.

For example, New South Wales police and interstate counterparts can provide tip-offs about people who engage in practices which could cause harm to the environment or human health but have so far avoided conviction. Unfortunately, the acceptance of "free fill" offers is a regular example of members of the public unknowingly engaging with operators who undertake risky or unlawful practices. This can result in hefty clean-up costs if the fill turns out to be contaminated. Some members of the public use online classified websites, respond to flyers and signs or even take up doorknock offers for free or cheap fill material. They are assured with promises that it is clean and harmless, only to find that it is contaminated. For example, it may contain building and demolition waste, heavy metals or, worse still, even asbestos. It is essential that the public is aware of these unscrupulous operators so they can make informed choices about who they choose to engage with. This limits the risk of harm to themselves and to the environment and avoids associated clean-up costs.

To address this important issue, the bill amends the Protection of the Environment Operations Act 1997 by introducing public warning powers. The changes will enable the EPA to publicly release information on "persons of interest" or matters of environmental concern. The EPA will ensure this information reaches the widest possible audience. This change is expected to deter operators from considering cutting corners, because they do not want to suffer the reputational damage or potential loss of business that would result if information about their practices was published online.

I turn to a second key element of the bill. Some operators of concern do not need environment protection licences to carry out their business as the activities may not meet thresholds in the legislation. For those who do require licences, this bill provides another way to crack down on environmental offenders. The bill will enable the EPA to apply to the NSW Land and Environment Court to request that an individual or business is prohibited from applying for or holding an environment protection licence or from engaging in licensed activities. The court will also be able to apply the prohibition orders at the time of sentencing. This power will only be used for serial and serious offenders. A prohibition order could be made for a specific time period or indefinitely. Currently, persons or businesses who are unfit to hold a licence, including those who have contravened environmental laws several times, can still apply for a licence. It is a waste of resources for the EPA to be spending time assessing these applications and then needing to defend its decision to reject them in court. Even if a matter is ultimately dismissed by a court, the process is significantly resource intensive. Public resources will no longer be wasted in this way, thanks to the amendments in this bill. 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) (16:06): In reply: It is a really good day when across the Parliament there is support for stronger regulation and protection of our environment. I thank all members who contributed to this debate on the Environment Protection Legislation (Stronger Regulation and Penalties) Amendment Bill

2024: the Hon. Natalie Ward, Ms Sue Higginson, the Hon. Bob Nanva and the Hon. Chris Rath. As I have outlined previously, this bill delivers important reforms to better protect our community and the environment. I am very proud to be delivering on two of Labor's election commitments to the people of New South Wales: an Environment Protection Authority with teeth, and stronger environmental protections. Today is a down payment on that promise. More work is needed, but this bill indicates our determination to take strong steps to protect our natural environment and to leave it better than how we found it.

I cannot help myself; I need to comment on the contribution by the Hon. Chris Rath. If we are going to talk about the history of the Environment Protection Authority, then we need to talk about the Terry Metherell affair and the fact that his $100,000 job offer with the EPA was what brought down former Premier Greiner. May we all remember that, but may we also remember the bipartisan support for our environment.

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

Motion agreed to.

Third Reading

The Hon. PENNY SHARPE: I move:

That this bill be now read a third time.

Motion agreed to.

BAIL AND CRIMES AMENDMENT BILL 2024

Second Reading Speech

The Hon. DANIEL MOOKHEY (Treasurer) (16:08): I move:

That this bill be now read a second time.

Ensuring community safety is a key priority for the Minns Labor Government. Reports from communities in regional New South Wales, and statistics from the Bureau of Criminal Statistics and Research [BOCSAR], indicate that our regions have been experiencing higher rates of crime than metropolitan areas. Although this is consistent with trends in other States and is a long-term trend in New South Wales, we have heard the people of our regional communities when they say this is not good enough.

During the 2022-23 period, we know that there were specific increases in offending by young people under the age of 18 for motor vehicle theft and break and enter offences, and that this increase has caused our communities in New South Wales, and particularly in regional New South Wales, real concern. We have also heard the concern that young people have been driving these trends, with reports of repeat offending on bail and a developing trend of some people filming themselves engaging in car theft and serious break and enter offences, sometimes involving weapons, to post on social media. Our Government is listening and is taking decisive and immediate action to address these concerns. We know that crime rates have been persistently high in the regions. We also know that this is not the first time that our communities in regional New South Wales have raised concerns about these crime rates. The bill is the first step in a suite of measures that this Government is progressing to meaningfully and comprehensively start to address these problems.

The bill introduces two targeted measures: a time-limited Bail Act amendment, which will ensure that young people aged between 14 and 18 who are alleged to have repeatedly engaged in break and enter and motor vehicle theft offences are not released on bail unless the bail authority has a "high degree of confidence" that they will not commit a serious indictable offence while on bail, subject to any proposed bail conditions; and a Crimes Act amendment introducing a new offence of "performance crime", targeting all offenders who commit motor vehicle theft or break and enter offences and disseminate material to advertise their offending conduct. The Bail Act change in proposed new section 22C is a time-limited, targeted amendment. It has been purposefully designed as a "circuit breaker" to address repeated alleged offending by young people aged between 14 and 18 who have been charged with serious break and enter, motor vehicle theft or performance crime offences while on bail for another offence of that type.

When committed by adults, this type of repeat alleged offending whilst on bail would attract the "show cause" test, which would require a bail authority to refuse bail unless the accused person could show cause why their detention is not justified. The "show cause" provisions do not apply to children and this additional test does not impose a show cause requirement or a reverse onus. As a Government amendment in the other place made clear, the onus to establish that bail should be refused will continue to rest with the prosecution. Instead, the new test will create an additional threshold for a bail decision-maker, directed at the consideration of the risk of certain young persons committing further serious indictable offences whilst on bail. Bail authorities, including courts, are

responsible for applying this new test and determining whether it has been satisfied in each individual case. The unacceptable risk test will also continue to apply.

The Government is aware that tightening bail laws, especially for young people, gives rise to concerns about the risk of increasing the number of young people in detention and the ability for the Government to meet its Closing the Gap targets. This proposed change has been approached cautiously in light of the potentially serious consequences for young people and, in particular, Aboriginal young people. That is why this change is time-limited and specifically targeted at young people who are already alleged to have committed at least one relevant offence whilst on bail for another relevant offence. It has been carefully developed to address a particular cohort of young people who may pose a greater risk to community safety as a result of repeat alleged offending, while also avoiding, as much as possible, broad or unintended adverse consequences. The provision will sunset after 12 months, with an evaluation to take place at the end of that period.

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

Leave granted.

This bill also introduces a new criminal offence that targets "performance crime". We have heard troubling reports, particularly from our communities in regional New South Wales, of offenders posting footage of their offending behaviour on social media, particularly in relation to motor vehicle offending. There have also been high profile examples of this behaviour in the context of serious break and enter offences, sometimes committed in people's homes while they are asleep.

Disseminating recordings of offending behaviour online may encourage others to engage in similar dangerous criminal behaviour. It might send the message to impressionable young people, or other people in our community, that criminal acts are socially acceptable. It may also provide people with information or ideas about how to commit criminal offences.

Posting videos of crimes that involve breaking and entering into the homes of other people can also cause further harm or distress to, or re-traumatise, the victims of these offences, especially where it leads to public ridicule, humiliation or shaming of the victim.

The new offence in new section 154K of the Crimes Act applies where an offender commits a motor theft offence or a breaking and entering offence, including where they are liable on the basis of a joint criminal enterprise, and disseminates material to advertise their commission of or involvement in these offences. It reflects the community's disregard for conduct that encourages the commission of offences that violate the sanctity of people's homes and that place the community at risk.

Following Government amendments in the other place, the performance crime offence in new section 154K will be triable summarily in certain circumstances.

Other measures to address regional crime and youth offending

Before I turn to the detail of the bill, I want to reiterate that these legislative measures are just the first part of the Government's significant and multifaceted response to regional crime.

Addressing offending by young people, and addressing persistently high crime rates in regional New South Wales, requires a multi-pronged and long-term approach. We know that the best outcome for everyone is avoiding contact with the criminal justice system in the first place.

Importantly, we recognise that our Government needs to work with the community to deliver a long-term plan that works.

These legislative amendments will work in tandem with a suite of measures and supports that aim to provide therapeutic and community-based solutions to address offending behaviour and support regional communities, so that they can continue to support and care for their young people.

We are expanding Youth Action Meetings [**YAMs**] to nine additional police districts. YAMs enable a coordinated approach that brings together government agencies and non-government organisations to identify children and young people at risk of harm or committing a crime. YAMs develop an action plan based on the young person's circumstances, including referral to services or assistance from health and education where required.

The Safe Aboriginal Youth Patrol Program [**SAY**] will also be expanded to an additional five Closing the Gap [CTG] priority locations, to be determined in consultation with communities. SAY is a safe transport and outreach service for young Aboriginal people who are on the streets late at night, to transport them to a safe home or safe activity. It is modelled on a "physical drop-in centre" where community members with a connection and rapport with Aboriginal young people to do outreach, rather than waiting for young people to reach out.

The roll out of $7.5 million in justice reinvestment grants also continues, with grant funding available to recipients as early as June 2024.

In addition, the Government will be progressing targeted and important work in Moree to address crime, support young people, and improve community safety.

Additional judicial resources will be made available in Moree, along with additional Aboriginal Legal Service funding.

A new bail accommodation and support service will be established in Moree, which will be co-designed with the community. This service will provide an alternative place for young people to go instead of being remanded in custody, will include community-based accommodation and will link young people with Indigenous organisations, Elders, and cultural and family supports from their own communities. Skilled, qualified, trained and consistent staff will be on site 24 hours a day, every day, providing child-safe care.

An Action Plan is also being developed within six months to optimise service delivery to ensure that services in the Moree area provide maximum benefit to the community. One focus of this work will be improving the availability of night time and out of hours services and youth places.

We have also listened to the community in Moree about the impact of a lack of activities, entertainment and community infrastructure for young people in Moree. In partnership with the Moree Plains Shire Council and Aboriginal controlled community organisations, we will deliver out of hours activities for young people in Moree.

Finally, the NSW Police Force will continue its surge in operations in the Moree area and continue Operation Youth Safe, which combines education and early intervention to at risk children, to meet community needs and maintain community safety.

The targeted place-based response in Moree, designed with the local community, will act as a pilot program that will inform actions to address similar concerns in other regional communities. What we learn implementing these significant measures in Moree will help to inform future projects and approaches across the State.

I now turn to the specifics of the bill. **Schedule 1** introduces a new additional temporary test that applies to the granting of bail to a relevant young person in relation to certain serious offences.

New section 22C provides for a new test that will act as a final step in the bail decision making process and will require a bail authority to refuse bail unless the bail authority has a "high degree of confidence" that a young person charged with committing a relevant offence on bail will not commit a further serious indictable offence while on bail.

Schedule 1, item [1] inserts new section 22C into part 3, division 2A of the Bail Act 2013. New section 22C (1) provides that a bail authority must not grant bail to a "relevant young person" who has been charged with a "relevant offence" alleged to have been committed while on bail for another offence of that type unless the bail authority has a "high degree of confidence" that the young person will not commit a further "serious indictable offence" while on bail, subject to any proposed bail conditions.

New section 22C (5) defines a "relevant young person" as an individual aged between 14 and 18 years old at the time of the relevant offence. The new bail test specifically targets young people between the ages of 14 and 18, as this is the group with the highest rates of offending amongst young people for motor theft and serious break and enter offences.

New section 22C (5) defines a "relevant offence" as a "serious breaking and entering offence" or "motor theft offence".

A "serious breaking and entering offence" is defined as an offence in part 4, division 4 of the Crimes Act 1900 that is punishable by imprisonment of 14 years or more. This includes offences of breaking and entering into a dwelling and committing a serious indictable offence in that dwelling, and offences committed in "circumstances of aggravation" and "special aggravation" as defined in section 105A of the Crimes Act 1900. "Circumstances of aggravation" include where the young person is armed, in the company of another person, inflicts violence on another person, or knows there is a person in the place where the offence is alleged to be committed.

A "motor theft offence" includes offences of taking a conveyance without consent of the owner, taking a motor vehicle or vessel with assault or with an occupant on board, and stealing a motor vehicle, vessel or trailer.

A Government amendment to the bill passed in the other place makes clear that the new offence of performance crime, in new section 154K (1) of the Crimes Act, is also included as a relevant offence for the purposes of the bail reforms, where the underlying offence is a motor theft offence or serious breaking and entering offence as defined in section 22C.

"Serious indictable offence" has the same meaning as in section 4 (1) of the Crimes Act 1900, which is an indictable offence punishable by imprisonment for life or for a term of five years or more. This is not limited to only serious breaking and entering or motor theft offences.

New section 22C (2) clarifies that the bail authority may only make a decision under the new provision after making an assessment of bail concerns to determine whether there is an unacceptable risk, and after considering whether any bail conditions could reasonably be imposed to address any bail concerns or risk that the young person will commit a further serious indictable offence.

If there is an unacceptable risk, there is no need for the decision maker to go on to consider the new test, as bail will be refused. In contrast to the "show cause" requirement, where the onus is reversed and rests on the accused, the onus for the new provision will continue to rest on the prosecution to establish that bail should not be granted. This is consistent with the recommendation of the Hatzistergos review of the Bail Act that "show cause" and the reverse onus for bail should not apply to children.

A Government amendment to the bill was passed in the other place, which inserts subsection (2A) into new section 22C of the Bail Act 2013.

The amendment clarifies, for the avoidance of doubt, that the requirement to establish that bail should be refused rests with the prosecution under the new test in new section 22C.

New section 22C (4) specifies that the provision will sunset 12 months after commencement. This is in keeping with the intention of the proposed provision to be a short-term "circuit breaker" to immediately address the issue of youth crime. The provision will be monitored by the Department of Communities and Justice while it is in place, and will be evaluated.

Schedule 1, item [2] will insert into schedule 3 to the Bail Act 2013 a transitional provision that clarifies that the application of the amendments made by the bill extend to offences committed or alleged to have been committed, or charged, before the commencement of the amendment. This is necessary to capture young people who are alleged to have already committed relevant offences prior to the commencement of the new provision, and are subsequently alleged to have committed a further relevant offence whilst on bail after its commencement.

Schedule 2, item [1] to the bill will introduce new section 154K into the Crimes Act 1900, which is the new offence of performance crime. A person will be guilty of the offence if their act or omission constitutes a "motor theft offence" or a "breaking and entering offence", and the person disseminates material to advertise their involvement in the offence, or the act or omission constituting the offence.

The performance crime offence captures a person who is a passenger in a car that they know to be stolen, as well as a person who is liable for the underlying motor theft or breaking and entering offence on the basis of a joint criminal enterprise, who also disseminates material to advertise the commission of the offence, or their involvement in it.

The offence in new section 154K is similar to an offence in Queensland, in section 408A, subsection (1B) of the Criminal Code Act 1899, which targets the act of advertising motor vehicle offending on social media. The offence in new section 154K goes a step further than the Queensland offence, as. it also targets offenders who disseminate material to advertise their break and enter offending.

For the purposes of the offence in new section 154K, a "motor theft offence" is an offence under section 154A, 154C and 154F of the Crimes Act. A "breaking and entering offence" is an offence under part 4, division 4 of the Crimes Act.

New section 154K defines "material" to include anything that contains data from which text, images or sound can be generated. "Advertise" is defined to mean attracting the notice and attention of the public or a limited section of the public. "Disseminate" is defined to include sending, supplying, exhibiting, transmitting or communicating material, including through social media and other electronic methods.

Importantly, the offence in new section 154K requires the person to disseminate material for the specific purpose of advertising their involvement in or commission of the relevant motor theft offence or breaking and entering offence. This is to avoid overreach and ensure that the offence does not capture other scenarios, such as accidental filming of an offence by a member of the public, or filming and publication of criminal acts by journalists for a media report.

The maximum penalty under new section 154K is the total of the maximum penalty for the relevant motor theft offence or breaking and entering offence, and imprisonment for two years. In other words, this provision will add a further two years imprisonment to the maximum penalty available for the relevant motor theft offence or breaking and entering offence. This approach recognises the seriousness of "performance crime" and the community's denunciation of this behaviour, which can encourage similar criminal offending by others, trivialise the harm caused by the substantive offence, and re-traumatise the victim of that offence.

New section 154K (3) provides that, for the avoidance of doubt, if an offender is convicted of a performance crime offence the offender cannot also be convicted of a motor theft offence or breaking and entering offence in relation to the act or omission constituting the performance crime offence. This clarifies that, while the prosecution is not precluded from bringing alternative charges against a defendant, the defendant cannot be convicted of both the substantive motor theft offence or breaking and entering offence, as defined in new section 154 (4), and the performance crime offence in new section 154K (1).

Schedule 2, item [1] also introduces new section 154L into the Crimes Act. This provides that a review of the policy objectives of the new offence, and the way in which the objectives are achieved, must be undertaken two years after new section 154K commences. A statutory review will enable the operation of this new offence to be monitored and assessed.

Schedule 2, item [2] to the bill provides that new section 154K only applies to an offence alleged to have been committed on or after commencement of the section.

A Government amendment, passed in the other place, inserted **schedule 3** into the bill. **Schedule 3** makes amendments to the Criminal Procedure Act 1986 to enable the performance crime offence to be triable summarily in certain circumstances.

The performance crime offence covers an array of break and enter and motor theft offences that are Table offences under schedule 1 to the Criminal Procedure Act. It also covers break and enter offences that are strictly indictable, and would therefore always be dealt with in the District Court.

Schedule 3 to the bill provides that the performance crime offence will be either a table 1 offence, where the underlying motor theft offence or breaking and entering offence is prescribed in table 1, or a table 2 offence, where the underlying motor theft offence or breaking and entering offence is in table 2. This does not preclude the prosecution electing to have a matter heard on indictment when appropriate. It will also mean that if the underlying offence is strictly indictable, the performance crime offence will also be strictly indictable.

I further note that another Government amendment, passed in the other place, consequentially amended the long title of the bill to reflect the changes made to the Criminal Procedure Act 1986 by schedule 3 to the bill.

Second Reading Debate

The Hon. SUSAN CARTER (16:14): I lead for the Opposition in debate on the Bail and Crimes Amendment Bill 2024. The bill is clearly a response to community concerns about rising regional and youth crime. The Coalition has been speaking up for our community in this House, and in other places, and calling on this Government to provide real answers to the question of community safety. The Government tells us that the bill is its response to those issues and has described it as "the first step in a suite of measures" that "the Government is progressing to meaningfully" address regional youth crime.

This legislation was first announced in a press conference, with an accompanying press release, only a week before being introduced into Parliament. It is yet another example of this Government not addressing issues when they emerge but waiting until an issue reaches fever pitch in the media, and then crafting an often ill-considered, kneejerk, media-based response. In that respect, only a few hours before the bill was to be debated in the other place, I note that the Government was introducing amendments to its own legislation. The reality of the bill is that it is a rushed response aimed more at addressing headlines than actual problems which are directly affecting the people of our State. But any response is better than none, and we need to work with what the Government is prepared to give to the people of New South Wales.

Insofar as the bill works to address the issue of regional youth crime, the Coalition is happy to support it. However, this rushed response contains significant gaps and untested decision-making. I foreshadow that the Coalition will move amendments to the bill to address those problems. Schedule 1 to the bill seeks to make changes to the Bail Act, to address youth crime. However, it only addresses offenders aged between 14 and 18 years. We know that youth crime is a problem from the age of 10. We all understand the importance of early

intervention, but we see nothing in the bill to address offending between the ages of 10 and 14—no additional diversionary measures, no changes to bail thresholds, nothing which addresses the perceived issues with doli incapax. Nothing.

We acknowledge that the offenders in the 14- to 18-year-old age group are more numerous, but there is also significant offending by those aged 10 to 14. Perhaps because the 11-year-old who has been before the courts more than 70 times lives in Dubbo rather than Moree, problems with this age group have dropped from this Government's narrowing range of vision. But problems still exist, and this Government is not addressing them in this legislation. A young person who has appeared before the court before he is even old enough to hold a job is not only a serious issue for that young person and for their local community; it is a serious failing on our part as members of society, Parliament and our systems of justice. More must be done. Yet this Government's measure does nothing to address this. It looks only at the ages of 14 to 18 and introduces a new test in which the bail authority must have:

> … a "high degree of confidence" that they will not commit a serious indictable offence while on bail subject to any proposed bail conditions …

This is a novel and untested standard. It is unclear what impact, if any, it will have in the community. That is why the Coalition will move an amendment in this place, to ensure that Bureau of Criminal Statistics and Research [BOCSAR] reports are tabled in this Parliament after the program has been in operation for six, nine and 12 months so that Parliament may observe how this intervention has been operating. I note that in the other place the Attorney General opposed this amendment on the grounds that the work and resources required to ensure that BOCSAR may make those reports is too large, especially for a bill with a sunset clause after 12 months. I make two comments in response to that.

In the first place, it remains unclear why the bill contains a sunset clause of 12 months, as if the issue will simply go away after a short time. I note that most of the rest of the suite of Government measures are focused on only one part of the State and are unlikely to be fully operational in the north-west of New South Wales when this bail measure will be sunsetting. Is this bail measure a real and continuing measure to address youth crime or a bandaid fix in which the Government has no real confidence?

The second argument—that it is too costly to examine whether an intervention works—is frankly unacceptable. We are being presented with a novel amendment, which has not been seen in this State before and which the Government is proposing as its answer to improve community safety. But the Government is saying it is too costly to test whether it works. It implies to me, I must confess, that the Government does not actually believe in the new test, is afraid that it will have no real impact and that BOCSAR reports will simply highlight that failing. It smacks of a "look over here" measure, rather than real and lasting reform. If I am incorrect and in fact the measure will be effective, I will gladly be proved wrong after the first BOCSAR report, if our amendment is passed.

On a more positive note, I commend the Government for introducing the new criminal offence of performance crime and that the crime is not limited simply to young offenders but covers all offenders. The issue of performance crime is growing and the introduction of the new offence recognises changes in our society due to the ever-present mobile phone. Social media must not be used to glorify crime or to recruit ever younger criminals. However, the bill has a serious gap in that regard, either as a result of the Government's rushed response or because the intention is to address headlines rather than regional crime. The offence of performance crime in the bill only extends to motor theft and serious breaking and entering offences. It does not cover all occasions on which crimes are recorded and uploaded to social media platforms.

The Government's legislation will not extend to situations such as those that have been reported over the past couple of days of youth "fight clubs" and, even more disturbingly, will not extend to cover the circumstances of a recently reported case in the Supreme Court, where a murder committed by minors was filmed and posted on social media. That is appalling and the gap needs to be addressed. The Government has provided no reason as to why the new offence has been limited to certain types of property crime. Why would it not extend to posting and boasting about murder or, indeed, all serious indictable offences? In short, we wholeheartedly support a response that addresses the serious and rising issue of regional crime, especially regional youth crime. But we do not see it in the bill. Although we will not be obstructionist about any measure that may improve community safety, we will attempt to improve the bill. That is why we will move amendments during the Committee of the Whole. We can and, frankly, must do better than this bill.

Ms SUE HIGGINSON (16:22): The Greens simply will not and cannot support the Bail and Crimes Amendment Bill 2024. We have heard much in the last week about the great regret of the Attorney General and the deep reluctance of the Premier to introduce this legislation that, in the Premier's own words, will lead to increased incarceration for young people. The contrition they show is unearned. It is obvious that neither the

Premier nor the Attorney General have thought seriously about what it really means and what it really feels like to stand before a court in a criminal matter or to be thrown in prison, least of all as a child. And why should they? Neither the Premier nor the Attorney General has ever been at any particular risk of incarceration. Neither are First Nations. Both attended private schools. Both attended university twice. Both, I am sure, made the kinds of stupid and careless decisions that all of us make when we are very young.

The Hon. Daniel Mookhey: Not me.

Ms SUE HIGGINSON: Except for the Treasurer. But most of us in this Chamber and the other place have had, while growing up, the love and support to learn safely what a meaningful risk looks like, and that is the prerogative of every child. But not every child has had the opportunities of that full prerogative. That inequality is not a function of a child's moral character nor is it the function of chance; it is historically, materially, socially and structurally determined. The Government claims to recognise that the best outcome for everyone is avoiding contact with the criminal justice system in the first place. But this proposed law will do the opposite. I simply cannot reconcile with the part of the Attorney General's second reading speech where he suggests that incarceration is an appropriate circuit breaker for children and young people. Incarceration is not a circuit breaker; it is a spirit, soul and life breaker, which has implications for all of us.

We know exactly who this legislation will hit hardest: First Nations kids. It is galling to see the bill in this place after a withering progress report from the Productivity Commission on Closing the Gap targets and after Minister after Minister conceded in budget estimates the many ways we are failing young people, especially First Nations young people, in regional communities. Over 60 per cent of young people incarcerated in New South Wales are First Nations kids. At June 2023, New South Wales had the highest proportion of Aboriginal young people in incarceration on record, of whom almost four in five are on remand.

The most recent annual report of the Department of Communities and Justice specifies that the main offences contributing to that population are car theft, break and enter, and robbery. In response to those old and deep harms, the causes of which are now well understood and come from this very place, the Minns Labor Government has, in a cowardly fit of empty "tough on crime" posturing, introduced these bail reforms precision engineered to smash First Nations young people and their families again. The changes read like a deliberate affront to the effort to close the gap. As if describing this very legislation, the Productivity Commission's Closing the Gap progress report states:

> It is too easy to find examples of government decisions that contradict commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage and discrimination.

It goes on specifically to identify:

> This is particularly obvious in youth justice systems.

As the Government pushes through this legislation, which has been roundly condemned by the Aboriginal Legal Service, AbSec and over 500 other legal experts, I remind members of another observation from the progress report, decrying the way that:

> … governments have limited the extent to which Aboriginal and Torres Strait Islander people have determined the pace and direction of reform, and have made other policy decisions that have undermined and contradicted these policies (such as rebutting presumptions of bail and increasing sentences for youth offences).

In a way, this legislation is, frankly, just the latest in a 200-year-old tradition of colonialism. That includes laws that just last century prohibited personhood and citizenship to First Nations people; laws that allowed young First Nations children to be taken from their families, as they continue to be taken from their families today; and gross and expansive new police powers in recent years that are, as we have seen this week, enthusiastically and disproportionately deployed against First Nations young people. But there is an important difference this time. For every member in this Chamber who supports this bill, including those who are parents, there are simply no alibis anymore. There is nowhere to hide. The evidence is unambiguous. Every member who votes to support these reforms is complicit in an entirely political decision that will further destroy the lives of Aboriginal children. They know it.

Three years from now, if Labor members are lucky enough to still be in government—which is far from sure, given their signature policy to date will be locking up more young people—they will feign shock when yet another Productivity Commission report shows that New South Wales is no closer to hitting the Closing the Gap targets to which we have committed. We also know that those young people are extremely likely to already suffer from complex traumas, developmental disorders, mental illness and disabilities. We know that 30 per cent of young people are experiencing abuse or neglect when they are incarcerated. In Queensland 80 per cent of Aboriginal kids in custody suffer from mental illness. Many more are affected by fetal alcohol syndrome and other developmental disabilities that specifically impair the regulation of risk-taking, antisocial behaviour,

aggression and mood. They suffer from the sort of complex trauma and disability that is solved not with the chest-beating bravado of men in suits in this place but rather with the extraordinary compassion, care and support from family and community.

They are young people trying to understand themselves in regional communities that are collapsing, where—we have heard over and over again—if they become sick or injured, there is no guarantee of adequate health care and they are learning in chronically underfunded schools that up-and-coming teachers do not want to teach in. These are towns where the only public service available to the community later than 5.00 p.m. is the police. Yet in the face of all of these well-understood, current, historic and material conditions that are forcing young people into bad decisions, and in spite of the intergenerational trauma and the cycle of poverty, the Minns Government is going to further punish these kids and put them behind bars. It is obvious that the Premier and Attorney General have not thought seriously about what it means for a person to have their family blown up in this way because the Premier and Attorney General know their families will not be.

There is no fundamental difference between the moral value or moral potential of these children and our own. We must act like it. It is important to name out loud, in this Chamber full of people who have mostly never so much as even visited a prison, that incarceration is not abstract. It ruins lives and it completely crushes young people. I want to make sure that all members understand that is what this legislation will do. The Minns Labor Government will take a child who has made a mistake—lots of mistakes—and who is likely in great need and cut them off from their friends, family and community. They will put them in a courtroom before a magistrate who, under these laws, will in many cases have absolutely no choice but to lock the kids up in an institution that we all know is failing. The duration of their incarceration does not particularly matter. The most recent annual report of the Department of Communities and Justice is plain: Youth detention is closely associated with incarceration in adult life. Avoiding short-term remand can provide a young person with a chance for a more positive future.

Thanks to the harrowing 2020 Youth Justice exit interviews, it is obvious why. From court, this child will be taken by police to a youth detention facility in the back of a truck. The drive may be hours long. They may not be given food, water or a toilet break, even when the officers pull up and grab pies for themselves at the servos. This is what happens. They will arrive at an unfamiliar and hostile detention complex full of guards and other young offenders. Inside, they will be searched and they will be stripped of everything they think of as their own. The centre will make no effort to support them if they are Muslim and need to be woken up for prayers—nor if they are Christian or if they practise Aboriginal spirituality—because that is the way the prison works. These are all real stories. The centre may also confiscate and cut off the child's access to psychiatric medication. One inmate said, "My mental health was so far off, I was screaming. I'm lucky to still be okay after them just refusing to give me my medication."

In Queensland, almost 80 per cent of Aboriginal kids in custody suffer from mental illness. At the Banksia Hill Detention Centre in Western Australia there were over 350 instances of self-harm reported in 2022 from just 100 inmates. The child's days will be largely confined to a squat grey cell. They are liable to be locked in for hours at a time without notice. If they do not already experience mental illness, which they likely do, it may make them feel like "a mental patient", "no bench", "disgusting room", "TV's all the way at the top of the roof so you can't put something around it to neck yourself". These are the words of kids, spoken from prisons. Their brain is at its most plastic, lively and adaptable stage. They will be bored. They may feel "sick and tired of everything and just want to burst". The only way they will feel heard is if they yell and scream.

They will be afforded no sense of purpose and no sense of identity. They cannot play or learn or take on risks on their own terms. They can do none of the crucial work of childhood. Their emotional development will be stunted. They will do worse at school. They cannot get better. They are unable to be bailed to attend rehabilitation services. They are unable to participate in community-led justice programs like the Youth Koori Court, which demonstrably reduces the likelihood of further contact and reoffending. It is the view of the Law Society of New South Wales that these laws will wreck the rehabilitation prospects of the children and young people they impact.

In their cell, the child is under constant surveillance. Out of their cell, they are under constant surveillance. They will spend the days of their formative years watched from guard towers, through thick metal gates and through razor wire. They may be watched by guards through the gaps in the shower curtains. They will have no say over what they eat. The food is generally disgusting. Some meals are served raw. Some meals are riddled with bugs. As their bodies transform through puberty, no meals are particularly healthy. These are the stories of the young people. This is real.

Their life will be regimented by guards from whom they are likely to experience racist attitudes and a lack of respect in communication and operations: ignoring requests, ignoring specific children, favouritism and bias—that is if they are the lucky kid. If they are unlucky, they may be pushed to the ground by a guard "for fun", as it is described. They may be kneed in the face. They may be thrown against the walls of their cells. They may be

taunted and bullied. They may be ordered to remove their tampons in front of staff. These are real stories of kids in detention now.

They may be put into solitary confinement. Young inmates agree it is "the worst place: four white walls and that's it. Mattress, graffiti, blood, cockroaches on the floor". If they spend time in solitary, they may experience nightmares about it for nights after. If they dance, guards complain. If they train with weights, guards may complain. If they speak their first language, the guards may complain. If they wish to make a complaint about staff, the form must be provided by staff and may be withheld. What will they do then? In the words of one child, "You can't do anything. Nobody cares."

Their new social circle will comprise of other young people who have committed crimes. They will talk about prison and committing crimes. If they survive to their release date, they are almost guaranteed to commit another, more serious crime in the community into which they are released. Prior contact with the justice system is an established risk factor for suicide and self-harm. If they are a First Nations young person, as more than half of these children are—and as far more than half of the children touched by these laws will be—the most likely cause of your death after your release is suicide. Released inmates have said, "Being in custody is the worst feeling that anyone can ever endure."

Every single child locked up because of these changes is a life utterly disfigured. If they had really thought about the data, these communities or the stories of these kids, the Premier and the Attorney General could not countenance the idea of locking children up in this way anymore. What is most heartbreaking is that these kids can articulate with greater clarity than anyone in this place what is wrong and how to fix it. Another inmate said, "Just cause they live in a bad environment, doesn't mean they're all bad. We come in here because we don't get much care and love on the outside, so that's what we need." This terrible compromise, which we have been told is necessary in the name of community safety, is naked, dishonest political cynicism. The evidence is singular: Locking children up makes nobody safer. It frays the social fabric. It shatters families. It disrupts the lives of children in need of help.

It makes crime more likely. This position is corroborated by everyone who thinks seriously about crime and its causes. A report prepared for the Standing Council of Attorneys-General in 2020 that has, at best, been ignored and, at worst, wilfully suppressed showed that children naturally grow out of risky, impulsive behaviour that often leads to crime and that this process is actively impaired by detention. The authors go as far as to say that the current youth justice system causes crime. Their recommendation states:

> The Commonwealth, State and Territory governments should raise the minimum age of criminal responsibility to 14 years of age without exception—

as detention creates lifelong negative outcomes. This touches upon another notable failure of this Government. The Attorney General boasted in his budget estimates hearing that he could raise the age of criminal responsibility tomorrow but would not. Karly Warner, the CEO of the Aboriginal Legal Service, spoke frankly about these changes at a press conference last week. She called the decision "a panicked reaction" and "a betrayal that will end in disaster". She told the press that the reforms ignore decades of evidence on how to reduce youth crime. She stated:

> The evidence demonstrates that incarceration of children increases crime by compounding the trauma vulnerable children have already been through, and giving them an apprenticeship in the criminal world that leads to more serious offending later in life.

She warned:

> "Tougher" bail laws have been tried and failed. Police officers have previously stated that you cannot arrest your way out of social problems.

The Bar Association has slammed both the ambitions and the execution of these laws. It expressed grave concern at the introduction of legislation that will result in greater incarceration rates of children. It said:

> Of still greater concern is the likely disproportionate impact upon the incarceration rates of Aboriginal children in New South Wales.

It altogether rejects the amendment to the Crimes Act that would introduce a new offence for performance crimes, reasserting that courts already consider the capturing and posting of offences on social media in sentencing. It warns of a disproportionate impact on young people with cognitive disabilities who do not appreciate the consequences of misuse of social media. It slammed provisions in the legislation that would see children denied bail for serious indictable offences that would never result in a term of imprisonment.

The law as written would see kids locked up on remand for months while matters were finalised for offences such as slapping a sibling in a way that leaves a mark, shoplifting an item of food, staining a carpet in an out-of-home care facility or throwing an item at a sibling causing it to break. These are really wicked laws, terribly written and grossly conceived. Quite instructively, the Bar Association describes these offences as "immature behaviour", and it is right. This is how the actions of bored, desperate and vulnerable children must be understood.

This behaviour has consequences, of course, and we must take care of those who have been hurt by young people who make mistakes, but it is an insult to the victims of crime in regional New South Wales to pretend that putting kids in jail is justice. Eighty-one per cent of them will commit crime again upon release. Reoffence is more likely because of their prior interaction with the justice system.

The Law Society of New South Wales has also condemned this legislation. In an open letter, it expresses concern that these reforms will destroy whatever benefit arises from the diversionary measures and early intervention support services that have been working to prevent crime. They challenge the Attorney General's suggestion that incarceration is "an appropriate circuit breaker" for children and young people. They go as far as to say, rightly, that these reforms are inconsistent with most of the principles set out in section 6 of the Children (Criminal Proceedings) Act 1987 about the rights of young offenders, they are inconsistent with Closing the Gap targets and they breach the Convention on the Rights of the Child. It says this Government is making "a sacrifice" of these young people.

It is telling that when Queensland reformed bail laws to put children into a new category of accommodation, as this Government is doing with this bill, it had to suspend its Human Rights Act. It is revealing that when the Northern Territory introduced similar bail reforms in 2022, it broke records for Aboriginal kids in custody, and neither of those measures stopped youth crime. The consensus on what does keep communities safe is unambiguous. It will not please shock jocks or columnists, or Premier Chris Minns who is beholden to them. It is compassion. It is deep and long-term investment in communities.

The school of First Nations health at the University of Wollongong states that in order to achieve the best outcomes for young offenders and the general public, community-based, empirically supported intervention practices must be adopted as an alternative to incarceration. The Aboriginal Legal Service and AbSec have called for job training, safe social activities in sports and art, and an education that inspires social cohesion, and to fast-track the community-based services and supports that have been promised under Closing the Gap. They have called for three immediately actionable solutions:

1. Resources allocated for local communities to support after-school, evening and weekend activities that engage at-risk young people.

2. Intensive and targeted programs and responses for at-risk children with appropriate referral services.

3. Formal community partnerships between police and Aboriginal controlled services.

These demands have been co-signed by over 500 legal experts and 60 community groups. These measures can work quickly today, without incarcerating children. Our very own Department of Communities and Justice is experimenting carefully and in consultation with communities as well. The Youth on Track program has shown extraordinary promise in Dubbo. It is a holistic cooperation between department and caseworkers, and young people at risk, their families and their communities. In 2021-22 participants that had been in the Youth on Track program for six months reduced their offending risk by 79 per cent. Aboriginal participants reduced their offending risk by 75 per cent.

Hard work is being done in this State by people in those communities, by hardworking public servants and even by Cabinet members, and it will be trashed by sloppy and punitive changes. Surprising even myself, I turn to *The Daily Telegraph* for solutions to one of the articles that triggered Minns's kneejerk law-and-order response in the first place. In the article Mayor Russell Webb of Tamworth Regional Council said that kids offend and end up back on the street because "there are no diversionary programs". He continued:

> We need to see government funding for diversionary programs, places where they can be sent to a safe environment where they can get fed and receive things like career help.

I do not think he or anyone meant "lock them up". I suspect that members of the Minns Government, in spite of their support for this disastrous legislation, know that too. It is why the bail reforms were announced as part of a package. A press release made sweeping promises of new community consultation, support services and diversionary measures, but so far we have just two price tags. One is the $7.5 million in the continued funding for the Justice Reinvestment Grant Program.

That is not new funding; it is continued funding. It is a shame there is not more because that is what is needed. It is a community-led project born of the understanding of what truly drives crime and of the pathetic limitations of incarceration to rehabilitate offenders or truly keep communities safe. It starts not with police, not with magistrates and certainly not with refusing bail for trivial offences, but with communities coming together to identify the best way to prevent and reduce contact with the criminal justice system altogether, and using the strengths of community, cultural knowledge, lived experience and data to design initiatives that will actually work.

The other figure in the package is $8.75 million for new bail accommodation. The Premier and Attorney General may sleep easier knowing they have carved out some lean semantic space between this new complex in

which children will be detained against their wishes and a youth detention centre, but it will be of very little comfort to the young people who languish in custody or to their shattered families. It is worth noting that both of those figures pale in comparison to the eye-watering waste that is the extraordinary cost of locking up children in the youth justice system in New South Wales. Last year in New South Wales the average cost of a young person in detention was $2,759.13 per day. That is over $1 million a year. When pressed at budget estimates on his disinterest in raising the age of criminal responsibility, the Attorney General conceded with typical tact that—and this is verbatim—"we could save a bucket of money" by not locking up kids.

Premier Chris Minns and the Attorney General assure us that they gravely regret locking up kids, but they have not earned that contrition. This bill is the legislation of cowards. Against the wishes of their Cabinet—and, I have no doubt, against the advice of experts and against the best interests of young people and the community—they will victimise children because they are not their own. These are overwhelmingly First Nations children and children with mental illness and disability. They are children going hungry and without a consistent roof over their heads. They are young people who need help. To prevent crime and truly keep a community safe requires extraordinary compassion, understanding and support, and it calls for leadership.

As a mother, a solicitor and someone who has lived her entire life in regional New South Wales—and as someone who receives letters from intelligent, compassionate inmates wasting away in the prison system daily—I beg every member of this place to reflect seriously and deeply on whatever moral instinct brings them to this place, be it Christian or compassionate, a love of liberty, a belief in equity and opportunity without prejudice, or the duty to right the great lacks in our regional homes. We know exactly what this legislation will do: In the Premier's own words, it will lock up more kids. It is unconscionable and we must not support the bill.

The Hon. CAMERON MURPHY (16:51): I speak in debate on the Bail and Crimes Amendment Bill 2024. It is obvious that more needs to be done to address youth crime and the serious impact it has on regional communities. People have the right to feel safe in their homes and in their neighbourhoods. However, the evidence shows that incarceration does not lead to improvements in community safety in the long run, due to increased recidivism, amongst many other factors. Today of all days is National Close the Gap Day. Clause 7.18 of the Labor Party's platform at the last election committed to reducing the rate of incarceration of Indigenous young people. Labor committed to Closing the Gap. Even though the bill has been designed with the best of intentions and is coupled with large new spending on support services, it will ultimately send more Indigenous kids to jail. Despite my personal objections to the bill, I will be voting for it, as that is the decision of my caucus, which I am bound by.

The Hon. AILEEN MacDONALD (16:53): The Bail and Crimes Amendment Bill 2024 is a short-term, kneejerk reaction to a complex problem which germinated from one quick visit by the Premier to Moree. These proposed bail laws, which would make it harder for young people to get bail, were not preceded by any meaningful consultation. They also directly contradict promises from the Labor Party in the lead-up to the 2023 State election. Before the last election, in a letter to the president of the Law Society of New South Wales on the subject of youth justice, Attorney General Michael Daley wrote:

> Labor is acutely aware of the implications of early contact with the criminal justice system. Every opportunity to safely divert young offenders away from the criminal justice system, whilst ensuring community safety should be taken.

Those are hollow words from the Labor Government because the Premier is now trying to do the opposite. Again, I quote from Attorney General Daley's letter. He wrote:

> Labor is committed to exploring initiatives to reduce the interactions between young people with the justice system. Appropriate frameworks, support mechanisms and diversionary programs focusing on care and education are vital to ensuring young people do not become involved in a recidivist offending cycle.

Let us get it straight: Labor promised to keep kids out of jail before the election and now it just wants to lock them up. This approach not only undermines their chances of successful reintegration into society but also perpetuates a cycle of criminality and recidivism. Let me be clear: I do not condone criminal behaviour, nor do I advocate for leniency in cases of wrongdoing. However, I staunchly advocate for a justice system that acknowledges the unique vulnerabilities, developmental stages and potential for rehabilitation among young individuals. Instead of investing in punitive measures that further marginalise and alienate our young people, we should be prioritising preventive measures, rehabilitation programs and community-based interventions that address the root causes of criminal behaviour. I am certain that the inquiry into community safety in regional and rural communities, which was announced just yesterday, will find in favour of ways to help these kids instead of just locking them up. The bill does little or nothing to provide young offenders with the support they need to make positive changes in their lives.

While the bill purports to address concerns about rising crime rates in regional New South Wales, it point-blank fails to recognise the complex underlying factors contributing to these trends. Crime rates are

influenced by myriad social, economic and systemic factors. The simplistic legislative response of imposing stricter bail conditions does little to address the root causes of offending behaviour. Locking kids up for longer will just exacerbate the marginalisation and alienation of vulnerable youth populations, particularly those from disadvantaged backgrounds. When I speak of disadvantaged backgrounds, let me not beat around the bush—no pun intended. Fifty-nine per cent of young people in custody are Aboriginal, a staggering 80 per cent of whom are on remand awaiting their day in court. The system is totally stacked against them. As the Law Society of New South Wales rightly points out, the reforms in the bill will block the ability of First Nations children and young people to access the Youth Koori Court because participants must be on bail to participate fully, as they need to be bailed to attend rehabilitation services.

The numbers speak for themselves. Research indicates that incarceration at an early age is more likely to lead to a higher incidence of criminal behaviour later in life. Figures from the Bureau of Crime Statistics and Research show that in 2022, 64.4 per cent of young people released from detention were convicted of another offence within 12 months. That compares with the much lower figure of 44.3 per cent for young people who were re-convicted after receiving a non-custodial sentence. Locking kids up does not break the circuit. It breaks the continuity of education, rehabilitation, and family life. Surely a preferable approach would be to amend the legislation to mandate intensive court-based bail supervision for the targeted cohort of children and young people if they are granted bail. That way the community feels safer and the bailed kids are being supervised rather than incarcerated for an offence they are likely to be found not guilty of.

The Hon. EMMA HURST (16:59): On behalf of the Animal Justice Party, I indicate my strong opposition to the Bail and Crimes Amendment Bill 2024. The bill is a disgrace and it should never have been brought before Parliament. I never thought I would need to explain to the Labor Government why a bill that intentionally puts more vulnerable kids in jail is a bad idea, but here we are. The bill seeks to introduce an additional bail test for kids aged 14 to 17 who have been charged with a break and enter or motor theft offence while they are on bail for another offence of those types. This new bail test means that these children can only be granted bail if there is a "high degree of confidence the young person will not commit a serious indictable offence". This is an incredibly strict test that is currently unknown in criminal law, and it is much harsher than any bail test that currently exists for adults in New South Wales. It will virtually guarantee that any child subjected to this new legal test will be refused bail, forcing them to remain in detention until their proceedings are concluded. This includes children who are not guilty of the offences they have been charged with, or who are unlikely to receive a jail sentence even if convicted. This is an objectively bad idea.

Let me be clear: The bill will not make anyone in the community safer. In fact, it will do the opposite. Decades of evidence shows that stricter bail conditions do not work to reduce crime rates. Rather, once bail is denied, children are more likely to be enmeshed in the criminal justice system. It will exacerbate pathways to adult imprisonment, noting the high rates of recidivism following youth detention. By locking up more young people, the bill will continue the destructive cycle of disadvantage, offending and reoffending. There is overwhelming evidence that imprisonment causes young people and their families lifelong harm and entrenches disadvantage and hardship. Perhaps the greatest concern is the disproportionate impact the bill will have upon the incarceration rates of Aboriginal children in New South Wales. It flies in the face of the Closing the Gap targets, which the Government claims to be committed to, and will take us severely backwards in reducing Aboriginal incarceration rates.

The reasons for youth offending and reoffending are complex, and they will not be solved through incarceration. I simply cannot understand why the Government would want to further target and harm the most vulnerable young people in our society rather than offering them the support they need. Instead of this kneejerk political response, Aboriginal-run organisations and legal centres working in this space are calling for the implementation of a three-point crime prevention plan that is compassionate and evidence based. Their proposed solutions include allocating resources to local communities to support after-school, evening and weekend activities that engage at-risk young people; investing in intensive and targeted programs and responses for at-risk children with appropriate referral services; and implementing formal community partnerships between police and Aboriginal-controlled services.

I cannot understand why the Government is not urgently implementing these solutions, which will not only make communities safer but also be much more cost effective in the long term, noting the incredibly high costs of youth incarceration. On top of these changes to bail laws, the bill also inserts new section 154K, which criminalises the promotion or dissemination of material—such as videos or photos posted online—that advertises a break and enter or a motor vehicle offence. The maximum penalty is two years imprisonment, on top of the penalty for the underlying offence. It is unclear how simply establishing this new criminal offence—and creating more opportunities to put vulnerable young people in jail for longer—is going to make communities safer. I am also concerned that this section, which criminalises filming or advertising a break and enter offence, may have unintended consequences, particularly around the implied freedom of political communication. I attempted to

raise these concerns with the Attorney General's office but, frustratingly, he does not seem to be open to any amendments to clarify this aspect of the bill and correct any unintended consequences.

The bill was brought into Parliament like all bad bills: in a rush and without any proper consultation. But despite only being dropped on Parliament last week, the bill has quickly attracted major opposition from the legal community, including peak bodies like the New South Wales Bar Association and the Aboriginal Legal Service. Over 500 legal practitioners, community workers and academics have written to the Premier expressing their grave concerns about the detrimental impacts of the bill. The level of opposition to the bill gives an indication of how concerning its contents are. In fact, I am not aware of a single body that supports the bill, which is why it is so disappointing that the Liberal-Nationals Opposition has chosen to simply allow the bill to sail through. I would have expected a better approach to law reform under the leadership of Mark Speakman. There is simply no justification for this draconian response from the Minns Labor Government that we know will not work and will simply cause more harm to vulnerable children, their families and the community. I urge all honourable members to join me in opposing the bill.

The Hon. STEPHEN LAWRENCE (17:05): I speak in support of the Bail and Crimes Amendment Bill 2024. I am conscious of and respect all the contributions that have been made. It is certainly a complex issue. I hope that in a year, when the sunset clause arrives, we will have seen a substantial drop in crime in regional New South Wales. I also hope that the range of support services, particularly for children in Moree—statewide initiatives—have been successful because that could be a significant start to a true process of justice reinvestment in New South Wales. The theory is that if one invests in certain social services one can slowly transfer expenditure from police and prisons and spend less as crime reduces in accordance with that expenditure.

As I said, I respect all the contributions that have been made but there has been an absence of focus on the sunset clause. This is not an amendment to the Bail Act that is being made for all time. It sits in the context of an undeniable sharp rise in crime in many parts of regional New South Wales. I have been interested in issues of crime across regional New South Wales for some time and have focused on the statistics that the Bureau of Crime Statistics and Research produces. It is a valuable agency because it lets us stay abreast of crime statistics as well as policy issues. It issues policy papers as well.

My interest in this area comes initially from working at the Aboriginal Legal Service in Dubbo from 2010 and onwards for quite a few years and then serving a term on council. I had conflicting experiences in that regard. When I worked at the Aboriginal Legal Service my focus was not exclusively but very much so on assisting offenders, but then, when I came to serve on council in Dubbo, including as mayor for a period, I saw the other side of the equation more. People often bring issues about criminal offending against them and their concern about crime rates to their council. What all of these experiences have well and truly brought home to me is that the reality of sustained and entrenched high crime rates in regional New South Wales is not well understood in the city.

There are parts of Sydney that have comparable crime rates. I am not suggesting otherwise. But there really is nothing to compare in this sense to the entrenched high crime rates in many of our regional towns and cities, which is sitting at three and four times the State average. That translates to real people being victims of real crime. That picture of sustained entrenched high crime rates has worsened. Crime rates vary between parts of regional New South Wales. I emphasise that we need to look at five-year statistics; there is no point in looking at one- or two-year statistics, let alone jumps over quarters, because that is normally nothing short of misleading.

Over a five-year period in Moree—a relevant statistical period—there was a 24 per cent increase in car theft. That translates to a whole lot of people having their cars stolen and also a whole lot of dangerous driving and related offending, causing fear and terror in the community. In June last year I went to Moree and met with many community members and organisations. I distinctly remember sitting down to lunch with a fella from Moree that I know quite well and listening to him telling me that his house had been the subject of a home invasion a week or two before. From memory, he was still carrying some sort of injury from that incident. There is a disturbing increase in crime in certain parts of regional New South Wales, and the bill responds to that.

I understand very well that incarceration is criminogenic, and I understand very well the theories that flow from justice reinvestment theory—how that can be true on a community level and how it can devastate communities and entrench high rates of offending. But incarceration has a role in our criminal justice system, and the bill will provide a 12-month circuit breaker. It is not being deployed in a simplistic or one-sided way, because significant announcements have been made alongside it, which are particularly significant for Moree. Around half of the $26.6 million total package will go to the relatively small community of Moree, which will, in effect, become a justice reinvestment trial for New South Wales in a discrete regional community that clearly has a need for it.

Comments were made about the introduction of performance crime offences, the enhancement of the maximum penalty and why that would not apply to other offences. I recall that similar criticisms were made by The Nationals in the other place during question time, when questions were asked about whether the amendment would apply to domestic violence offences and sexual offences, which was a rather cheap bit of political theatre. It is not as if the previous Government introduced bail laws that would have applied in those circumstances either, and it would not have contemplated doing so. Frankly, if the policies expressed in those questions asked in the other place were put into place, we would need to build multiple new prisons. The previous Government did not have those policies, and nor should it have had. There is always a tendency on this front to say, "Why aren't you going further?"

I respond to the comment made by the Hon. Susan Carter about why the performance crime offence does not apply to murder and so forth. I am sure the Minister with carriage will speak in reply, but I suspect that is a response to a distinct phenomenon happening in society. I know about this phenomenon because, in my community of Dubbo, performance crime has been an issue for two or three years, as I recall. Popular TikTok and Instagram pages with catchy names show kids stealing cars, stealing keys and driving cars at frantic speeds of over 200 kilometres an hour. It is a form of competition. I have received advice from the police that this form of competition is a material driver of crime rates. Members can question why it does not apply to murder offences, but I suspect that there has been no need to apply it to that offence because we are dealing with a distinct phenomenon.

The amendments to the Bail Act and the Crimes Act cannot be viewed in isolation because this is, in effect, a 12-month trial with a sunset clause. I highlight the announced investment for Moree. Additional judicial resources are earmarked for the jurisdictions of the Local Court and Children's Court, including associated Legal Aid, the Office of the Director of Public Prosecutions and police costs, as well as the Aboriginal Legal Service. Excitingly, from a justice reinvestment point of view, an $8.75 million investment will go towards a bail accommodation and support service in Moree. We need those types of initiatives if we are going to reduce the involvement of young people in the criminal justice system, particularly for offending on bail and breaching bail conditions. That initiative will be co-designed by government and community stakeholders and provide police and courts with more options to put a young person on bail with higher confidence that they will not reoffend.

Young Aboriginal people in Moree will be linked to Indigenous organisations, Elders, and cultural and family supports from their own communities, with skilled, qualified, trained and consistent staff onsite 24/7 to provide child-safe care. The Government is targeting investment in Aboriginal community controlled organisations that support a focus on culture and address Closing the Gap priorities. There will also be measures to improve the availability of night-time and out-of-hours services and youth places. That will include activities delivered alongside Moree Plains Shire Council and Aboriginal community controlled organisations, including potentially subsidised entry and extended hours at facilities such as the Moree Artesian Aquatic Centre, the Moree Sports Health Arts and Education Academy and the PCYC.

I understand that the NSW Police Force is continuing its operations in the Moree area to meet community need. That includes continuing to surge operational resources to meet needs as they arise. In addition, the youth command will continue Operation Youth Safe, which combines education and early intervention for at-risk children. Given the comprehensiveness of those initiatives, I look forward to seeing the results of the pilot in Moree and the benefits from a sustained focus on the causes of youth crime and its impact. I appreciate that the bill has received serious criticism in this place and from external stakeholders, and I understand that criticism, but we should not lose sight of the exciting announcements that have been made.

I have advocated for a long time, including when I was on council, for a trial of a true justice reinvestment approach in a significant regional community. I advocated for Dubbo and significant investments were made in Dubbo, but Moree will be the site of a significant trial. Those two things are intimately connected. A 12-month strengthening of bail laws is connected to the trial in Moree. I hear all the criticism, but I hope that in a year there will be a significant drop in crime rates in Moree and other parts of regional New South Wales. I hope that the programs being rolled out in Moree and elsewhere will have been successful, and that these initiatives can then be rolled out further. But there is a circuit breaker in the bill and the pressure felt by regional communities since the spike in the crime rate will be lifted.

The Hon. NATASHA MACLAREN-JONES (17:17): I contribute to debate on the Bail and Crimes Amendment Bill 2024. We all have a responsibility to do what we can to ensure that our community feels safe. Under the Minns Labor Government, crime has been increasing across regional New South Wales. In recent months we have heard terrible stories of people fearing for their lives, with break-ins, robberies and violent assaults. Over a week ago the Minns Government announced that it would be introducing legislation and several programs to address youth crime; however, there is little detail to those programs.

For months the Opposition and numerous organisations have been calling for an inquiry to ensure that the issues of regional youth crime are properly examined and a whole-of-government solution is presented. Labor was clear at the time that it opposed an inquiry. However, I note that, as of yesterday, it has done a backflip. I also note—and this is no reflection on the other place—that it is a Government-controlled inquiry as opposed to an inquiry run by this place. The Legislative Council is very good at running inquiries and it also has a broader approach across the crossbench, Government and Opposition.

The report of the NSW Bureau of Crime Statistics and Research released last week indicates that crime in rural and regional New South Wales is far higher than any metropolitan area. The Liberals and The Nationals understand the importance of comprehensive whole-of-government strategy in proactively addressing the risk of reoffending and meeting the diverse needs of the individuals involved in the youth justice system. The Government has decided to deliver a pilot in Moree, again with little detail on a set date of commencement and how it will be evaluated. Because of its desire to be seen to be doing something quickly, the Government has announced this pilot but chosen to ignore many other regional towns across New South Wales that are also experiencing crime.

To address youth crime we need a whole-of-government approach that includes justice, health, housing, education and child protection. We need all Ministers and departments involved, not a top-down approach from the Premier. We all know that the best outcome for young people is to avoid contact with the criminal justice system, but to achieve that the Government must implement a plan and programs to divert young people away from crime and address the causes of their behaviour. Early intervention is a shared responsibility, with the safety and wellbeing of children being the concern not only of government agencies but also of non-governmental organisations, parents and the broader community, and it has to be adequately funded. It is essential to prioritise decreasing the number of young individuals encountering the youth justice system as well as disrupting the cycle of disadvantage.

Furthermore, it is crucial for the Labor Government to uphold the multiagency approach initiated under the former Liberal-Nationals Government. We aimed to ensure that supports were provided to young people within the justice system, incorporating diversion programs, preventing short-term remand through crisis accommodation, as well as bail decisions, and connecting young people with essential services while on bail. I note that the Minister for Housing is in the Chamber. Addressing youth crime across the State is a challenge, so it is particularly important to have a whole-of-government approach to ensure that support services and crisis accommodation are provided for young people who are dealing with Youth Justice NSW.

Dr AMANDA COHN (17:21): As The Greens spokesperson for youth, I join my Greens colleagues in condemning the premise and substance of the Bail and Crimes Amendment Bill 2024. This bill carries the Government further along its trajectory of criminalising young people in this State, without addressing the social determinants, the underlying reasons, that young people are being put in desperate positions. This bill sets out measures that will further devastate the lives of vulnerable young people and their families by imposing harsher and crueller bail restrictions on young people aged between 14 and 18 years. This will land heaviest on the young people who this State is failing the most: regional youth, Aboriginal and Torres Strait Islander children, kids barely surviving in poverty, those in unstable living situations, and young people with disability. The first contact that these young people have with authority and with government can shape the rest of their lives.

Some regional communities are heavily impacted by crimes committed by young people. I wonder whether those communities know that, on average, detaining a young person costs over $1 million per year in New South Wales. That is nearly $3,000 a day. It would be cheaper to hand this funding directly to those regional communities concerned about crime to invest in local programs. The Mayor of Tamworth gets it. He said, "The kids get pulled up by the cops but then the courts throw them out because there are no diversionary programs. We need to see government funding for diversionary programs, places where they can be sent to a safe environment, where they can get fed and receive things like career help."

But what is being pursued with this bill will exacerbate the problem. It will push young people into an overcrowded, unsafe, punitive and expensive justice system that is notorious for failing to rehabilitate. Detention is known to create lifelong negative outcomes. The relevant Ministers know this and have acknowledged what the real solutions are. There is no excuse for pursuing such punitive measures over the overwhelming evidence base for community-based support and engagement strategies that the data, community organisations and experts agree are needed and require investment. How does the Government respond to the outpouring of criticism of the bill from legal, human rights and Indigenous groups for its "betrayal" of Aboriginal children? How can the Government defy Karly Warner, the chief executive officer of the Aboriginal Legal Service, who responded:

> Throwing our children in jail will actually make crime worse, not better. Locking up children has never worked and will lead to devastating outcomes for communities, families, and those children.

What is the Government's response to the NSW Bar Association, that said it holds grave concern for "the disproportionate impact that such legislation would have upon the incarceration rates of Aboriginal children in New South Wales"?

This bill is a step backward. It disregards the decades of research and advocacy that show the importance of harm reduction, intervention and support over incarceration. This bill will pour money into the extremely expensive recidivism machine that is our youth justice system, instead of into the projects and supports identified by young offenders themselves to mitigate crime. Dangerously, this bill and its focus will interfere with, damage and potentially reverse what little good work government has been able to do to address this issue.

The Office of the Advocate for Children and Young People, for example, is undertaking genuine engagement through peer workers with the young people convicted of these crimes, including in Moree, to find out why and what it would take for them to stop. It is the New South Wales Government's own problem that the only people resourced to work in the regions after 5.00 p.m. are the police—not workers in the community sector, those who drive public transport, or those who run social activities or out-of-school programs that people can afford. In this debate members have spoken about the importance of justice reinvestment, and whole-of-community and whole-of-government responses. It is absolutely outrageous to say that and still support this bill.

The Hon. JEREMY BUCKINGHAM (17:24): I stand with all the fair-minded people in New South Wales who are appalled at these proposed bail laws in opposing the Bail and Crimes Amendment Bill 2024. It is absolutely devastating to be in this place today, dealing with another set of abhorrent, racist laws. Just yesterday we had a lengthy debate about the history of this House and the role it has played in the genocide, dispossession, incarceration, death and maltreatment of Aboriginal Australians for 200 years, and the House passed a motion essentially saying that we should do better. Within 24 hours, here we are committing to lock up black kids. That is what this bill is about. It is a scare campaign run by the right-wing media and the National Party. What we have had is—

The Hon. Chris Rath: It's Labor's bill.

The Hon. JEREMY BUCKINGHAM: That is right. Wait for it. What we have had is a pathetic kneejerk reaction from this Government that—

The Hon. Sam Farraway: How did we get pinged for Labor's bill?

The Hon. JEREMY BUCKINGHAM: It's a bill you're voting for. You will be voting for it.

The Hon. Chris Rath: We're not the Government.

The Hon. JEREMY BUCKINGHAM: You're the ones who have beat the bushes, and then the Government, pathetically, has—

The Hon. Daniel Mookhey: Point of order: Members should direct their comments through the Chair and debate only the terms of the bill.

The Hon. JEREMY BUCKINGHAM: To the point of order: Wide latitude is given in second reading contributions. Context is important. I will debate what I want to debate in this place, rather than be dictated to by the Treasurer.

The DEPUTY PRESIDENT (Ms Abigail Boyd): I uphold the first part of the point of order. When speaking at the lectern members are not to direct comments to other members. Members will direct their comments through the Chair. Wide latitude is given to contributions in second reading debates. The member will proceed.

The Hon. JEREMY BUCKINGHAM: Minns Government members are exactly where they want to be—on morning television shows, defending their hardline approach to youth crime. They want to be tough on crime, tough on black kids out in Moree. This bill is just another in the set of thousands of regulations and laws that this Parliament has passed in its 200 years that have entrenched disadvantage and poor outcomes for Aboriginal Australians—and for regional Australians, which is where the focus is. It is absolutely appalling. I stand with those who oppose the bill. In particular, I stand with the great Labor figure and Mayor of Inner West Council Darcy Byrne, who has said, "It's heartbreaking to see the Government seeking to put even more children behind bars." He is calling on the Minns Government to desist and to take this matter to Labor's State Conference.

The Hon. Mark Latham: Where is he mayor of?

The Hon. JEREMY BUCKINGHAM: Inner West Council.

The Hon. Mark Latham: Inner Moree.

The Hon. JEREMY BUCKINGHAM: Thank you very much. He said:

> Labor Party members who campaigned passionately for Yes in the recent referendum are shocked and saddened that just a few months after the New South Wales Government is proposing to make it easier to incarcerate Aboriginal children.

Karly Warner of the Aboriginal Legal Service has said that these "dangerous changes to bail laws for children is a betrayal of Closing the Gap" and they "will fail to reduce crime". During budget estimates hearings the Premier and Government Ministers wrung their hands and said, "We have made these commitments to Closing the Gap. We do not know why it is not happening." They then turn up and bring in laws and statutes that make sure that we criminalise, incarcerate and disadvantage a whole new generation of Aboriginal people. The Government has already said, "This is just a trial, but we are rolling it out. It is coming to your neighbourhood soon." It is absolutely appalling.

Who knows it? The Attorney General knows it. The Attorney General has been sent out to do this business. As a man of the law and a man of justice, he would look at the evidence and say, "We have been down this road before, and it does not work." When the bill was amended in the other place, the Attorney General said, "The best outcome for everyone is avoiding contact with the criminal justice system." What is "contact with the criminal justice system"? That is a warning. We know that one of the best things that can happen when it comes to policing is to receive a warning, and we saw that with drug prohibition. But contact has varying degrees. Someone can get a warning, be brought in for questioning or spend weeks and weeks in jail, on remand, in an incredibly detrimental environment, which can have massively deleterious impacts on their wellbeing and psychology while associating with other criminals. For a child, that locks them into a pathway that has all kinds of mental health, overall health and social outcomes that should be avoided.

I acknowledge that the spike in regional crime must be addressed. However, jailing young people will achieve short-term political gain, only resulting in making the situation worse. Chris Minns was happy to be on morning television, being the hard man on Aboriginal kids in Moree. According to the Bureau of Crime Statistics and Research, the number of Aboriginal young people on remand increased by over 84 per cent between September 2021 and September 2023. It is already going up; it is not working. So wrong way, go back. The statistics and the evidence tell us that. This measure undermines the $26.2 million announced by the Government for various programs like justice reinvestment that support young people and help to prevent crime. Much of that money will be spent in Moree.

Yesterday this House was almost unanimous in honouring the history of dispossession and disempowerment of Aboriginal people. Yet here we are again, doing the same old things that do not work and that are incredibly damaging to children. I note the open letter signed by 60 human rights and Aboriginal organisations, pleading with the Government to rethink this legislation. It is opposed by Amnesty International, the Redfern Legal Centre, the Aboriginal Legal Service, the Law Society of New South Wales and the New South Wales Bar Association, among others.

The Hon. Mark Latham: And Darcy Byrne.

The Hon. JEREMY BUCKINGHAM: And Darcy Byrne.

The Hon. Mark Latham: That is the big one.

The Hon. JEREMY BUCKINGHAM: Yes, I stand with Darcy on this one. They call this law a "devastating betrayal of Aboriginal children". Of all the people we should be taking the time to look after, it is Aboriginal children in this State. Further, they say that it ignores decades of evidence of how to reduce youth crime, which will make the situation worse, and it will fail in closing the gap. The Law Society of New South Wales argues that, far from being a circuit breaker, this legislation will "sacrifice a cohort of children and young people to the long-term criminogenic effects of incarceration". I completely concur with that. The Law Society further stated:

> We suggest that a likely unintended consequence of proceeding as proposed will be to further compromise community safety in the medium and long term.

After those young people have been in jail, they are more hardened criminals. They will do worse things. The evidence says that. That is the toxic impact of contact with the criminal justice system if it involves incarcerating and locking up kids. The Law Society also has an issue with the retrospective application of the legislation, the proposed "high degree of confidence" that a young person will not reoffend if they are granted bail and the wide sweep of offences covered. All of these measures will increase already appalling incarceration rates for young Aboriginal people in this State at enormous cost to those individuals, to their families and to us all. It will also be at an enormous cost to the taxpayer. It has been put that $1 million a year is spent to keep a child in jail—thousands of dollars a day. Could we spend that money better? Yes, we could. The New South Wales Bar Association is

entirely opposed to the bill, describing it as "rushed" and produced without proper consultation. President Ruth Higgins said:

> The Association is gravely concerned at the introduction of legislation that will result in greater incarceration rates of vulnerable children—

which is what it is clearly designed to do, "Lock them up. Who cares about the long-term consequences? Let's just hope that we get through the next month, the next news cycle"—

> which risks normalising criminal associations, undermining development, and producing more reoffending.

I stand with the Bar Association. I stand with the Law Society. I stand with the Redfern Legal Centre.

The Hon. Susan Carter: And with Darcy.

The Hon. JEREMY BUCKINGHAM: I stand with Darcy. I stand for human rights. The Labor Party does not have a mandate for this. The left of the Labor Party should stand with Darcy and stare down Chris Minns, stare down the shock jocks, stare down the National Party and stare down *The Daily Telegraph* on this issue. The bill will not work. It has been tried before with incredibly adverse outcomes and incarceration rates continue to go up. The Legalise Cannabis Party is appalled by the bill and will vote against it.

[*Business interrupted.*]

Visitors

VISITORS

The DEPUTY PRESIDENT (Ms Abigail Boyd): I welcome to the public gallery members of the Solomon Island Wantoks Association of NSW, which is an association formed by Australian citizens of Solomon Island heritage, permanent residents and temporary visa holders from the Solomon Islands. Members of the House will be aware that the New South Wales Parliament is twinned with the National Parliament of Solomon Islands and the Autonomous Region of Bougainville. We wish the Solomon Islands all the best for the April elections.

Bills

BAIL AND CRIMES AMENDMENT BILL 2024

Second Reading Debate

[*Business resumed.*]

The Hon. SAM FARRAWAY (17:37): I speak in debate on the Bail and Crimes Amendment Bill 2024. It is fair to say that crime continues to escalate across regional New South Wales. Regional communities need the Government to start genuinely listening and implementing reforms and strategies to support regional communities rather than avoiding scrutiny, turning a blind eye to crime and putting its head in the sand. There are countless stories of regional people being subjected to violent assaults, break-ins, robberies and frightening antisocial behaviour. I quote the following from the contribution by my colleague the member for Dubbo in the other place:

> In Dubbo, one of my constituents, Mike Blake, fell victim to this problem just after Christmas. Mike is 84 years old. He was stabbed by a young man in broad daylight. Like many others, Mike was just going about his normal day. He had gone out to the front of his house to move his car to the side garage. He pulled into the garage and, when he went to hop out of his car, he was confronted by a young assailant who was armed with a 30-centimetre knife that had one serrated edge and two prongs at the end of it. The young man demanded money from Mike. Mike had hardly any time to react. The young fellow lunged at Mike and stabbed him twice on his left side. Mike also suffered three lacerations to his left arm. This all happened in a matter of milliseconds.

It has been so disappointing to see the Government having to be dragged to the table to deal with this issue in regional New South Wales, and we are now presented with the bill before the House. The Government has been in office for almost 12 months and has known of these issues that have been developing across the State for many months. It is as though everyone—from the Premier to the police Minister, who does not talk to the Premier, to the regional New South Wales Minister—has put their heads in the sand for far too long and kept pretending for months that there is no issue to see here.

I will call out what has occurred for what it is. The only reason the bill is before the House is the significant media attention and pressure that has been placed on the Labor Government to do something. The Minns Labor Government has failed regional New South Wales. It has failed the mums, dads and grandparents in just about every regional community by its lack of action on regional crime. The urgency of addressing regional crime has been amplified through the persistent advocacy of many local organisations and mayors. That includes calls from the Country Mayors Association for a bipartisan inquiry and the concerted efforts of parliamentary members representing affected areas.

I welcome the lower House parliamentary inquiry. While it is clearly a last-minute agreement from the Premier's office to stitch together what I would describe as a watered-down version of the sort of inquiry that is actually needed, it is better than nothing and we will accept it and run with it. But the reality is that the terms of reference that members of this House put forward yesterday for that inquiry were far stronger. Those terms of reference would have been far more rigid and investigative, but they are not what we have. We have a watered-down version. But it is better than what we had the day before, which was absolutely nothing from this Government.

Communities like Dubbo, Tamworth, Gunnedah, Moree and Singleton are at the front line of the regional crime crisis. Family cars are getting stolen and burnt out. That is nothing new for some of those communities. Homes are being broken into. A fear of leaving home is the reality for some older residents. Day after day, there are reports in local newspapers about the out-of-control crime crisis in our communities. It is a sad story and a far cry from what living in the bush should be like in 2024. It is not good enough, quite frankly, and it needs to be addressed by this Government.

The NSW Bureau of Crime Statistics and Research recently highlighted a disturbing trend—which residents of regional New South Wales, particularly in areas like Gunnedah, Moree, Tamworth, parts of the Central West and Dubbo, are already painfully aware of—that crime rates in the regions significantly surpass those in metropolitan areas like Sydney, with property crimes 59 per cent higher and violent crimes 57 per cent higher. The escalation of specific crimes, including a 20 per cent increase in car theft, is notable, and rises in assault and sexual offences paint a very grim picture.

The Minns Labor Government has been asleep at the wheel when it comes to regional crime. It appears, with this bill, that the Premier has finally realised there is a real issue with crime in the bush. While I accept and welcome just about any action from this lacklustre Government, it is unfortunately clear that the rushed and patched-together Bail and Crimes Amendment Bill 2024 will fall incredibly short of what is needed and the expectation of regional communities. Where is the whole-of-government approach and solutions? Earlier the Hon. Jeremy Buckingham spoke of Dr Ruth Higgins. Yes, Dr Higgins, the president of the New South Wales Bar Association, has described the legislation as rushed. It is rushed, but it is all we have. It is all the Government has presented.

The Opposition, through my colleague the Hon. Susan Carter, will move amendments to try to strengthen and improve this rushed bill, which has been presented to us on the last sitting day of this sitting period. It has been back-ended, as per usual, by the Government for us to deal with through the hours of tonight. Despite all the calls to action by just about every regional community, this bill in its current form falls short of adequately addressing concerns raised by them. It focuses on youth involved in break-ins and vehicle theft whilst introducing a new offence of performance crime, which barely scratches the surface of the broader crime issue plaguing our regional communities.

As I have flagged, the Opposition will move amendments aiming to extend the bill's reach to more serious crimes. I support that move. However, beyond legislative change there is a dire need for genuine community engagement and long-term strategies that address the root causes of regional crime in New South Wales. The Government's efforts must mean more than mere tweaking of legislation. Instead, the Government should be embracing a holistic approach that involves local communities in crafting sustainable and meaningful solutions for all communities, not just one town in north-western New South Wales. What does the Government say to the communities of Dubbo? I note my colleague the Hon. Stephen Lawrence, a former Dubbo mayor, is in the Chamber. Where is the support for Dubbo? It is not there. The support is just for one town.

The parliamentary inquiry should genuinely engage with the underlying issues and community needs at the same time that the Government is rolling out its plan, whether or not it is lacklustre or will work. It is essential to formulating effective strategies to combat crime throughout regional New South Wales. The inquiry should also revisit critical local policing needs such as around-the-clock services across the different regions. I note that there are holes in the media release issued by the Government on 12 March. It will take the Government six months to formulate an action plan in Moree—a trial in one regional town. Moree absolutely has significant challenges. That has been highlighted in the news and well ventilated throughout regional New South Wales. But the Government will take six months to come up with an action plan for a trial in one town, and there are sunset clauses of 12 months on some of the amendments in the bill.

After six months—by the time this Government gets its action plan in place—it will maybe only have six months to see whether the trial works before the sunset clauses kick in. At the end of the 12 months, what happens to the additional supports that have been proposed in the media release and discussed by the Government? Communities like Dubbo, Gunnedah, Singleton, Bathurst and others will be waiting over those 12 months to see if the trial works, but by the end of those 12 months we will have almost hit the sunset clauses and we will be back in the Chamber discussing the issue. This is not a proper whole-of-government strategy. The media release

was issued by everyone from the Premier to the police Minister, who does not talk to the Premier; to Minister Dib, who is actually quite a decent Minister; to the Attorney General; to the incompetent Minister for Regional New South Wales. In it, the Premier said:

> I've spoken to mayors, police area commanders and local communities who have said we need to do more when it comes to crime rates, so that's what we're doing.

The problem is it is going to take six months to come up with an action plan in one town in regional New South Wales to see if those supports will work. That is not good enough. The Country Mayors Association and mayors, petrified grandmothers and grandfathers, mums and dads, and small business owners across regional New South Wales want to see a whole-of-government approach. The Government has now been in office for 12 months. The issues have been ventilated for almost all of those 12 months. I do not know what has happened since the Labor Government has come to power, but ever since it has—with the support of some crossbenchers—there has been a view that crime in regional New South Wales is totally out of control. The statistics speak for themselves. The Premier states in the media release:

> We will not leave regional communities behind, and we will ensure regional communities are safe and appealing places to work, live and raise a family.

I am sorry but this bill does not cut it. It falls incredibly short of where it needs to be. But it is what the Government has presented to the Parliament. The Opposition will move a series of amendments to try to strengthen the bill. In summary, however, the bill is an ineffective response to rural and regional crime. The bill does not apply to young offenders aged 10 to 14. There needs to be reporting on the new and novel bail threshold test that is established. The filming of a murder should be given equal weight to the filming of a motor vehicle theft or breaking and entering, not less. Therefore, the bill should be expanded, which could be reflected in amendments later this evening. The measures contained in the bill focus on Moree and not the rest of the State.

I feel sorry for local community leaders in every regional town with an out-of-control regional crime crisis, who look at the release and read what are in many ways hollow words. They have nothing. They have no additional supports. They have no additional measures. All the measures are directed to one town in an action plan that will take six months to implement, with changes to the Bail Act and Crimes Act that have a 12-month sunset clause. By the time this Government gets the trial up and going it will have hit the sunset clause before it has any measurable results. This is not a plan; it is a bandaid. I hope all members in this Chamber tonight can support the amendments the Opposition will move to strengthen this bill to have something to work with, hopefully, if it should pass this Parliament.

The Hon. MARK LATHAM (17:50): I support the Bail and Crimes Amendment Bill 2024. I believe that the best way of judging these matters is to visit these towns and to talk to local people—Indigenous, police, child protection officers and anyone who has expertise in what is happening on the ground. I thought that the Hon. Jeremy Buckingham had half the effort right in his contribution. He said you have to be tough on crime. The other half of the slogan is that you have to be tough on the causes of crime. I have great sympathy for the children we are talking about in this debate. If one says the words "locking up black kids", it sounds horrible. It sounds barbaric. No normal, civilised person would want to do it. But the circumstances on the ground are a bit different from a lot of the rhetoric we have heard from members in this debate.

What are the causes of this crime? Early in 2022 I received information from the police in Bourke that 100 per cent of the Indigenous children there over the age of five had been sexually interfered with. Then President Matthew Mason-Cox and I made a visit in the middle of the year. We started in Moree, so much the subject of this debate, before visiting Brewarrina, Walgett and Bourke. None of what we encountered reflected at all well on the local circumstances or the law and order situation.

While I say I have great sympathy for the kids we are talking about and the circumstances in which they have landed—mostly, I would say, it is a living hell that is destroying their lives—we also must have sympathy for those who are the victims of crime. We are talking about old-age pensioners who live in fear of break-ins to their home, loss of property and their car being damaged or stolen. These are not pretty places. While inner west mayor Darcy Byrne is waxing lyrical about Moree—Alex Smith has ventured past the Brickpit at Homebush and moved closer to the city centre to report on the views of an inner-city Sydney mayor about the situation—Moree approximates nothing that you would find in the areas he covered. To comment on these matters, you have to be in touch. People may say, "Stand with Darcy Byrne", but has Darcy Byrne stood in Moree? That is the real test. You need to visit these places and know precisely what is going on.

These victims of crime self-evidently need to be protected. It is an act of compassion to live in an orderly, safe community where everyone can sleep soundly and know that their person and their property are safe and protected. What was the circumstance we found in Bourke, in particular? The police had said 100 per cent of the Indigenous kids over five had been sexually interfered with, but we spoke to child protection officers who said it

was 50 per cent. Either way, it is a horrific figure. Of course, if the kids are not safe at home, they clear out. We had reports of kids who tunnel under the house for safety to get away from this problem and kids who sleep on the roof but, most particularly, kids who go out all night and roam the streets to get away from the threat of sexual assault in the home. Of course, out on the streets they will find trouble, but the cause of crime is that it is not safe to sleep in their own bed, in their own home.

Because they are out all night, they, like the perpetrators, sleep by day and do not go to school. We visited Walgett and Bourke high schools. It was completely depressing to walk down long corridors of classroom buildings where they did not have enough students to merit turning on the lights. At Bourke we asked the principal where they all were. He said, "It's cold this morning and they've got COVID." But later that evening in Bourke just about all the school population was at the Police Citizens Youth Club. They had woken up at three or four o'clock in the afternoon and headed down to the PCYC.

These kids are only protecting themselves in sleeping by day, but the tragedy is double. They are not safe in their own home—their lives are being destroyed by an epidemic of child sexual assault—and they lose the opportunity to get an education. Official data shows that at Walgett, 3 per cent of students are there for nine or more days a fortnight, being the bare minimum by which you get a good education. If the classrooms are blackened—you have not got enough students to turn on the lights; maybe 10 or 20 per cent of the student population is in attendance—the social tragedy is obvious.

What can you do in the short term? Unfortunately, the bill before the House is necessary to protect the innocent victims of crime. That is just the basic reality. But the real thing is the second half of the slogan: tough on the causes of crime. If you could eliminate every single predator in these homes and the children could sleep safely at night, I am sure they would. They would go to school the next day and get an education. They would have the same sorts of opportunities that we take for granted in Sydney—that the inner west mayor would take for granted in his own community—that children can have safety in the home and go to school and tertiary education by day. They can get the qualifications for good opportunities and progression in life, socially and economically. That is the guts of it.

I have raised this cause of crime in places like Bourke, Walgett, Brewarrina and Moree time after time. I did so at budget estimates and Ministers say they are talking to each other. But I do not know why this is not regarded as the number one priority. If you overcame the epidemic of child sexual assault—the drunk uncles doing these things in the places members are talking about—the community would be transformed. We would not have a debate about whether or not we are locking up kids. The kids would not need locking up because they would sleep safely at night in their own bed, go to school the next day and have the normal opportunities that we as parliamentarians regard as essential for society in New South Wales. That is the tragedy.

The police in Bourke said, "We know who the perpetrators are, but the reality is it's hard to get a conviction." It is hard to get the victims of child sexual assault to give evidence. When they do, their family is threatened with death. One 11-year-old girl gave evidence in a case. After the Aboriginal Legal Service lawyer had spun her around in the courtroom, she concluded by saying that maybe it was all a dream. That is the difficulty in getting convictions. The police in Bourke said, "We won't get the convictions. We're up a dry gully on that one. It is just not happening. You need consorting laws. We know who these perverts, these perpetrators, are. We need the sorts of consorting laws you apply to bikies." Okay, bikies have these consorting laws so they can be—

Ms Sue Higginson: Point of order: Madam Deputy President, I know there is really wide latitude in second reading debates, but the member is talking about completely different laws. He is not talking about bail nor the amendment bill. We are really straying a long way from the bill before the House.

The Hon. Daniel Mookhey: To the point of order: Of course, wide latitude is given. I feel that the contribution the member is making is obviously within the bounds of wide latitude. There is a reason why we give wide latitude in the second reading debate. If we were to enforce a stricter definition, I am sure others would be hoist by the same petard.

The DEPUTY PRESIDENT (Ms Abigail Boyd): Order! I will rule on the point of order. We extend wide latitude during second reading debates. I ask the Hon. Mark Latham to keep it in mind and bring his contribution back to the bill, to the extent possible.

The Hon. MARK LATHAM: The argument I heard from The Greens is that the bill should not be necessary and we should not proceed with the strengthening of bail laws. I am providing a practical, on-the-ground account of how we can achieve that for the benefit of the children we are talking about and the rest of the community with regard to law and order and social opportunity. I am always surprised that the advocates for "open slather, let the kids roam the street, no need for these laws, do nothing about bail" do not actually talk of

their own personal experience in visiting these towns. Where are the accounts of Moree? Some of it is so inspirational on the ground that a lot of lessons can be learnt.

An Indigenous leader in Brewarrina said the solution is discipline in the home and a good education. He keeps his kids safe at night. They do not have trouble with the police. He said his approach is that the school should give his children a good education on the basics and teach them to read and write and about history, science and all the subjects they need to get to a university. He does not need the teachers engaging in cultural practices. He said, "I'll teach my kids Indigenous culture. I'm their father. No need to go on camps and activities at the school. I'll teach them culture. If the teachers can teach them academic qualifications, my children will be safe and they will grow up with the opportunities that we want for them." He was quite the inspiration.

The leadership is available locally, whether talking to local police or local Indigenous, to get real solutions. It becomes an exercise in theory when people from other parts of the State, particularly inner Sydney, say, "All of this is barbaric; it's terrible. We have to do something at the Labor Party conference to decide whether or not these laws are necessary." The laws are so mild. It is a trial in Moree—one place—and the laws have the commonsense proposition that the current situation just cannot go on and that the victims have a right to safety and peace of mind in any community.

The real problem is the epidemic of child sexual assault. I consistently say it is by far the worst problem we face in New South Wales. I am completely flustered and bewildered to the point of despair. Every time I raised it with the Minister in the former Government and I raise it with the Minister in this Government there is mention of talking but never of actually coming up with the solutions of visiting these places, talking to the leaders, both in law and order and Indigenous, and finding a practical solution so that the obvious can happen—the thing normally taken for granted in a city like Sydney where most of us live. That is that there is law and order, that the streets are safe, that children are sleeping safely in their own beds, go to school the next day, get qualifications and go on to have all the opportunities we spend big money on.

How hard is it, if the police know these perpetrators, to arrest them and lock them up? The argument should be to lock up the perpetrators of child sexual assault and then we will not have to lock up the kids. This is just so logical and rational. I despair that in New South Wales we do not have the initiative, the courage or the wit in government to actually find solutions that are needed when local people are screaming out for them, and not necessarily these laws. These laws are a patch-up job. But a bigger solution is needed to restore these communities to a normal sense of order and opportunity.

The Hon. ROD ROBERTS (18:02): I contribute to the debate on the Bail and Crimes Amendment Bill 2024. Community safety should be a key priority for any and all governments. At the moment we are experiencing a juvenile crime wave. It is happening all over the State, including in metropolitan Sydney, but it is more pronounced and acute in regional New South Wales. One only has to pick up a paper to read about the havoc the youth crime wave is wreaking upon rural towns and cities. There has been a concerted cry from community leaders, rural mayors, councillors and local police in those towns asking for assistance from the Government to control the crime wave. Young criminals are tearing the heart and soul out of hardworking, proud communities. A response, if we could call it that, has brought us to this debate today.

I have been known to use the vernacular on a few occasions in this Chamber to describe certain things, and two expressions come to mind immediately when I look at this bill. They are: This piece of proposed legislation is as good as an ashtray on a motorbike, and you may as well have a shower with a raincoat on for all the good this will do. This bill will go nowhere towards fixing the problem. In fact, this bill does very little to change the status quo in policing youth crime at the moment. The youth crime rate will only drop once the legal system makes young people accountable for their actions.

The principal aim of the criminal justice system is community protection. The main consideration in setting penalties for crimes is proportionality—in other words, the harm caused by the crime should be reflected in the penalty imposed. But do not worry about penalties; we cannot even stop those on bail from committing crimes. That is the intention of the bill but it will not achieve it. The bill will only sate the cries of those do-nothing advocates. Under section 16A of the Bail Act the onus to receive bail is placed upon the accused. Section 16A (1) is the pertinent section, which states:

> A bail authority—

and that is either a police officer making the bail determination or a properly constituted court—

> making a bail decision for a show cause offence must—

and I repeat "must"—

> refuse bail unless the accused person shows cause why his or her detention is not justified.

This is known as the show cause requirement. This section applies to the most serious of crimes and includes continuing to commit crimes while on bail. Why is this section of the Bail Act not being used at present? Because section 16A (3) says:

> This section does not apply if the accused person was under the age of 18 years at the time of the offence.

I suggest the answer is staring us in the face. The bill should have sought to amend the Bail Act by the removal of section 16A (3), thereby rendering those under the age of 18 to the provisions that apply to show cause offences. As I have said previously, youth crime will only drop once the legal system makes young people accountable for their actions and crimes. Clearly, this Attorney General does not have the stomach or the spine to make hard decisions. Therefore, I recommend the burden of proof for obtaining bail be transferred to the offender as happens in the adult system.

The Attorney General skirted that issue and displayed his lack of fortitude, and backbone, when he referred to the Hatzistergos review of the Bail Act. John Hatzistergos is an intelligent and respected person, having been a member of this Parliament, rising to Attorney General, appointed as a judge of the District Court and now the Chief Commissioner of ICAC. However, the Hatzistergos review that Daley relies upon was conducted in 2014, some 10 years ago. A hell of a lot of things have changed in those 10 years. In his 2014 review of the Bail Act, Hatzistergos recommended that the show cause provisions and the reverse onus for bail should not apply to children. He calls them children, but I call them young offenders because that is what they are. If Hatzistergos was so right that we should not apply the show cause provision to young offenders, why do we find ourselves in the position that we are in today? Why are we attempting window-dressing of the Bail Act? Clearly, Hatzistergos was wrong, and that is why we are in this situation.

In his second reading speech, the Attorney General belled the cat when he said in his first paragraph that the rise in rural crime is a long-term trend. This issue has not arisen in the past few months; this has been going on for some time and has just happened to reach a crescendo now. Leaving the bail laws for young offenders untouched at the time has created this mess because the current bail laws do not work. There is no prevention or deterrent mechanism to stop young people from reoffending.

The test to be applied in the granting of bail under this bill is that young offenders are not to be released on bail unless the bail authority has a high degree of confidence that they will not commit a serious indictable offence while on bail. What a load of doublespeak and rubbish that is, because, as things exist at moment, if a bail authority has no confidence an offender will not commit a crime, it will not release them on bail in the first place. If I am the bail authority—a magistrate or a judge—and I think someone is going to commit more crimes if I release them, I will not release them. Clearly, I must have confidence that they are not going to reoffend. What does the bill change? Nothing, because, as I said, they would not have been released in the first place.

This bill is just window-dressing. It is a flag-waving exercise in an attempt to hoodwink a concerned public into thinking that the Minns Government has heard their message and it is getting tough on crime. In reality the bill will do nothing but appease the hand-wringing apologists who subscribe to the theory of blaming everyone else except the young person who has committed the crime. I will point out some other failings in the bill that should be addressed if the Government is serious about trying to stop this crime wave. Using 2023 Bureau of Crime Statistics and Research [BOCSAR] figures, 1,000 young offenders under the age of 14 will not be captured under the proposed changes. Really, though, in all honesty, is this not the age when some of these young people would need to be diverted away from crime and into some form of diversionary program and support? Of course it is. This is when they need to be captured, between 10 and 14. But the bill will not apply this age group, so those poor kids will be left on their own in the wilderness to continue to commit offences whilst on bail and the authorities will just turn a blind eye. How does that work?

There are many other failures in the bill. According to BOCSAR figures, the most common offence committed whilst on bail is assault, but that is not covered anywhere in the bill. It is not even mentioned. Soft, weak magistrates would still be able to override the provisions of the bill. The burden of proof has not been transferred to the offender, as should be the case. Matters to do with offenders reoffending whilst on community corrections orders, intensive corrections orders and conditional release orders are not addressed at all. The bill remains silent in that regard. The big issue we are hearing from operational police on the front line in these towns is the difficulty they face in rebutting doli incapax. The Attorney General has yet again missed the opportunity to address this. I suggest that if a young person has appeared before a court on two or three occasions, it is quite apparent that they know they have committed a crime. This should be sufficient knowledge and mindfulness to rebut the presumption.

Similarly, and more pointedly, if a young offender commits a crime whilst concealing or disguising their face or wearing gloves to prevent identification, and therefore detection, surely this is evidence enough of a guilty mind. If one does not know what they are doing is wrong, why the need for such disguises and lengths to avoid

identification? Again, the bill is silent in addressing the legitimate concerns of our police. The possession and carrying of knives or machetes is also not addressed in the bill. It is not mentioned anywhere. Violent crimes committed by young people are unfortunately on the increase. Professor Mirko Bagaric of Swinburne University wrote this in a recent article in *The Australian*:

> The human body does not distinguish between the level of suffering caused by being stabbed by a 50-year-old or 15-year-old.

Again, the bill is silent. As for the amendment to the Crimes Act in relation to so-called performance crime offences, I will not waste my breath and time, except to say that it has become apparent in the reading of the bill that if the principal offender is charged with a motor theft or break and enter offence and someone else films and disseminates it, this provision does not apply. New section 154K (2) (b) proposes an additional penalty of two years imprisonment, but this is just window-dressing. No young offender gets the maximum penalty for the original break and enter offence anyway, so to assume that there will be an increase in the overall sentence is an insult to our intelligence. This is another failure for the Attorney General—loopholes big enough to drive a proverbial truck through. That is all I will say about the provisions to amend the Crimes Act.

I now return to the Bail Act, which contains a 12-month sunset clause, which the Hon. Sam Farraway picked up on. The Attorney General in his own words at budget estimates said that it will take at least six months to implement diversionary programs and even longer to measure their success. Not Roberts but Daley, the author of the bill, said this—six months to implement and longer to measure. If that is the case, why is there a 12-month sunset clause? I will tell members why: It is to appease the do-gooders and the leftist hand-wringing apologists in the Labor Party. That leads me to the Government's—

[*A member interjected.*]

I raise a point of order. I have sat in this Chamber for the duration of this debate and listened to every bit of diatribe that has come out of the mouths of Greens members. Although very tempted to interject, not once did I do that. I ask you, Madam Deputy President, to ensure that I receive the same courtesy that I extended to others.

The DEPUTY PRESIDENT (The Hon. Emma Hurst): I uphold the point of order. The member will be heard in silence.

The Hon. ROD ROBERTS: That leaves me with the Government's plan to throw more money at the Moree problem in the hope that this will fix it. I agree that something needs to be done to curtail the criminal activity of those young people and prevent them from living a life inside the criminal justice system and becoming yet another statistic. About that there is no argument. However, according to an article in *The Daily Telegraph* on 18 March, the Mayor of Moree Plains Shire Council, Mark Johnson, suggested that an estimated $100 million in funding is already going to 54 agencies to help youth in areas such as mental health and education that he says are not working. Clearly, they are not working. He further says:

> You know... you've seen in the main street, all those different businesses in that space [but] we're just getting the same result.
>
> …
>
> We're not saying they're not working hard, we're not saying that they they're not having some achievement, but it's not working enough to correct things.

I have with me a number of documents prepared by the NSW Bureau of Crime Statistics and Research that evaluate various diversionary programs in the juvenile offender space. These evaluations need to be noted, and I will mention just a few. I will not read all of the documents, just the pertinent parts. Bureau of Crime Statistics and Research bulletin No. 191 regarding participation in the PCYC young offender programs and reoffending states:

> Conclusion: While no improvement in the re-offending outcomes of those who were referred to a PCYC Young Offender program was found—

program, money—no good. BOCSAR says there was no improvement—

> it may be that pre-existing, unobserved differences between the groups explain the differences in re-offending.

Bureau of Crime Statistics and Research bulletin No. 115 entitled "Does circle sentencing reduce Aboriginal offending?" states:

> After a range of offender and offence characteristics were controlled for, we found no difference between the circle sentencing group and the control group in time to reoffend. Finally, there was no difference between the circle sentencing group and the control group in the percentage of offenders whose next offence was less serious than the reference offence.

Bureau of Crime Statistics and Research bulletin entitled "Circle Sentencing, incarceration and recidivism" from 26 March 2020 states:

> In Australia, Restorative Justice (RJ) programs became an increasingly popular alternative to the traditional criminal justice process in the late 1990s.
>
> …
>
> Unfortunately, there is little evidence to suggest that RJ programs have any impact on reoffending rates when compared with the business-as-usual Criminal Justice System (CJS) response. For instance in NSW, prior research indicates that youth justice conferencing (used to divert young offenders from court) is no better than the Children's Court in reducing recidivism …

Bulletin No. 249 entitled "Evaluating Youth on Track: A randomised controlled trial of an early intervention program for young people who offend" states:

> … 48.2% of Fast Track participants reoffended within 12 months compared with 50.6% of Youth on Track participants.

Let us continue. Bulletin No. 226 talks about offenders undergoing circle sentencing and states that they are "3.9 percentage points less likely to reoffend within 12 months"—not that they do not reoffend at all, but just not within 12 months. It is just 3.9 per cent. It is no wonder they draw the conclusion that these diversionary programs, which cost taxpayers millions of dollars, are not working. What does the Minns Government do? It throws more money at Moree, but it does not work. We need to come up with something that works, otherwise we are failing these kids.

I have also taken the time to look at reports prepared by Parliament into youth justice. I have looked at the 1992 paper of the Legislative Council Standing Committee on Social Issues on juvenile justice in New South Wales, which is backed by the Legislative Council Select Committee on Juvenile Offenders report on the inquiry into juvenile offenders dated 29 July 2005. That in turn was followed up 13 years later in 2018 by the Law and Safety Committee report on the adequacy of youth diversionary programs in New South Wales.

If the Government is fair dinkum about doing something, it is about time that we had another proper inquiry into youth offenders, particularly looking at the adequacy or otherwise of the Young Offenders Act. It is time for a complete overhaul of the system. Clearly it is broken. A lot of taxpayer money is wasted on programs that produce little to no results. If the Government was serious, it would do that. Instead, it is prepared to throw good money after bad on programs that BOCSAR has evaluated as being ineffective—"It doesn't matter, we will just throw some more money at it because it looks good" and tinker at the edges of the Bail Act and the Crimes Act. For the safety of our under-siege rural communities, a complete overhaul is the right and only prudent thing that the Government should do.

Ms CATE FAEHRMANN (18:21): I strongly oppose and condemn the Bail and Crimes Amendment Bill 2024. I support the contributions of my colleagues, both in this place and the other place, to debate on the bill, particularly that of Ms Sue Higginson, who is our spokesperson for justice and First Nations. We all agree that the bill before us is a terrible bill. It is an outrageous bill. The fact that it has come from a Labor government makes it that much worse. It is unforgiveable that a Labor government is tripping over itself to rush these bail laws through with no consideration for the consequences. The bill will make youth crime rates worse, not better. The bill creates unacceptable reforms to our youth bail laws that will make it harder for children to get bail. People in the community are so distressed by the bill that 560 academics, legal practitioners and community lawyers wrote an open letter this week pleading with the Premier and the Government to abandon it. They said that the legislation was rushed and will make it more difficult for teenagers to be granted bail for certain offences.

The Greens oppose the bill just as we oppose any proposals that seek to undermine the work of community-based restorative justice programs, just as we would oppose any legislation that would seek to further disadvantage already at-risk young people. Today is National Close the Gap Day. It is a day that demands that we refocus our commitment to support the strengths and successes of First Nations communities and showcase the unwavering commitment of grassroots activists to their communities' wellbeing. Turning our attention towards restorative solutions is more important now than ever, and the Government needs to turn its pre-election promises into action. This bill does not do that. We need action that centres First Nations voices and knowledge, action that co-designs policy with communities in genuine partnerships and embeds cultural safety and anti-racism. That is what the 560 signatories to the letter are calling for. Instead, the Government has handed us an outrageous proposal that seeks to tighten the noose around young people in regional New South Wales, particularly First Nations young people.

Locking kids up ruins their lives. It shatters families and unravels communities. An incarcerated child is far more likely to experience feelings of hopelessness, worthlessness and low self-esteem. Aboriginal young people and their families are targeted by oppressive tactics that drag children into the criminal justice system but do not make communities safer. Young people are given onerous and unfair conditions to comply with and then locked up for minor breaches. One young person who engaged with the Public Interest Advocacy Centre told a story where he was picked up three minutes after his curfew because he was waiting for a bus to take him home. Instead of letting him get home where he belonged, police sent him to detention. Children as young as 10 can be

arrested and thrown in a police wagon, stripsearched and held in remand at a detention centre, which obviously all cause significant harm. It causes young children to have an increased risk of suicide, psychiatric disorders, drug and alcohol abuse and self-harm.

There are only around 100 inmates at the Banksia Hill Detention Centre in Western Australia, but last year there were over 350 instances of self-harm. The school of Aboriginal health at Wollongong University states that First Nations young people "are born into systems that fail them, in a country that all too often turns a blind eye before locking them up". It goes on to say that we are "imprisoning traumatised and often developmentally compromised young people". These practices of over-policing result in the normalisation of a natural graduation from youth detention to the adult prison system. As of February 2023 Aboriginal people make up 29.7 per cent of the adult prison population in New South Wales, which is the highest proportion on record. In March 2023 it stood at 29.5 per cent. Meanwhile, 56.7 per cent of imprisoned children in New South Wales are Aboriginal or Torres Strait Islander. Locking up kids makes communities more unsafe, not less.

There are legitimate fears that New South Wales could follow the lead of Queensland, which last year had to suspend its Human Rights Act in order to pass similar bail reforms to those before this House that made breach of bail an offence for children. When the Northern Territory Government introduced similar legislation in 2022, those reforms resulted in broken records for First Nations children in custody, with little reduction in rates of offending. The system is stacked against Aboriginal people at every step of the way. First Nations communities are over-policed, denied bail at higher rates, treated more harshly in sentencing and vastly over-represented in detention. It is tearing families apart, building on intergenerational trauma and leaving loved ones in constant fear that their relative may be the next Aboriginal death in custody.

I hope that the following statistics will help contextualise the scope of disadvantage for incarcerated young people. One hundred per cent of young people refused bail by police and on remand in New South Wales are First Nations young people, and 30 per cent of kids are experiencing abuse or neglect when they are incarcerated. Many of these cases are in regional communities where the only public service open to the community later than 5.00 p.m. is the police station. Karly Warner, CEO of the Aboriginal Legal Service NSW/ACT, has called the bill before us a betrayal that will end in disaster.

The Government is choosing to ignore decades of evidence on how to reduce youth crime, letting fear dictate its policy response and opting for a panicked reaction that will make it more difficult for children to be granted bail than adults. Tougher bail laws have always failed. We cannot arrest our way out of problems that are systemic and based on social inequality and a lack of support. This is a whole-of-system issue, and we need to take a whole-of-system approach. The Government needs to fast-track the community-based services and supports it promised under Closing the Gap and not betray our most vulnerable communities.

All of this is underpinned by the irony that the relevant Ministers know what the real solutions are but lack the courage to act on them. Over the past fortnight we have heard the Attorney General, the Minister for Families and Communities, the Minister for Police and Counter-terrorism, and the Minister for Corrections admit publicly in the media and in the Parliament that they understand the true drivers of crime to be a lack of health infrastructure, wraparound support services and diversionary measures. If that is common knowledge to the Government, why is it proceeding with the reckless, fear-driven and dangerous bill before the House? The Attorney General and the Premier continue to make captain's calls without consulting with the experts and First Nations communities in particular. That will result in the incarceration of more children. It is unbelievable that last week the Premier himself, very casually—I suppose he is always very casual—admitted that these reforms would put more Indigenous young people behind bars.

The DEPUTY PRESIDENT (The Hon. Dr Sarah Kaine): I shall now leave the chair. The House will resume at 8.00 p.m.

Ms CATE FAEHRMANN (20:02): I continue my contribution to debate on the Bail and Crimes Amendment Bill 2024. Last week the Premier said, "If I'm being honest, I think it will lead to increased incarceration." The Premier also said, "Our hope is, in the long run, with intervention and support, that changes." However, he continues to ignore community wishes and dictates a top-down approach to youth justice that will only make things worse for at-risk kids. Extraordinarily, as a number of members in this place today have pointed out, even the Inner West Council Labor mayor has warned the Premier that he has no mandate to tighten bail laws for kids. He said Labor members are furious and have called on the Government to withdraw the legislation—but of course, it is not doing that. Here we are, sitting late into the night to get it done.

The Government has also completely ruled out raising the age of criminal responsibility, despite a buried report prepared for the Standing Council of Attorneys-General calling on Commonwealth, State and Territory governments to "raise the minimum age of criminal responsibility to 14 years of age, without exception". The Attorney General said he was concerned these tougher bail laws would result in more young people being locked

up but the Government had no choice. He said, "If there was another option available to us today to keep these children safe, we'd take it."

But there are alternative, successful options. We know what works. We have seen it work to reduce youth offending. One example is from Victoria. Over 30 years of research has shown the effectiveness of a program called multisystemic therapy. It is a treatment for high-risk children aged six to 17 years, and their families, that have come under the guidance of child protection services due to physical abuse and/or neglect. Therapists provide families with tailored individual and family support in their homes to target significant risk factors that contribute to child physical abuse and neglect. This program achieves excellent long-term results for young people and families because it addresses the root causes of antisocial behaviour and trauma. By working with the young person's close and extended family, culture, school, peers and community, this organisation in Victoria has been able to leverage the strengths in those systems to effect and sustain change, often at a much lower cost to the community and a much lower cost to government than locking kids up.

The truth is that our youth justice system is an extremely expensive recidivism machine. In New South Wales the average cost to keep a young person in detention is $2,759.13 per day, which adds up to over $1 million a year. We support proposals by the Government to increase its funding for community services in areas of regional New South Wales. But any investments that are made will be totally undermined by the bill before us today, by these changes that aim to lock more kids up. AbSec, the Aboriginal Legal Service and those 560 signatories have also provided productive recommendations for evidence-based solutions that could be funded and implemented tomorrow, if the Government wanted to listen to the experts as opposed to the populist, right-wing, ridiculous media machine in this State that seems to dictate a lot of decisions that come out of the Premier's brain.

The Hon. Wes Fang: And the National Party.

Ms CATE FAEHRMANN: I acknowledge that interjection. These 560 signatories recommend resource allocation for local communities to support after-school, evening and weekend activities that engage at-risk young people; intensive and targeted programs and responses for at-risk children with appropriate referral services; and responsible partnerships between police and Aboriginal controlled services.

Yes, this is a crisis. The footage is horrendous. The increase in crime is horrendous. The "post and boast" videos are horrendous. But in acknowledging the crisis, we needed a response that sent in support teams and services to do everything possible to look after these families. Do what is needed on country with culturally appropriate support and services. That is what is needed, and that is what the community has been crying out for. There are so many programs that start for 12 months and are there for two years, and then the funding is taken away. I urge the Government to look at what has been successful in the past, as well as in other jurisdictions, such as the program I was referring to.

Arrest and detention have to be a last resort. However, these reforms show that the Government is not taking the issue seriously. Once again it is a knee-jerk reaction—"This issue is becoming a headache. We need to deal with it really quickly. This is really frustrating. Quick, what's the solution?"—as opposed to actually thinking about the horrendous impact it is going to have on First Nations kids and their families. At this time of record disproportionate imprisonment in New South Wales, First Nations communities need better access to justice, not worse. They need more compassion from government, not less. The Greens oppose this bill in the strongest possible terms.

The Hon. DANIEL MOOKHEY (Treasurer) (20:08): In reply: I thank the Hon. Susan Carter, Ms Sue Higginson, the Hon. Cameron Murphy, the Hon. Aileen MacDonald, the Hon. Emma Hurst, the Hon. Stephen Lawrence, the Hon. Natasha Maclaren-Jones, Dr Amanda Cohn, the Hon. Jeremy Buckingham, the Hon. Sam Farraway, the Hon. Mark Latham, Ms Cate Faehrmann and the Hon. Rod Roberts for their contributions to the debate. Ensuring community safety is one of the fundamental priorities of this Government. This bill has a multifaceted approach to address regional crime.

I now address some of the specific comments raised in the debate. The Hon. Susan Carter expressed concern that the Bail Act amendments only apply to people aged between 14 and 18. The cohort of young people to which this proposed provision applies has been identified to ensure that the provision addresses the criminal conduct causing concern and is as effective as possible in protecting community safety. Young people between the ages of 14 and 18 are in the group with the highest rates of offending amongst young people for motor theft and serious break and enter offences. The honourable member also queried what is being done for young people under the age of 14. These legislative measures are part of the Government's significant and multifaceted response to regional crime. The amendments will work in tandem with the rollout of other measures and supports that aim to provide community-based responses to support regional communities.

The Hon. Susan Carter also raised concerns about the operation of the principle of doli incapax. That is a long and well-established legal principle that has existed for hundreds of years. It is part of the law in all Australian jurisdictions and the existence of the presumption in the common law has been affirmed by the High Court. The member also raised concerns that the high degree of confidence test is novel and untested and its effect is unclear. Bail authorities, including courts, are responsible for applying this new test and determining whether it has been satisfied in each individual case. As with all legislation, courts have the ultimate responsibility of interpreting the law and are well equipped to do so.

The Hon. Susan Carter queried why the new bail test sunsets after 12 months. The amendment is intended to be a time-limited response to address an acute and urgent need. The member also contended that the performance crime offence does not go far enough, specifically raising that it does not target offences such as murder. Performance crime is an emerging phenomenon, and the offence in new section 154K of the Crimes Act is relatively novel. Queensland is the only other Australian jurisdiction with a similar offence, which is limited to advertising motor vehicle offending on social media. The offence in new section 154K therefore takes a deliberately targeted and proportionate approach, addressing the specific offences that have been the subject of community concern.

Ms Sue Higginson and other members have raised a number of concerns with respect to the bill. The bail amendment is targeted to address repeat serious break and enters and motor vehicle thefts. These are the specific serious offences being committed at an increasing rate by young people and causing significant concern. It only applies to young people between the ages of 14 and 18. New section 154K also takes a targeted and proportionate approach. First, the offence in new section 154K requires the offender's act or omission to constitute a motor theft offence or a breaking and entering offence, which includes where the offender is involved in a joint criminal enterprise. Second, the offender must also be found to have disseminated material for the purpose of advertising their offending conduct. The offence also specifically recognises that performance crime in connection with motor theft offending and breaking and entering offending is harmful to the community in and of itself. The provision sends a clear message that this kind of conduct, which can encourage further similar offending and can cause additional harm to the victim of the relevant offence, is unacceptable.

Ms Sue Higginson raised concerns that the bail amendment is contrary to the principles in the Children (Criminal Proceedings) Act 1987. The principles in section 6 of that Act apply to any person or body exercising functions under the Act, including, for example, the Children's Court making a bail decision. The bill does not overrule or repeal those principles. Courts exercising functions under the Children (Criminal Proceedings) Act 1987 must still have regard to those principles when applying the high degree of confidence test. This is consistent with the court having regard to these principles when applying the unacceptable risk test.

Ms Sue Higginson also raised concerns that the other supports are not enough. This bill is just one part of the Government's la, and improve community safety. This will act as a pilot program and, if the approach proves successful, will inform actions to address similar concerns in other regional communities. This includes additional judicial resources for local and children's court jurisdictions, including associated Legal Aid, Office of the Director of Public Prosecutions and police costs, for six months, along with additional Aboriginal Legal Services funding; and a new $8.75 million bail accommodation and support service in Moree for young people, which will be co-designed with the community. That will provide police and the courts with more options to put a young person on bail with higher confidence that they will not reoffend.

The pilot program will also have young people linked to Indigenous organisations, Elders, cultural and family supports from their own communities with skilled, qualified, trained and consistent staff on site 24/7 providing child-safe care; an action plan within six months to optimise service delivery in Moree to ensure that services provide maximum benefit to the Moree community; and out-of-hours activities to be delivered in partnership with the Moree Plains Shire Council and Aboriginal community controlled organisations, including potential subsidised entry and extended hours at facilities such as Moree local government area pools, the Moree Sports Health Arts and Education Academy, and the PCYC.

The pilot program will also have continuing NSW Police Force operations in the Moree area to meet community needs. That includes continuing to surge operational resources and the Youth Command continuing Operation Youth Safe, which combines education and early intervention to at-risk children. Beyond the specific programs being developed and implemented in Moree, the Government will invest $12.9 million to fund and implement a range of statewide regional crime prevention initiatives, including the expansion of youth action meetings in nine police districts; the expansion of the Safe Aboriginal Youth Patrol Program to an additional five Closing the Gap priority locations to be determined in consultation with communities, reducing the risk of young Aboriginal people being victims of crime, and the risk they will become persons of interest in relation to a crime; and the continuing rollout of $7.5 million in Justice Reinvest grants, with grant funding available to recipients as early as June 2024.

The Hon. Wes Fang: Point of order: I am trying to listen intently to the Treasurer's speech in reply and Ms Sue Higginson is continually interjecting. I ask that she be called to order and that she be quiet for the rest of the contribution.

Ms Sue Higginson: To the point of order: I am talking to my colleague next to me. If the volume is too loud, I am happy to turn it down, but I was not interjecting.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): There is no point of order. There was no interjection. The member was simply having a conversation. I ask all members to respect the fact that this is a very important debate and to listen to the Treasurer in silence.

The Hon. DANIEL MOOKHEY: I turn now to some of the concerns raised by the Hon. Rod Roberts. He raised questions about whether or not the new section 22C reverses the onus of proof. At any point in which an onus of proof is imposed upon an accused person in the Bail Act 2013, this is explicitly stated in the legislation. This is consistent with the overarching common-law position that the prosecution bears the onus of proof in criminal matters and the principle of legality would require unambiguous words to displace this. This provision does not include words to indicate that it is intended to impose an onus on the accused person, and as the second reading speech for the provision made abundantly clear, this legislation is not intended to reverse the onus of proof.

A Government-passed amendment in the other place put beyond any doubt that the onus of proof remains on the prosecution. This is also in contrast to the show cause requirement, which explicitly states that the accused must show cause why their detention is not justified. Section 22C is consistent with the recommendations of the Hatzistergos review of the Bail Act that show cause and reverse onus for bail should not apply to children. I can provide the member with further detail on the show cause provision in the Committee stage.

The Hon. Rod Roberts: I am very well aware of it and I think it was spoken to, but anyway I will let you go.

The Hon. DANIEL MOOKHEY: I appreciate that.

The Hon. Rod Roberts: I did not say the bill does reverse it; I said it should reverse it.

The Hon. DANIEL MOOKHEY: I will endeavour to provide any further information that the member seeks. With that, I commend the bill to the House.

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

The House divided.

Ayes 27
Noes 6
Majority.....21

AYES

Banasiak	Kaine	Murphy
Borsak	Lawrence	Nanva (teller)
Buttigieg	Maclaren-Jones	Primrose
Carter	Martin	Rath (teller)
D'Adam	Merton	Roberts
Fang	Mihailuk	Ruddick
Farlow	Mookhey	Suvaal
Farraway	Moriarty	Tudehope
Jackson	Munro	Ward

NOES

Boyd	Cohn (teller)	Higginson
Buckingham	Faehrmann	Hurst (teller)

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 Opposition amendments Nos 1 to 7 on sheet c2024-039A and The Greens amendments Nos 1 to 20 on sheet c2024-031G.

The Hon. SUSAN CARTER (20:30): By leave: I move Opposition amendments Nos 1 and 2 on sheet c2024-039A in globo:

No. 1 **Reports from BOCSAR—consequential amendment (only to be moved if amendment No. 2 is successful)**

Page 3, Schedule 1[1], line 2. Omit "Section 22C". Insert instead "Sections 22C and 22D".

No. 2 **Reports from BOCSAR**

Page 3, Schedule 1[1]. Insert after line 40—

22D Reports from BOCSAR

(1) BOCSAR must, for each prescribed period, prepare a report about the operation of section 22C and related matters, including the following—

(a) the numbers of relevant offences committed during the prescribed period,

(b) the number of relevant offences for which the following persons were charged during the prescribed period—

(i) relevant young persons,

(ii) individuals who, at the time relevant offences were alleged to have been committed by the individuals, were—

(A) 10 years of age or more, and

(B) less than 14 years of age,

(c) whether the relevant young persons or other individuals referred to in paragraph (b) were on bail at the time the relevant offences were alleged to have been committed and, if so, whether the bail was in relation to earlier charges for relevant offences,

(d) whether relevant young persons and other individuals referred to in paragraph (b) were granted bail in relation to the offences with which the young persons and other individuals were charged and, if so, details of the particular offences with which the relevant young persons and other individuals were charged,

(e) a comparison between the matters mentioned in paragraphs (a)–(d) during the equivalent period immediately before the commencement of section 22C and the prescribed period.

(2) BOCSAR must, as soon as practicable after preparing each report, give the report to the Minister.

(3) The Minister must ensure that a report received under subsection (2) is tabled in each House of Parliament on the first sitting day after its receipt.

(4) To avoid doubt, this section applies despite the expiry of the *Bail Act 2013*, section 22C.

(5) This section expires 3 months after the day on which the last report received by the Minister is tabled under subsection (3).

(6) In this section—

BOCSAR means the Bureau of Crime Statistics and Research within the department in which this Act is administered.

prescribed period means each of the following—

(a) the period starting on the commencement of section 22C and ending 6 months after that date,

(b) the period starting on the commencement of section 22C and ending 9 months after that date,

(c) the period starting on the commencement of section 22C and ending 12 months after that date.

relevant offence means—

(a) a motor theft offence within the meaning of section 22C, or

(b) a serious breaking and entering offence within the meaning of section 22C, or

(c) an offence against the *Crimes Act 1900*, section 154K, or

(d) another serious indictable offence within the meaning of section 22C.

relevant young person has the same meaning as in section 22C.

These are simple amendments. If there is to be a new bail threshold, we should examine its effectiveness. Accordingly, the amendments will require reports from the Bureau of Crime Statistics and Research at the sixth month, the ninth month and the twelfth month so that Parliament can assess whether this has been effective and informed decision-making about the bail threshold going forward.

The Hon. DANIEL MOOKHEY (Treasurer) (20:31): The Government opposes the amendments. The amendments would insert a new section into the Bail Act that would require the Bureau of Crime Statistics and Research [BOCSAR] to prepare multiple reports on the operation of section 22C at periods of six, nine and 12 months after the commencement of the section, which would be required to be tabled in Parliament and would be required to contain data in relation to a number of specific matters. I am not aware of any other piece of legislation that requires BOCSAR to provide Parliament with data at specific intervals on specific matters. BOCSAR publishes regular reports that summarise statistical information on recorded crime and criminal court appearances and identify trends in crime and justice, and it publishes the results of research that evaluates hypotheses and assumptions about crime and justice. It does this using its own expertise and methods of assessing and reviewing the data. The amendments would impose a difficult requirement on BOCSAR.

Ms SUE HIGGINSON (20:32): On behalf of The Greens, I speak against these amendments. We do not support them. It is important to remember that crime statistics and data is a specialist area, and the Bureau of Crime Statistics and Research [BOCSAR] is an independent organisation that collects and presents data. It is important that it maintains its full independence. If the Parliament is to prescribe what it wants from BOCSAR, it should do so only after full consultation and investigation about what it is asking for and the consequences of that. Whilst I understand the intent of the amendments, I fear that they would have radical, unintended consequences. If we are looking at such granular detail as reporting on individuals at the age of 10 and presenting that material in Parliament, then we would likely run into significant interference in privacy and some real incrimination, which young people just do not need. I understand that the Opposition did not have enough time. That is the problem with this whole gig here tonight. Not only is the bill absurd, excessive, onerous, racist and awful, but it is also completely rushed. I understand the desire and intent of the Opposition, but the amendments are not the right way to go. The Greens do not support them.

The CHAIR (The Hon. Rod Roberts): The Hon. Susan Carter has moved Opposition amendments Nos 1 and 2 on sheet c2024-039A. The question is that the amendments be agreed to.

The Committee divided.

Ayes 13
Noes 19
Majority.....6

AYES

Carter	MacDonald	Munro
Fang (teller)	Maclaren-Jones	Rath (teller)
Farlow	Martin	Ruddick
Farraway	Merton	Ward
Franklin		

NOES

Boyd	Hurst	Moriarty
Buckingham	Jackson	Murphy (teller)
Buttigieg	Kaine	Nanva (teller)
Cohn	Lawrence	Primrose
D'Adam	Mihailuk	Sharpe
Faehrmann	Mookhey	Suvaal
Higginson		

PAIRS

Mitchell	Donnelly
Taylor	Houssos
Tudehope	Graham

Amendments negatived.

Ms SUE HIGGINSON (20:41): I move The Greens amendment No. 1 on sheet c2024-031G:

No. 1 **Threshold for granting bail to relevant young persons—degree of confidence**

Page 3, Schedule 1[1], proposed section 22C(1), line 8. Omit "a high degree of".

This amendment seeks to amend the threshold for granting bail to a young person. It will simply remove the new, unchartered, difficult to understand, and probably complicated to define and apply "high degree of confidence" of the bail authority. The amendment seeks to remove the words "a high degree of" and instil in the bail authority the requirement and the satisfaction of mere confidence. Confidence is ample and clear and we can define it. From a human rights perspective, restricting the ability of a young person to be granted bail in the manner proposed in this part of the bill is entirely inconsistent with Australia's obligations under the Convention on the Rights of the Child. Article 37 (b) states:

> … The arrest, detention or imprisonment of a child shall be … used only as a measure of last resort and for the shortest appropriate period of time;

In our view, it is unclear whether the amendments proposed in the bill meet that threshold, particularly the requirement for a bail authority to have a high degree of confidence that the young person will not commit a serious indictable offence. That will capture a far greater number of children and young people than those posing an imminent danger. The proposed high degree of confidence test that a child or young person will not commit a serious indictable offence is a new test in the criminal law. It will be difficult for bail authorities to engage with that test with any certainty, which is likely to result in uneven applications of the test throughout the State.

Such a test does not exist anywhere in the Bail Act, the Crimes Act, the Crimes (Sentencing Procedure) Act, the Criminal Procedure Act, the Children (Criminal Proceedings) Act or the Young Offenders Act. It is worth noting that, in practice, the first bail authorities to apply the test will likely be police officers who, in some rural and regional areas, are unlikely to be senior officers. The effect of the new test significantly increases the likelihood that young people will be kept in custody until they face a court, with the contamination effect that will result. In many places, the practical result will be a young person being transported great distances because of limited cell facilities at police stations and courthouses and the distance to the closest youth detention centre.

If a child or young person is subsequently granted bail, then there is the challenge of organising the suitable transport to return them to their community. The new provision will likely operate more harshly than the show cause provisions, which at least allow for a range of factors to be considered, including factors subjected to the accused. That will have the effect of treating children and young people more punitively than the adult population, at least for remand, and will, in practice, make it more difficult for impacted children and young people to access bail than for an adult who commits a similar offence. It is entirely inconsistent with the established principles in section 6 of the Children (Criminal Proceedings) Act 1987.

In no uncertain terms, it is outrageous if we in this place as responsible lawmakers insert a brand-new test and threshold—something currently unbeknownst to police officers—and put a whole new phrase in legislation for police to determine whether a young person goes home or goes to prison. The Greens plead with members on all sides of the Chamber to be reasonable. Rather than saying "high degree of confidence", let us just be confident. We all know what "confidence" means. Let us maintain a term in the law that is able to be interpreted. We will be able to look back at the precedents over the years and have a bit of certainty around what we did to police officers and magistrates in these circumstances where we have decided to take a punitive law and order approach to our troubled young people. I implore all members to support the amendment.

The Hon. DANIEL MOOKHEY (Treasurer) (20:47): The Government supports the bill as is and, therefore, does not support the amendment. The amendment would considerably lower the threshold in the new proposed bail test and would mean that the additional threshold may not have any real effect or impose any additional threshold of significance. The amendment would undermine the intention of the bill, and that is why the Government cannot support it.

The Hon. SUSAN CARTER (20:48): The Opposition acknowledges the comments made by Ms Sue Higginson on behalf of The Greens. We recognise that this is a novel test, which is exactly why we sought to obtain data on it. We acknowledge the difficulty of the application of any new test. The "confidence" test would be a new test, as would the "high degree of confidence" test. We do not have a high degree of confidence in the Government's bill but we do not intend to be obstructionist. On the off-chance it might do some good, we intend support the bill as is.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 1 on sheet c2024-031G. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 24
Majority.....18

AYES

Boyd	Cohn	Higginson (teller)
Buckingham	Faehrmann (teller)	Hurst

NOES

Buttigieg	Lawrence	Munro
Carter	MacDonald	Murphy
D'Adam	Maclaren-Jones	Nanva (teller)
Fang	Martin	Primrose
Farraway	Merton	Rath (teller)
Franklin	Mihailuk	Ruddick
Jackson	Mookhey	Sharpe
Kaine	Moriarty	Suvaal

Amendment negatived.

Ms SUE HIGGINSON (20:56): By leave: I move The Greens amendments Nos 2, 3 and 11 on sheet c2024-031G in globo:

No. 2 **Threshold for granting bail to relevant young persons—offence of same type**

Page 3, Schedule 1[1], proposed section 22C(1), line 9. Omit "serious indictable offence". Insert "relevant offence of the same type".

No. 3 **Considerations for making decision about granting bail to relevant young persons (consequential on amendment No 2)**

Page 3, Schedule 1[1], proposed section 22C(2), line 15. Omit "serious indictable". Insert instead "relevant".

No. 11 **Threshold for granting bail to relevant young persons (consequential on amendment No 2)**

Page 3, Schedule 1[1], proposed section 22C(6), lines 39 and 40. Omit all words on the lines.

The Premier promised that these provisions would have limited impact, that they would have limited effect, that they would be targeted, and that they would have a high degree of specificity. These amendments seek to give effect to that commitment. Amendment No. 2 makes sure that the bail considerations are related to the same type of offence, not the wide-casting net in new section 22C (1), so that bail is not granted where we are concerned about a young person committing a serious indictable offence but limiting that to be of the same offence—which, apparently, is the purpose of these laws.

Amendment No. 3 again goes to the serious indictable offence and limits it to the relevant offence. The inclusion of serious indictable offences within this untested threshold is far too broad. It broadens the net of this reform far too wide than the stated intention. It would capture too wide a variety of offences and will include numerous low-level offences such as shoplifting, which is section 117 of the Crimes Act; tap-and-go credit card fraud, section 192E of the Crimes Act; and recklessly damaging property, section 195 of the Crimes Act. Other examples of a serious indictable offence include a child slapping their sibling and leaving a mark or a bruise, which would be considered an assault occasioning actual bodily harm under section 59 of the Crimes Act. It also encompasses shoplifting an item of food, which is larceny; staining a carpet in an out-of-home care facility, which is damage to property; and throwing an item at a sibling causing it to break, which is also damage to property. Those are common offences in the Children's Court.

Ms Cate Faehrmann: Point of order—

The CHAIR (The Hon. Rod Roberts): I will pre-empt Ms Cate Faehrmann's point of order. I counted five separate conversations going on in the Chamber at once. Firstly, it is extremely rude to the member speaking. Secondly, it is extremely difficult for me and the Clerks to hear exactly what is taking place. I understand the need for conversations, but members should take them to the members' lounge or keep the volume down. Ms Sue Higginson will continue.

Ms SUE HIGGINSON: The current provision could capture a 14-year-old with no prior criminal history who breaks into a school canteen and steals a drink and then whilst on bail pushes open an unlocked door in a school building where they are not permitted to be and steals a pencil. That could literally happen. Some might

say, "Of course it won't, because we have this high degree of reasonableness about the things we do." But I remind members that we are currently creating laws that we know will lock up more Aboriginal kids, so we cannot take those things for granted. In that case, the proposed new test would apply and that child would likely be refused bail. I just hope every member really understands that.

Among other things, the inclusion of serious indictable offences will have the effect of deepening social disadvantage. For example, if the bail authority has a concern that the child or the young person might steal food while on bail, they may feel required to refuse bail. We are in very dangerous territory. I remind members that this bill was about addressing kids stealing cars and driving super fast. But it goes too far. These amendments are trying to rein it in. It is entirely inappropriate for children to be refused bail—perhaps for many months—after being charged with offences such as those for which there is no likelihood of imprisonment while waiting finalisation of the matter.

It is likely that the test will result in most, if not all, children and young people affected by new section 22C being refused bail, including those who may not be found guilty of the alleged offence and those who will not receive a custodial sentence even if found guilty. Once again, I implore all members to look at The Greens amendments Nos 2, 3 and 11, and do what the Premier said he intended to do with the bill—that is, provide legislation in relation to young people who are breaking into places and stealing cars and driving them super fast. I remind members that the bill is supposed to protect kids from themselves. It will not do that. It will have perverse and unintended consequences. I urge members to support the amendments.

The Hon. DANIEL MOOKHEY (Treasurer) (21:02): The Government supports the bill as is. These amendments would unduly limit the types of offending risk that the bail authority could take into account when making a bail decision under the new test and would undermine the intention of the bill.

The Hon. SUSAN CARTER (21:02): It is the Opposition's intention to let the Government explore whether its measures actually work. We are happy for the bill to proceed as is.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 2, 3 and 11 on sheet c2024-031G. The question is that the amendments be agreed to.

The Committee divided.

Ayes 6
Noes 24
Majority.....18

AYES

Boyd	Cohn	Higginson (teller)
Buckingham	Faehrmann (teller)	Hurst

NOES

Buttigieg	Latham	Moriarty
Carter	Lawrence	Munro
D'Adam	MacDonald	Murphy
Fang	Maclaren-Jones	Nanva (teller)
Farraway	Martin	Primrose
Franklin	Merton	Rath (teller)
Jackson	Mihailuk	Sharpe
Kaine	Mookhey	Suvaal

Amendments negatived.

The CHAIR (The Hon. Rod Roberts): Before we proceed, for the benefit of members, The Greens amendment No. 4 would be next on the list, but it is dependent on one of amendments Nos 5, 6 or 7 being agreed to. I understand Ms Sue Higginson will move amendment No. 5 first.

Ms SUE HIGGINSON (21:11): I move The Greens amendment No. 5 on sheet c2024-031G:

No. 5 **Considerations for making decision about granting bail to relevant young persons (if amendment no. 6 is also accepted para (c), as inserted by this amendment, needs to be amended to include a conjunction at the end of the para i.e. ", and")**

Page 3, Schedule 1[1], proposed section 22C(2). Insert after line 15—

(c) consideration of the negative impacts on the wellbeing of the relevant young person if bail is refused.

This amendment goes to the considerations for making decisions about granting bail to young people. When we are considering bail, it is important, particularly in this circumstance, that we provide the bail authority with a very realistic consideration. This amendment seeks to insert new section 22C (2) (c), which requires consideration of the negative impacts on the wellbeing of the relevant young person if bail is refused. I cannot think of a more reasonable amendment to insert.

When we are requiring an authority to take into account a bunch of considerations about the impact its decision is going to have on the person, surely consideration of the negative impacts is important and relevant. We need to put that in the bill so that the bail authority considers the negative impacts the refusal of bail will have on the young person. Again, we may think it is implied and take it for granted, but we need to express it. We are traversing dangerous territory, so careful consideration must be given to the negative impacts on the wellbeing of the relevant young person if bail is refused.

When bail is refused, studies have shown that children are more likely to stay connected with the custodial system. The criminogenic consequence of even short periods of remand custody is extremely concerning. Members have heard about it tonight from various members who have diligently put it forward during debate. Prison is never an appropriate place for rehabilitation. When children are refused bail, they become severed from access to their housing, families, community members, medications, schooling and other systems of support, which significantly increases the likelihood that the person will reoffend, further subjecting them to time spent in the prison system.

Time in custody exposes people to further harm, violence and control, more often than not resulting in them leaving more damaged than when they arrived. Instead of throwing more kids into these abject places that systematically destroy lives, we should seriously consider the impact on the wellbeing of the young persons, who will in no uncertain terms be damaged by this interaction and the cyclical nature of the harm it causes. Instead, we might divert them to other means of therapeutic and restorative justice. I again implore members to please consider the reasonableness of this amendment. It is merely asking to include in the legislative scheme a requirement that the bail authority consider the negative impacts on the wellbeing of the relevant young person if bail is refused. I cannot think of a more reasonable request. Members, please support this one amendment.

The Hon. DANIEL MOOKHEY (Treasurer) (21:14): The Government supports the bill as is. This amendment is not required and may impact on the intended operation of the new bail test in new section 22C. Therefore, we do not support it.

The Hon. SUSAN CARTER (21:15): The Opposition shares The Greens' lack of confidence in the Government's bail test, but we are prepared to see how it works out in practice. We do not support this amendment.

Ms SUE HIGGINSON (21:15): I do understand that that will be the standard response tonight from the Treasurer, who is representing the Attorney General. It is a grossly unfair approach to be taking in the Chamber tonight. I am putting forward some incredibly well-considered amendments. I have been working with the Government to try to consider these amendments. The Government knows well that these amendments are not concocted just by me; they are the amendments that have been put on the table—

The Hon. Wes Fang: Point of order: Chair, it is practice in the Chamber that while members contributing to second reading debates are given wide latitude, when contributing to debate on amendments they are not. The member's contribution about the way the Government is responding to the amendments is outside the scope of the amendment. I ask you to rule that part out of order and ask the member to confine her comments to the amendment before the Committee.

The Hon. Jeremy Buckingham: To the point of order: There is no point of order. How they made the amendment has got to be about the amendment, you goose.

The Hon. Wes Fang: That's not what I said, you dope.

The CHAIR (The Hon. Rod Roberts): Order! There is no point of order. Ms Sue Higginson will resume her seat. I will not stop the clock because we still have plenty of time. A member called somebody a "goose" and another member retaliated. It is going to be a long night. Let us just get through this bill; we are ploughing through it quite well so far. If all members can confine their comments to the matters before the Committee, we will all be best served. Ms Sue Higginson has the call.

Ms SUE HIGGINSON: I was making the point to the Government, regarding its response to the amendment, that it is really important to grapple with what is being asked. I understand that the Government is saying it supports the bill as is. But when an entirely reasonable amendment is put forward, there should at least

be some contest on the part of the Government. The Government is rejecting this incredibly reasonable amendment.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 5 on sheet c2024-031G. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 23
Majority.....17

AYES

Boyd	Cohn	Higginson (teller)
Buckingham	Faehrmann (teller)	Hurst

NOES

Buttigieg	Lawrence	Munro
Carter	MacDonald	Murphy
D'Adam	Maclaren-Jones	Nanva (teller)
Fang	Martin	Primrose
Franklin	Merton	Rath (teller)
Jackson	Mihailuk	Sharpe
Kaine	Mookhey	Suvaal
Latham	Moriarty	

Amendment negatived.

Ms SUE HIGGINSON (21:25): I move The Greens amendment No. 6 on sheet c2024-031G:

No. 6 **Considerations for making decision about granting bail to relevant young persons (if amendment no. 7 is also accepted para (c), as inserted by this amendment, needs to be amended to include a conjunction at the end of the para i.e. ", and")**

Page 3, Schedule 1[1], proposed section 22C(2). Insert before line 16—

(c) consideration of the available bed space if bail is refused.

This amendment will require a bail authority that is making a decision about bail to give consideration to the available bed space if bail is refused. The prison system is not quite fit for purpose in a myriad of ways, certainly from a material perspective. Countless Inspector of Custodial Services reports show that time after time. The most recent report, tabled last month, was a scathing report of the Metropolitan Remand and Reception Centre. The system is in dire straits. Our youth detention facilities are no different. We must interrogate the availability of bed spaces in these facilities; if a young person is being denied bail, we must understand whether there is a bed available. They are notoriously crowded watch houses, or are unfit, dilapidated and unsafe, and that is the condition of many of our youth detention facilities.

Overcrowding creates an environment ripe for worsening conditions of fear, frustration and retribution, and increases the incidence of physical and emotional harm. The adequate resourcing of appropriate facilities for young people with complex needs who are refused bail must be a simple consideration. Children with complex needs or who are experiencing acute distress must be afforded safe, clean, monitored facilities with proper access to mental health treatment and support services. The amendment seeks to provide the bail authority with the express capacity and requirement to consider where the bed will be that they are going to be sending the young person to.

The Hon. DANIEL MOOKHEY (Treasurer) (21:27): The Government supports the bill as is. This amendment presents practical application issues and also is not necessary.

The Hon. SUSAN CARTER (21:27): These practical application issues must always arise. We trust those making the decisions to be aware of these things, and we are prepared to let the Government's bill run for a test.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 6 on sheet c2024-031G. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 24
Majority.....18

AYES

Boyd	Cohn	Higginson (teller)
Buckingham	Faehrmann (teller)	Hurst

NOES

Buttigieg	Latham	Moriarty
Carter	Lawrence	Munro
D'Adam	MacDonald	Murphy
Fang	Maclaren-Jones	Nanva (teller)
Farlow	Martin	Primrose
Franklin	Merton	Rath (teller)
Jackson	Mihailuk	Sharpe
Kaine	Mookhey	Suvaal

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): There has been some degree of goodwill. It is certainly not for the Chair to dictate speeches from members, but it is apparent from the most recent contributions that speeches are shorter. There is some will to move through this, and there is an opportunity for short bells. I ask members to bear that in mind and to remain close to the Chamber so that we may proceed a bit quicker.

Ms SUE HIGGINSON (21:35): I move The Greens amendment No. 7 on sheet c2024-031G:

No. 7 **Considerations for making decision about granting bail to relevant young persons**

Page 3, Schedule 1[1], proposed section 22C(2). Insert before line 16—

(c) consideration of available non-custodial options that would assist the relevant young person's compliance with bail conditions.

The amendment deals with considerations for making decisions about granting bail to relevant young persons. It merely seeks to insert "consideration of available non-custodial options that would assist the relevant young person's compliance with bail conditions". It goes precisely to the very thing that the Premier and the Treasurer have spoken about regarding diversion and other considerations. It is about the things that we should be getting on with and doing—that is, assisting young people and making sure they comply with their bail conditions. Hundreds of non-custodial programs exist and are currently running in New South Wales today. Those community-led crime prevention and therapeutic care programs, some of which members have heard about tonight, have incredible evidence for their efficacy in rehabilitating offenders and preventing recidivism, but we know that they are not funded.

It is appropriate for me talk about the Miyay Birray Youth Service in Moree that is about to lose two of its youth service workers and its night patrol by April because it does not have enough resources. I am assuming the Government has picked that up and will continue it. I heard from an Aboriginal person of the Moree community today, who asked me to implore that consideration be given to this amendment. The wraparound community programs that provide comprehensive, holistic youth- and family-driven ways of responding when children or youth experience serious mental health or behavioural challenges are known to have results. Those services provide young people alternatives to incarceration. They provide rehabilitation and education programs, which significantly reduce the likelihood of reoffending and save the State millions of dollars by diverting young people from the costly process of locking them away. They just do not have the resources.

Those services lack only the proper resourcing in order to drastically improve outcomes for thousands of young people accused of committing crimes. Those children often have complex traumas. They need support, they need services and they need a chance to turn their lives around. By complicating and reducing the opportunity for young people to be granted bail, the Government may well sentence them itself. We know that children who go into custody stay there. We owe those children a chance, and we have the programs to do so. The amendment would simply insert a requirement for the bail authority to take into account consideration of available non-custodial options that would assist the relevant young person's compliance with bail conditions.

The Hon. DANIEL MOOKHEY (Treasurer) (21:39): The Government supports the bill as is because a bail authority is already able to consider available non-custodial options.

The Hon. SUSAN CARTER (21:39): The Opposition also supports the bill as is. One of the suite of measures that the Government has flagged is more non-custodial options and appropriate diversions and interventions for these children, which we hope to see.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 7 on sheet c2024-031G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 6
Noes 19
Majority.....13

AYES

Boyd	Cohn	Higginson (teller)
Buckingham	Faehrmann (teller)	Hurst

NOES

Buttigieg	Latham	Moriarty
Carter	Lawrence	Munro
D'Adam	MacDonald	Nanva (teller)
Fang	Martin	Primrose
Farlow	Mihailuk	Rath (teller)
Franklin	Mookhey	Suvaal
Jackson		

Amendment negatived.

The Greens amendment No. 4 lapsed.

Ms SUE HIGGINSON (21:43): I move The Greens amendment No. 8 on sheet c2024-031G:

No. 8 **Expiry of section 22C**

Page 3, Schedule 1[1], proposed section 22C(5), line 19. Omit "12". Insert "6".

These changes to the bail law and the creation of a new test are supposed to be a point-in-time response to an urgent issue that the Government apparently plans to address through other mechanisms. If the matter is important to the Government and it has such deep regret about the perceived need to make these changes, then let's get on with the job of review. Six months is more than enough time for the Government to adequately invest in real support and diversionary services. We will even have the benefit of a budget in that time.

This is where we get the opportunity to do something for the Premier. This is where, potentially, the Treasurer gets to save the Premier and we get to do what we know we need to do, which is to invest money and put resources into the broken systems that are driving the causes of crime. The *Alternatives to Incarceration in New South Wales* report was released yesterday. The timing is unfortunate for the young people who could have been helped by the concrete and realistic alternatives proposed in that report. The Premier was not at the launch. But that is what this amendment will do. I urge all members to support the proposed six-month review. It is more than enough time. We are talking about genuinely wanting to fix the issues. We know how to do it, so let's make this expire in six months, when, as the Government has put on record, these services will come on line and the investment can be made. I ask members to support the six-month limitation.

The Hon. DANIEL MOOKHEY (Treasurer) (21:45): The Government supports the bill as is.

The Hon. SUSAN CARTER (21:45): The Government has committed to have a plan ready in six months. The Opposition is not confident that there will be services available in six months in accordance with that plan. We support the bill as is.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 8 on sheet c2024-031G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 6
Noes 20
Majority.....14

AYES

Boyd	Cohn (teller)	Higginson (teller)
Buckingham	Faehrmann	Hurst

NOES

Buttigieg	Lawrence	Munro
Carter	MacDonald	Murphy
D'Adam	Martin	Nanva (teller)
Fang	Merton	Primrose
Farlow	Mihailuk	Rath (teller)
Jackson	Mookhey	Suvaal
Latham	Moriarty	

Amendment negatived.

Ms SUE HIGGINSON (21:48): I move The Greens amendment No. 9 on sheet c2024-031G:

No. 9 **Definition of motor theft offence**

Page 3, Schedule 1[1], proposed section 22C(6), line 23. Insert "(1)(a)" after "154A".

This amendment is about the definition of "motor theft offence". A motor theft offence is too low a threshold to ensure that the intent of the Government's law and order crackdown is adequately targeted. We have received that commitment about what we are trying to do—this was about break and enter and motor theft charges. Those words capture a range of conduct beyond stealing a stranger's motor vehicle.

Section 154F of the Crimes Act as it stands would capture a child who is charged with stealing an empty trailer and also a child who asks to drive a parent's car and is refused permission by the parent but chooses to drive the car nonetheless for an otherwise innocent reason, such as to see a friend or go to a shop a short distance down the road. Beyond that, without a protection for passengers in stolen vehicles, the definition as it stands will result in capturing younger children who have been pressured into criminal activity. It is really important that the definition is narrow, limited, targeted and direct. Because this was put together in a super rush there are broad-sweeping and hopefully unintended consequences, but the fact is that those consequences are there. This is the opportunity for the Opposition and the Government to fix this and narrow the scope as it was intended.

The Hon. DANIEL MOOKHEY (Treasurer) (21:51): The Government supports the bill as is. The amendment is clearly contrary to the intention of the bill and would mean that passengers who knowingly travel in or drive stolen cars would not be captured.

The Hon. SUSAN CARTER (21:51): We trust that the Government's intention is fully represented in the drafting of the bill that it has presented. Therefore, we do not support the amendment.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 9 on sheet c2024-031G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 6
Noes 18
Majority.....12

AYES

Boyd	Cohn (teller)	Higginson (teller)
Buckingham	Faehrmann	Hurst

NOES

Buttigieg	Lawrence	Moriarty
Carter	MacDonald	Munro
D'Adam	Martin	Murphy
Farlow	Merton	Nanva (teller)
Jackson	Mihailuk	Primrose
Latham	Mookhey	Rath (teller)

Amendment negatived.

Ms SUE HIGGINSON (21:54): I move The Greens amendment No. 10 on sheet c2024-031G:

No. 10 **Age of relevant young persons**

Page 3, Schedule 1[1], proposed section 22C(6), line 34. Omit "14". Insert "16".

The amendment is about raising the age from 14 years to 16 years. The provision will then apply to 16- to 18-year-olds. The Attorney General told Portfolio Committee No. 5 in budget estimates hearings that he could raise the age tomorrow if he wanted to. It is a slap in the face to all advocates for youth justice that he made that remark in such an offhand manner. The Government should take the small step in the right direction, here and now, with this proposed change, which raises the age of this test alone so that it applies to young people over the age of 16 years. As the Premier said, we will ultimately be putting more young First Nations people behind bars. Let us spare the 14- and 15-year-olds. By leaving the test to impact children as young as 14 years, we will see those young people go to prison. The Premier has admitted that. He identified nothing he could do about the issue and said that his hands are tied. It is frankly disturbing. I give the Government, the Opposition and the crossbench the opportunity to do the right thing, right now. They can make this harsh, draconian, unfair, racist law apply only to 16-, 17- and 18-year-olds, not 14- and 15-year-olds. We are on our knees and would appreciate support for the amendment.

The Hon. DANIEL MOOKHEY (Treasurer) (21:56): The Government supports the bill as it is. The amendment unduly narrows the application of the new bail test. The appropriate age capture is reflected in the bill.

The Hon. SUSAN CARTER (21:56): I indicate the Opposition will not support the amendment.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 10 on sheet c2024-031G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 6
Noes 19
Majority.....13

AYES

Boyd	Cohn (teller)	Higginson (teller)
Buckingham	Faehrmann	Hurst

NOES

Buttigieg	Lawrence	Moriarty
Carter	MacDonald	Munro
D'Adam	Martin	Murphy
Farlow	Merton	Nanva (teller)
Franklin	Mihailuk	Primrose
Jackson	Mookhey	Rath (teller)
Latham		

Amendment negatived.

Ms SUE HIGGINSON (21:59): I move The Greens amendment No. 12 on sheet c2024-031G:

No. 12 **Review of new bail limitation**

Page 3, Schedule 1[1]. Insert after line 40—

22D Review of section 22C

(1) The Minister must refer the operation of section 22C to Portfolio Committee No. 5—Justice and Communities to determine whether—

(a) the policy objectives of section 22C remain valid, and

(b) the terms of section 22C remain appropriate for achieving the objectives.

(2) The review must be undertaken as soon as practicable after the period of 6 months after the commencement of section 22C.

(3) A report on the outcome of the review must be tabled in each House of Parliament within 12 months after the commencement of section 22C.

(4) This section expires 15 months after this section commences.

The New South Wales Parliament has a terrible record of rolling over law and order measures that have included a sunset clause. For some reason, it is something that just happens in this place. Along with my colleagues, I have genuine concerns that this provision will end up as another one of those. It will just roll over. I know it will. I am certain it will. If the test expires in 12 months, it should not be allowed to roll over without a review being conducted and tabled before its expiry. Without this protection, it could be years before an adequate review of this test is undertaken.

The Government will say that the provision will only last 12 months and a six-month review time line is too short to establish a baseline of effectiveness. To that, I say that the Government has happily changed these laws in the space of two weeks without real consideration of any alternatives. In what way is two weeks long enough to make these laws but six months not long enough to review them? It is an absurdity. There is no excuse. Once again, I plead with members to insert this clause so that we at least have a review in six months.

With regard to youth offending, the more appropriate and effective circuit breakers have already been demonstrated by the successive initiatives, such as the work undertaken by the community as a result of the Justice Reinvest projects. Those initiatives should be given the time to take effect. The six-month review is a straightforward and simple ask. It would be responsible of this Government to do so. If the Government can make these laws in two weeks, it can commence a review in six months, and we can all have a good, long, hard look at the impact of the laws.

The Hon. DANIEL MOOKHEY (Treasurer) (22:01): The Government supports the bill as is.

The Hon. SUSAN CARTER (22:02): The Opposition is prepared to support the bill as is.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 12 on sheet c2024-031G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 6
Noes 17
Majority.....11

AYES

Boyd	Cohn (teller)	Higginson (teller)
Buckingham	Faehrmann	Hurst

NOES

Buttigieg	Lawrence	Munro
Carter	MacDonald	Murphy
D'Adam	Merton	Nanva (teller)
Farlow	Mihailuk	Primrose
Jackson	Mookhey	Rath (teller)
Latham	Moriarty	

Amendment negatived.

Ms SUE HIGGINSON (22:05): By leave: I move The Greens amendments Nos 13 and 14 on sheet c2024-031G in globo:

No. 13 **Application of amendments**

Page 4, Schedule 1[2], line 5. Omit "extends". Insert instead "applies only".

No. 14 **Application of amendments**

Page 4, Schedule 1[2], line 6. Omit "before". Insert instead "on or after".

The retrospective application of criminal penalties is fundamentally unfair. It is something that we just do not do. It is contrary to established legal principle and it is inconsistent with international human rights principles. As a matter of principle and on a rule of law basis, The Greens fundamentally oppose retrospective application of criminal legal provisions. This provision should be replaced by prospective transitional provisions. It is tragic that these changes are set to commence before the other proposed community-building and support service initiatives that are part of the Government's plan will even start. To that, I say: Shame on you, Government. Shame on you.

The Hon. DANIEL MOOKHEY (Treasurer) (22:07): The Government supports the bill as is.

The Hon. SUSAN CARTER (22:07): The Opposition is prepared to support the bill as is.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 13 and 14 on sheet c2024-031G. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 5
Noes 19
Majority.....14

AYES

Boyd	Faehrmann	Hurst
Cohn (teller)	Higginson (teller)	

NOES

Buttigieg	MacDonald	Munro
Carter	Martin	Murphy
D'Adam	Merton	Nanva (teller)
Farlow	Mihailuk	Primrose
Jackson	Mookhey	Rath (teller)
Latham	Moriarty	Suvaal
Lawrence		

Amendments negatived.

The Hon. SUSAN CARTER (20:10): By leave: I move Opposition amendments Nos 3 to 7 on sheet c2024-039A in globo:

No. 3 **Performance crime offences to apply to joint criminal enterprises, accessories etc**

Page 5, Schedule 2[1], proposed section 154K(1) and (2), lines 6–14. Omit all words on the lines. Insert instead—

(1) This section applies if—

(a) a person's act or omission constitutes—

(i) a motor theft offence, or

(ii) a breaking and entering offence, or

(iii) another serious indictable offence, and

(b) the person or another person (each an ***offender***) disseminates material to advertise—

(i) the first offender's involvement in the offence, or

(ii) the act or omission constituting the offence.

(2) Each offender commits an offence (a ***performance crime offence***) and is liable for a

No. 4 **Performance crime offences to apply to any act or omission constituting serious indictable offences (only to be moved if amendment No. 3 unsuccessful)**

Page 5, Schedule 2[1], proposed section 154K(1)(a)(ii), line 10. Omit ", and". Insert instead—

, or

(iii) another serious indictable offence, and

No. 5 **Performance crime offences to apply to serious indictable offences (only to be moved if amendment No. 3 or No. 4 is successful)**

Page 5, Schedule 2[1], proposed section 154K(2)(a), lines 16 and 17. Omit "or breaking and entering offence". Insert instead ", breaking and entering offence or other serious indictable offence".

No. 6 **Performance crime offences to apply to serious indictable offences (only to be moved if amendment No. 3 unsuccessful and amendment No 4 is successful)**

Page 5, Schedule 2[1], proposed section 154K(3), lines 20 and 21. Omit "or breaking and entering offence". Insert instead ", breaking and entering offence or other serious indictable offence".

No. 7 **Performance crime offences to apply to serious indictable offences (only to be moved if amendment No. 3 successful)**

Page 5, Schedule 2[1], proposed section 154K(3), lines 20–22. Omit "convicted of a motor theft offence or breaking and entering offence in relation to the act or omission constituting the performance crime offence". Insert instead—

convicted of—

(a) a motor theft offence, breaking and entering offence or another serious indictable offence in relation to the act or omission constituting the performance crime offence, or

(b) an offence under section 346 or 546 in relation to any act or omission involved in the performance crime offence.

I request that the questions on the amendments be put separately. I have moved them together because they relate to the same issue. The Opposition essentially agrees with the Government that it is entirely appropriate to create an offence of performance crime. We recognise the role that is played by social media posting of crime in glorifying crime and making it more attractive, especially to a younger generation. It is very important that there is a strong message that that is an inappropriate use of social media and that crime should not be glorified. We were surprised to see that that offence is restricted to property crime only.

These amendments seek to do two things. They seek to extend the crimes that would be covered by the performance crime offence. I mentioned earlier a recent example of two young boys involved in murder, which was filmed and posted on social media. That is grossly inappropriate and should also be caught by the bill. There have also been examples of fight clubs, where young boys and some young girls are posting on social media how they are assaulting each other. That is glorifying violence and should also be caught by the legislation. The other thing that the amendments address is the way social media is used. The Government's legislation is drafted so that it is only triggered if the person who actually commits the offence is the person who films and posts it. We know that often crimes are committed by people in company, accessories before and after the fact engaged in a joint criminal enterprise. We also know that quite often it is going to be somebody else who films the offender. These amendments capture anybody involved in filming an offence and uploading it onto the internet.

I will outline the way the amendments are structured. Amendment No. 1 expands the offences caught by the performance crime offence to include other serious indictable offences. It also extends the performance crime offence to anybody involved in the offence. Amendment No. 4, which is only to be moved if amendment No. 3 is unsuccessful, merely extends the offences covered without the inclusion of any co-offenders. Amendment No. 5 is contingent on the success of amendment No. 3 or amendment No. 4, because it deals with amending the section that prescribes the punishment. Amendments Nos 6 and 7 are essentially provisions that are required to align other clauses if the first amendments are successful.

The Hon. DANIEL MOOKHEY (Treasurer) (22:14): The Government supports the bill as is. The substantial reasons were given in my second reading speech.

Ms SUE HIGGINSON (22:14): I thank the Opposition for precisely pointing out what can be almost pathological. When we start on the law and order agenda, we go further and further through the panic and create new offences. We are in seriously dangerous territory. We do not need to criminalise young people anymore, and now we are delving into social media. Is the behaviour right or wrong? Of course it is wrong. We just do not need to criminalise the social media thing. It is almost absurd. We need to criminalise the offences. We are going further down this absurd slippery slope of criminalising, and now we are in social media territory, using punitive criminal laws for using social media—a tool we have given to young people. It is just beyond me. It is beyond what all of us in here should be doing. It is so unreasonable.

We are talking about people under the age of 18. We have forced social media into their world, and now we are criminalising them for antisocial displays and use of those tools that have been forced upon them. We need to wake up and take responsibility. This is a dangerous slippery slope. It is already the case that, when children are bad and go to court, the court considers the absurd and obscene uses of social media. As old people in this place, we should not be engaging in creating absurd laws, with extra-punitive, harsh, unreasonable and draconian consequences. We have to draw the line. We do not support the amendments.

The CHAIR (The Hon. Rod Roberts): The Hon. Susan Carter has moved Opposition amendments Nos 3 to 7 on sheet c2024-039A. A request has been made that the questions on the amendments be put seriatim. The question is that Opposition amendment No. 3 on sheet c2024-039A be agreed to. Is leave granted to ring the bells for one minute?

Leave not granted.

The Committee divided.

Ayes 14
Noes 19
Majority.....5

AYES

Carter	Latham	Mihailuk
Fang (teller)	MacDonald	Munro
Farlow	Maclaren-Jones	Rath (teller)
Farraway	Martin	Ward
Franklin	Merton	

NOES

Boyd	Hurst	Murphy (teller)
Buckingham	Jackson	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Ruddick
D'Adam	Mookhey	Sharpe
Faehrmann	Moriarty	Suvaal
Higginson		

PAIRS

Mitchell	Houssos
Taylor	Donnelly
Tudehope	Graham

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The question is that Opposition amendment No. 4 on sheet c2024-039A be agreed to.

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The question is that Opposition amendment No. 5 on sheet c2024-039A be agreed to.

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The question is that Opposition amendment No. 6 on sheet c2024-039A be agreed to.

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The question is that Opposition amendment No. 7 on sheet c2024-039A be agreed to.

Amendment negatived.

Ms SUE HIGGINSON (22:26): By leave: I move The Greens amendments Nos 15, 19 and 20 on sheet c2024-031G in globo:

No. 15 **Expiry of performance crimes offences**

Page 5, Schedule 2[1], proposed section 154K. Insert after line 22—

(3A) This section expires 12 months after this section commences.

No. 19 **Timeframe for review of new performance crime offence**

Page 6, Schedule 2[1], proposed section 154L(2), lines 1 and 2. Omit "2 years". Insert instead "6 months".

No. 20 **Timeframe for review of new performance crime offence**

Page 6, Schedule 2[1], proposed section 154L(3), line 4. Omit "6 months after the end of the period of 2 years". Insert instead "12 months after the commencement of this division".

The amendments are about the expiry of the performance crimes offences. Moving on from the Opposition wanting to expand the offences, The Greens are seeking, very reasonably, to make the offences more specific to what the Premier said they ought to be and what people are saying they should be—about boasting and bragging and nothing more. The amendments seek to limit the new offences, in line with the time-limited bail test. The Government has said that this is an urgent, point-in-time response, despite the fact that the bill was announced before the crime statistics were announced.

The new offences should be limited to the same time frame as the bail tests, and the other support services should be brought on line to prevent offences from being committed. To suit the new time limit, the review of the offences should be brought forward to six months to allow time for the consideration of the results of that review before the Parliament decides to roll them over. That is all I need to say on that. The amendments are about aligning the time frames of the offences with the intention of the review, to bring it into line with what the Premier has stated to the public.

The Hon. DANIEL MOOKHEY (Treasurer) (22:28): The Government supports the bill as is. It supports the establishment of performance-based crimes for the reasons given in my second reading speech.

The Hon. SUSAN CARTER (22:28): The Opposition is prepared to support the bill as is so that the Government's trial can proceed.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 15, 19 and 20 on sheet c2024-031G. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 6
Noes 25
Majority.....19

AYES

Boyd	Cohn (teller)	Higginson (teller)
Buckingham	Faehrmann	Hurst

NOES

Buttigieg	Latham	Murphy
Carter	Lawrence	Nanva (teller)
D'Adam	Martin	Primrose
Fang	Merton	Rath (teller)
Farlow	Mihailuk	Ruddick
Farraway	Mookhey	Sharpe
Franklin	Moriarty	Suvaal
Jackson	Munro	Ward
Kaine		

Amendments negatived.

Ms SUE HIGGINSON (22:32): By leave: I move The Greens amendments Nos 16, 17 and 18 on sheet c2024-031G in globo:

No. 16 **Definition of advertise**

Page 5, Schedule 2[1], proposed section 154K(4), line 24. Omit "attract the notice and attention of". Insert instead "attract through boasting or bragging the notice and attention of".

No. 17 **Definition of material for performance crime offences**

Page 5, Schedule 2[1], line 32. Omit "text,".

No. 18 **Consultation with stakeholders about review of new performance crime offences**

Page 5, Schedule 2[1], proposed section 154L. Insert after line 43—

(1A) The review under this section must—

(a) be undertaken in consultation with relevant stakeholders, and

(b) include an assessment of the impact of this division on First Nations people.

These important amendments deal with the absurd territory we are in with performance crime. The Greens are seeking to very reasonably limit the scope of the provisions to require that the engagement with social media in the commission or around the commission of the relevant crimes must have the element of boasting or bragging. I find it rather affronting that this Parliament would create an entirely new criminal offence and allow it to be that broad that a semitrailer full of 14-, 16- and 18-year-olds could be driven through it. It is affronting that the Government and Opposition, as responsible lawmakers, would create a brand-new criminal offence without properly defining it by reference to the thing they say they apparently find criminal and affronting—the boasting and bragging part. But no; instead, the Government will push through a brand-new crime for young people about using social media. It is downright shocking. The capturing of offences on social media is already taken into account by the courts in sentencing offenders and bears upon the objective seriousness of the offending. Members need not believe me; they can consult the case law in *R v BL* [2024] NSWSC 51 (6 February 2024), paragraph 73:

> The offenders carried this out with apparent glee in front of cameras recording their disgraceful behaviour … for the consumption of depraved viewers …

That is how it is dealt with in law, but for some reason the Government thinks that it must do something else. The Government thinks that it is better than the judges in the courts who deal with this stuff. In *R v Edwards* [2023] NSWDC 530 (1 December 2023) an element of showing off was taken into account as a matter of aggravation and implicitly captured the factual findings as to the offence being filmed. It may also be captured by the aggravating factors available under section 21A of the Crimes (Sentencing Procedure) Act 1999. For example, committing an offence without regard for public safety—section 21A (2) (i).

The wording of the proposed offence provides no guidance to police, prosecutors, the accused or the courts as to how the offence is to apply. It is unclear what "material" is, and whether words alone can constitute material. On one view of the section, it might include a text message to a WhatsApp group—or possibly just to a single person—from a passenger in a car, stating, "Joe stole the car." The definition of "advertise" is also unclear and does not provide any appropriate guidance. It is an unusual term to be included within an offence of this nature. The offence has a real risk of capturing what is otherwise very minor behaviour. For example, it would apply to a 12-year-old child who breaks into a shed at a school with some friends and films a fight that ensues, if doli incapax is rebutted. It would apply to an adult who takes their partner's car without permission and posts a picture of themselves on Facebook, even if it was a short and otherwise forgiven aberration. To prescribe a two-year additional penalty for such behaviour is frankly disproportionate.

The more I think on this, the madder I think Government members have gone. The bill represents a literal knee-jerk reaction from the Premier after he visited Moree and listened to some shock jocks on 2GB. It is likely to disproportionately affect individuals who are cognitively impaired, as such individuals are more likely to fail to appreciate the gravity of both the substantive behaviour and the consequences of the stupid use of social media. The proposed definition of "advertise" is currently drafted so broadly that it may capture, for example, posting on social media about conduct for which the child or the young person is expressing remorse, or any other instance in which the child or young person is not seeking to glorify the conduct. It is literally criminalising a young person who takes to social media to say that they regret doing what they have done. But that is okay. We will punish them for an extra two years, if that is what we think.

Without requiring that the act of advertising be led by a boast or brag, the inclusion of text in the definition of materials means that innocuous or remorseful statements or requests for help could be captured by the offence. It could be a text message to family groups asking for help or expressing fears—that would be criminalised by this offence. It is poor drafting and rushed legislation, and the outcomes will be tragic for children and young people. I turn to The Greens amendment No. 18. The review under the section must be undertaken in consultation

with relevant stakeholders and include an assessment of the impact of this division on First Nations people. I thank the staff of the Attorney General's office for sitting in my office and assuring me that that would be done. I do not know why, then, the Government cannot allow it to be expressly provided for in its new knee-jerk laws.

The bill has been roundly denounced by legal professionals, workers in the field and organisations. Some 620 signatures across two open letters to the Premier this week are evidence of that. In the words of one highly regarded legal organisation:

> The Law Society takes this opportunity to express its sincere disappointment at the lack of a consultative process leading to the introduction of the Bill. Unfortunately, given the focus on rural locations, and the inevitable impact of new criminal procedural provisions on the disadvantaged, it is likely that First Nations children and young people will be disproportionately affected by the proposed reforms.

These amendments seek to provide that the review will be undertaken in consultation with the stakeholders about the new performance offences. We know that the issues that have been identified are going to severely restrict young people and First Nations people being able to access the help and support they need. When this is being reviewed, it must at least be done in consultation, done respectfully, with the consideration of the views of the stakeholders—all the people the Government is ignoring now. The Government needs to face up, and this is its chance. I implore all Government members to accept this amendment and include a promise that they will consult with the people they have left out this time.

The Hon. DANIEL MOOKHEY (Treasurer) (22:40): The Government supports the bill as is.

The Hon. SUSAN CARTER (22:40): We share the concerns expressed by Ms Sue Higginson in relation to the lack of consultation; it seems to be a hallmark of this Government. However, we believe that the Government should be allowed to succeed or fail on its own merits. We will not support the amendments.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 16, 17 and 18 on sheet c2024-031G. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 7
Noes 23
Majority.....16

AYES

Boyd	Faehrmann	Hurst
Buckingham	Higginson (teller)	Ruddick
Cohn (teller)		

NOES

Buttigieg	Kaine	Moriarty
Carter	Latham	Murphy
D'Adam	Lawrence	Nanva (teller)
Fang (teller)	MacDonald	Primrose
Farlow	Martin	Rath
Farraway	Merton	Sharpe
Franklin	Mihailuk	Suvaal
Jackson	Mookhey	

Amendments negatived.

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

Leave granted.

The Committee divided.

Ayes 23
Noes 6
Majority.....17

AYES

Buttigieg	Kaine	Murphy
Carter	Latham	Nanva (teller)
D'Adam	Lawrence	Primrose
Fang (teller)	Martin	Rath
Farlow	Merton	Ruddick
Farraway	Mihailuk	Sharpe
Franklin	Mookhey	Suvaal
Jackson	Moriarty	

NOES

Boyd (teller)	Cohn	Higginson (teller)
Buckingham	Faehrmann	Hurst

Motion agreed to.

The Hon. DANIEL MOOKHEY: 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. DANIEL MOOKHEY: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. DANIEL MOOKHEY: I move:

That this bill be now read a third time.

Motion agreed to.

HEALTH LEGISLATION AMENDMENT (MISCELLANEOUS) BILL 2024

First Reading

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

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

Statement of public interest tabled.

Second Reading Speech

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) (22:56): I am pleased to introduce the Health Legislation Amendment (Miscellaneous) Bill 2024. The bill continues Health's well-established miscellaneous law amendment program to ensure legislation within the Health portfolio remains up to date and relevant and ensures that Acts are operating effectively. The form of the bill is similar to that of previous bills in Health's miscellaneous amendment bill program. I will outline the nature of the amendments.

The bill will repeal the Health Services Amendment (Ambulance Services) Act 2015, which I will refer to as the amending Act. The amending Act would have amended the Health Services Act 1997 but has never commenced. After careful consideration, the amending Act was considered to not be able to achieve its intended outcomes and, given this, the amending Act has never commenced. Having legislation uncommenced for close to 10 years is not appropriate and could create confusion for people who are trying to understand their responsibilities under the law. Repealing the amending Act is an important tidy-up of this historical legislation.

In relation to the Assisted Reproductive Technology Act 2007, the amendments in schedule 1 to the bill aim to ensure that children born using IVF-donated gametes—being sperm or ova—only have a limited number of half-siblings to reduce the risk of a child unknowingly entering into a relationship with a blood relative. Providers of IVF services, or assisted reproductive technology [ART] services, are regulated under the Act and must ensure that gametes from the one donor are not provided in IVF services to more than five families.

To enable providers to comply with this requirement, they can request and disclose non-identifying information, which can be requested from and provided to other providers and the Health secretary, about the number of women who have given birth or plan to give birth using gametes from a specific donor. The bill will allow the Health secretary and providers of these services to share this non-identifying information with providers and regulators in other States and Territories to ensure there is a limit on families created from gametes of the one donor. The information will be limited to numbers of offspring or numbers of women who are pregnant. This new power will be subject to the regulations, including regulations about the kinds of information that may be shared and the circumstances in which information can be shared.

I now turn to schedule 2 to the bill. In 2022 the Crimes Act was amended so that offences for assault against frontline health workers would carry a higher penalty than the general assault provisions in the Crimes Act, to recognise that violence against these workers warrants express recognition. These offences currently apply to specified frontline health workers, including workers in hospitals, paramedics, community health workers and pharmacy staff. However, these offences do not currently extend to medical practitioners, such as general practitioners and their staff. The bill will address this gap. The bill will ensure that these workers are protected under the strengthened assault offences to recognise that violence against medical practitioners will not be tolerated. The bill also captures the staff working at the medical practice, as customer-facing staff members of medical practices can also be victims of violence.

Schedule 3 to the bill is a minor administrative amendment to clarify that a person may be appointed to act in the role of principal official visitor where the principal official visitor is unwell or otherwise unable to fulfil their statutory functions, which include overseeing the official visitor program. Official visitors act as advocates for patients in the drug and alcohol treatment system. These changes will ensure that a temporary principal official visitor can properly undertake the statutory functions where there is an absence.

I turn now to schedule 4 to the bill, which will amend the definition of a public sector agency in the Health Records and Information Privacy Act 2002 to include a State owned corporation not otherwise subject to the Privacy Act 1988 of the Commonwealth. These changes align with recent changes to the Privacy and Personal Information Protection Act 1988 to ensure that the complaints process against a State owned corporation in relation to both personal information and health is aligned, to streamline the process and ease clarity for the public.

Schedule 5 to the bill contains two minor amendments to the Medicines, Poisons and Therapeutic Goods Act 2022 to tidy up small drafting errors. Firstly, the bill will ensure that corporations receive a penalty of five times that of an individual for all different tiers of offences under the Act. Currently, for one of the offences the penalty for a corporation is six times that of an individual. The bill will correct this discrepancy. Another clarification is that the bill will ensure that a reference to the Poisons and Therapeutic Goods Act in the Public Health (Tobacco) Act will be replaced by a reference to the new Medicines, Poisons and Therapeutic Goods Act when it commences and replaces the Poisons and Therapeutic Goods Act.

I turn now to schedule 6, which contains amendments to the Mental Health Act 2007. One of these changes mirrors the changes that I outlined earlier in regard to principal official visitors. The change will ensure that a person may be appointed to act in the role of principal official visitor where the principal official visitor is unwell or otherwise unable to fulfil their statutory functions, which include overseeing the official visitor program. The official visitors act as advocates for patients in the mental health system. These changes will ensure that a temporary principal official visitor can properly undertake the statutory functions where there is an absence.

The schedule also contains two amendments in regard to community treatment orders. Community treatment orders are made by the Mental Health Review Tribunal and set out the terms upon which a person must accept medication, therapy and other types of rehabilitation when living in the community. Firstly, the bill will amend the service requirements relating to breach notices of community treatment orders to encourage a person's compliance with the order. When a community treatment order is breached, a breach notice must be handed directly to the patient or, if that is not practicable, posted to the person's last known address. The breach notice will state that the person must accompany a member of NSW Health to a facility for treatment or further action will be taken.

In a situation where a person does not have a fixed residential address or is only contactable by electronic means, this can make service of the notice difficult and, if a person does not receive the notice, they cannot comply with it. The bill will ensure a breach notice can be served in more flexible ways by adopting the service methods in section 192 of the Act, which include email or methods prescribed in the regulations. The Ministry of Health will work further with stakeholders regarding other service methods in the future that will be prescribed in the regulations.

The second amendment the bill makes will improve how carers assist patients subject to community treatment orders. Carers play an important role in the support of the patient. This amendment will make it a

requirement for a person's designated carer or principal care provider to be notified when a community treatment order is made or breached in respect of a patient. It is important that this notification occurs to allow the carer to assist a person to comply with the order or take steps to protect themselves. Under the bill and existing requirements in the Mental Health Act, safeguards are in place to ensure that if a patient does not want a person to be notified of the making or breaching of a community treatment order, this will be respected, subject to the request not causing potential harm to the patient or this person.

Schedules 7 and 8 to the bill make amendments to the Private Health Facilities Act 2007 and the Public Health Act 2010 and respectively. The rationale behind these amendments is to ensure that the Health secretary has clear authority to approve matters under regulations, and to allow regulations to be made that can require compliance with a document as amended from time to time. The bill will ensure there is an explicit ability under the Act for these types of regulations to be made and is not intended to impact upon NSW Health's existing procedures. Rather, the amendments will provide certainty in relation to these matters being dealt with under regulations.

Lastly, schedule 9 to the bill makes a minor amendment to the Public Health (Tobacco) Act to ensure that tobacco inspectors can be appointed under that Act, rather than under the Public Health Act. Currently, tobacco inspectors are appointed as authorised officers under the Public Health Act. They are also required to carry an identification card stating they are appointed under the Public Health Act. This can result in confusion when tobacco inspectors are performing their enforcement functions. This change will mirror the appointment provisions in the Public Health Act and include them in the Public Health (Tobacco) Act to ensure that, when a tobacco inspector is exercising their functions, it is clear they are doing so as an inspector under the Public Health (Tobacco) Act. The changes in the bill are all minor but will ensure that legislation in the Health portfolio remains up to date and relevant. I commend the bill to the House.

Debate adjourned.

CONVERSION PRACTICES BAN BILL 2024

Second Reading Speech

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (23:05): I move:

That this bill be now read a second time.

We are so lucky in this State to have a great diversity of people. We come from all parts of the globe, we have the oldest living cultures on earth and we have the great diversity that the LGBTIQ community brings to our State. We are people's brothers, sisters, mothers, fathers, grandparents, workmates, sports teammates and friends. We are just part of the community. There is nothing broken about anyone in the LGBTIQ community and there is nothing that needs to be fixed. That is what the Conversion Practices Ban Bill 2024 is about. I start my second reading speech with some words spoken by others about the impact and harm that they experienced as a result of harmful conversion therapy and other practices that tried to tell them that there is something wrong with them. The first contribution is from Chris Csabs. He said:

> In 2002 I was 16 years old and I decided I needed to tell the pastor my church that I was gay and ask for help.
>
> I spent the next several years, up to the age of 23, engaging in a variety of conversion practices including those in a Christian counselling setting, 'deliverance' prayer, and a Living Waters six-month course (a well-known ex-gay ministry that claimed to help people find healing from 'sexual brokenness')
>
> I not only practised celibacy, I truly tried to suppress my sexuality while waiting for God to 'heal' me. This eventually became more and more damaging as I tried to 'starve out' the homosexuality by avoiding contact with males, with obsessive prayers taking over my daily life. I became dangerously depressed, terrified of what would happen if I couldn't be 'healed'.
>
> I stopped laughing, I was withdrawn, wracked by severe anxiety and OCD, and prayed every day for God to either heal me or to take me to heaven.
>
> I am one of the lucky ones that had a family who, after seeing the damage these conversion practises took on me, actually helped me out of the conversion movement. That is not the case for most.

I want to talk about Tim. He said:

> As a teenager, I knew that if I ever dared to truly express myself to anyone in my life – parents, teachers, fellow students, or literally any relative of mine – I would be putting myself in danger. I grew up hearing about 'boys who were different' being forced to attend camps and workshops that corrected them on their path through life. There were boys from my school who would suddenly leave at the end of the term, attend one of these camps, and then be shipped off to a boarding school. In at least one of these instances, the boy ended up taking his life. Though the term "conversion therapy" wasn't used to identify these camps, that is what they were. Therefore, as a closeted gay kid surrounded by people who valued the work done by these camps, I lived in constant fear that me speaking the truth would only result in my own exposure to those practices. It was an ever present threat that loomed over me – it took away my ability to speak honestly with my loved ones, and resulted in me becoming extremely introverted - hiding away, spending as much time as I possibly could alone in just my bedroom, because that was the only place I could just be myself.

I want to talk about my friend and hero Anthony Venn-Brown. He said:

> As a new Christian and very troubled about my homosexuality, in 1972, I admitted myself to the first program of its kind in Australia. At the time, homosexuality was a crime and mental health professionals used a variety of barbaric practices, believing that the "perversion" could be cured. In 1973, they realised how wrong that was and homosexuality was removed from the list of mental disorders by the American Psychiatric Association.
>
> It wasn't long after this that parts of the Christian Church took up "the cause" to heal homosexuals. To them, based on half a dozen misinterpreted verses in the Bible, it was viewed as a sin, an abomination that excluded homosexuals from eternal life. This is pretty scary if you are a young Christian person struggling with your sexual orientation or gender identity.
>
> In my journey to rid myself of being gay, I went through exorcisms, Christian "counselling" and prayed daily, pleading with God to change me. Eventually, I married, had two lovely children, and became a famous Australian Pentecostal preacher, but the gay never went away.
>
> In 1991, after falling in love with a man, I resigned from the ministry and accepted my sexuality. I felt I was very alone in the struggles and for years, never told a soul about what I'd been through. Even though I was out, a sense of shame remained in my past.
>
> Over the last 23 years, I have worked with approximately 4,000 conversion "therapy" survivors who've been through formal programs and thousands more experiencing faith/sexuality conflict.

He went on to say:

> I made a lot of friends in conversion therapy. Out of forty, only six are still alive (one died naturally, the rest suicide.)

New South Wales should be a State where LGBTQ people feel safe, are treated with dignity and respect and are affirmed for who they are. Protection under the law will be an important part of that. I take this opportunity to thank the victim-survivors who have continued to tell their stories and who, every time they do so, need to relive the harm they have suffered. But they do that because they do not want it to happen to anyone else. That is the reason we introduced the bill.

The Attorney General made an excellent speech in the other place, and I suspect it will be a very late night, so I seek leave to have the second reading speech that was made in the other place incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the **Conversion Practices Ban Bill 2024.**

Prior to the election, the New South Wales Government promised to ban LGBTQ+ conversion practices. This bill gives effect to that commitment.

Conversion practices, which can include so called "conversion therapy" and suppression practices, are founded on the idea that LGBTQ+ people are broken or wrong and in need of fixing.

There is nothing wrong with LGBTQ+ people. They do not need to be fixed. Conversion practices are dangerous and damaging and there is no room for them in New South Wales.

Conversion practices may take a number of forms and can occur in a variety of settings, including in religious and other community settings. They can include practices directed to change or suppress a person's sexual orientation or gender identity such as through:

a. behavioural and "talking therapies";

b. some religious based practices, including conferences, spiritual deliverance practices or exorcisms; and

c. aversion therapies, such as electroshock therapy, pharmaceuticals used to induce nausea or even use of physical violence.

However, the shared foundation of all of these practices is the view that LGBTQ+ identities are undesirable, and that people can and should change or suppress such identities to conform with heterosexuality and the gender that corresponds with their sex designated at birth.

The research and evidence paints a clear picture of the harms that conversion practices can cause. Victim-survivors of conversion practices have been found to have poor mental health, including depression, anxiety, poor self-esteem, heightened suicidal ideation and a higher number of suicide attempts in comparison with other LGBTQ+ people.

In particular, people with lived experience have highlighted how pervasive and insidious these underlying beliefs can be.

In many cases, the pressures to conform, and internalising the view that they are wrong or broken creates ongoing trauma and suffering.

The Government recognised from the outset that this is complex and delicate law reform. It is important to balance prohibiting these harmful and objectionable practices, while also respecting civil liberties such as the freedom of expression and the freedom of religious belief.

That is why a part of the election commitment was the establishment of a joint working group, led by the Department of Communities and Justice and the NSW Ministry of Health, to develop these laws. That working group was also charged with undertaking consultation with survivors and other stakeholders.

A targeted, confidential consultation was undertaken in August 2023. Almost 150 organisations were engaged, with 134 submissions received and eight targeted stakeholder sector round tables held.

Stakeholders engaged included:

a. people with lived experience of conversion practices,

b. LGBTQ+ advocacy groups,

c. faith-based organisations,

d. parental rights groups,

e. academics and researchers

f. gender advocacy organisations and

g. legal, government, education and health stakeholders.

The confidentiality of the process sought to facilitate frank discussion and contributions from stakeholders to inform the Government's development of legislation.

Since then, we have undergone a detailed and iterative process in the development of the drafting of the legislation, consulting further with key stakeholders on the core elements of the bill that we have brought forward.

I want to take this opportunity to thank all those who engaged with this consultation and shared their views, insights and expertise.

I especially want to thank people with lived experience of conversion practices for their bravery and courage in sharing their stories and experiences. I am privileged to have had the opportunity to meet with some of those individuals and to hear from them directly.

I also want to recognise the significant contribution of the member for Sydney, Mr Alex Greenwich, who has been a tireless and strong advocate for the LGBTQ+ community and, in particular, for people with lived experience of conversion practices. I thank Mr Greenwich for his ongoing, collaborative and valued engagement with the Government on this important bill.

The consultation process made it clear that there are strong, polarised views about the scope and nature of this reform. In many cases, these views or positions were diametrically opposed. This bill represents a carefully balanced approach, which takes into account those views.

We have been further assisted in drafting the bill by analysing the drafting and operation of legislation in place in other jurisdictions, namely Queensland, the Australian Capital Territory, Victoria and New Zealand. The bill introduced by the member for Sydney was also considered in this process.

This bill does not replicate any one existing model in another jurisdiction. It is a New South Wales Government bill, and it is fit for purpose for New South Wales. It takes what we have considered to be the most appropriate elements for New South Wales from these other models, and in some cases it charts a different path altogether.

The end result is a bill that provides for a graduated response to LGBTQ+ conversion practices.

a. First, it is educative. The foundation of this reform, and where we hope the greatest impact will be felt, is in the message that it sends—that LGBTQ+ people do not need to change or suppress their identities and that conversion practices are unacceptable. **Part 2** of the bill sets out carefully considered definitions and exclusions, which go to what practices will be captured by the legislative prohibition.

b. Secondly, it provides for a non-criminal response. The bill creates a civil complaints scheme in **part 4**, which aligns with the architecture in place for complaints of discrimination and vilification. This pathway allows victims of conversion practices to make complaints to the president of the Anti-Discrimination Board for conciliation. In certain circumstances, complaints may also progress to determination by NCAT.

c. Finally, the bill provides a targeted criminal law response in **part 3** for the most serious conversion practices, where people have suffered substantial harm.

This bill is an opportunity for all of us in this place to send a clear message that LGBTQ+ people are not broken. They do not need fixing, because there is nothing wrong with them. LGBTQ+ people deserve to be protected from the kinds of practices that seek to change and suppress a core part of their identity.

I now turn to the detail of the bill.

Part 1 - Preliminary

Clause 1 of the bill sets out the name of the Act, and **clause 2** provides that the bill commences 12 months after it receives assent.

The bill has a delayed commencement period because we know that this is a complex reform, and time is needed for implementation. This includes time for training and education of relevant agencies, and for community awareness raising.

This approach reflects what we heard in consultation. We can't rush the implementation of this reform and we need time to do the work to make it operational, but also need to ensure that there is no undue delay. A fixed 12-month delayed commencement period provides certainty and is a sign of our commitment that this reform will not be delayed any more than is necessary to enable successful implementation.

Part 2 - Definitions and Exclusions

Clause 3 subclause (1) of the bill sets out the definition of conversion practices. This definition has three limbs.

The **first limb** is that the conduct must be a practice, treatment or sustained effort. These three terms are intended to take on their ordinary meaning.

a. The *Macquarie Dictionary* defines "practice" as "habitual or customary performance". This suggests acts or omissions with some degree of formality or with an established form. It can apply to one off instances of conduct.

b. The *Macquarie Dictionary* defines "treatment" as the application of medicines, surgery, psychotherapy, etc., to a patient to cure a disease or condition. This term can apply to single instances of conduct, and specifically highlights the purported therapeutic function of some conversion practices.

c. Sustained effort in this context means actions or omissions which are kept up or kept going over time, drawing on the *Macquarie Dictionary* meaning of "sustained". This term captures more informal conduct which might not be a practice, but which occurs over time in a linked or continuous fashion.

The conduct in question only needs to fall within one of these categories, acknowledging that depending on the facts of the case, the conduct in question may satisfy multiple categories.

People with lived experience of conversion practices describe being exposed to a plethora of practices as part of the efforts to have them change or suppress their LGBTQ+ identity. This includes faith-based practices such as exorcisms and spiritual deliverance practices and non-faith-specific practices such as talking or behavioural therapies. The first limb of the definition is sufficiently flexible to cover the range of practices that may be involved.

The **second limb** is that the practice, treatment or sustained effort must be directed to a person on the basis of their sexual orientation or gender identity. These terms are defined in the dictionary in **schedule 2**.

a. "Sexual orientation" is defined as a person's sexual orientation towards individuals of the same sex, of a different sex, or of both. It captures a person's capacity for emotional, romantic or sexual attraction. It is drawn from existing legislation, including section 93Z of the Crimes Act 1900 and section 4 of the Federal Sex Discrimination Act 1984.

b. The definition also notes that "sexual orientation" includes having a lack of sexual attraction to any individual of any sex.

c. This definition recognises sexual orientation is on a spectrum, and includes heterosexuality, homosexuality, bisexuality, pansexuality and asexuality. This statutory definition is intended to be inclusive of this range of sexual orientations.

d. "Gender identity" is defined as the gender related identity of an individual, which may or may not correspond with sex designated at birth. As with sexual orientation, the definition of gender identity recognises that gender identities may occur on a spectrum.

What this second limb means is that the relevant conduct needs to be targeted to a person because they have, or are thought to have, a particular sexual orientation or gender identity.

Simply directing conduct towards an LGBTQ+ person does not satisfy this limb. The specific fact that the person has or is thought to have an LGBTQ+ identity must be the reason for why the conduct is directed to the person.

General rules which apply to all people would not be able to satisfy this limb of the definition, and so could not be considered conversion practices. For example, school rules that apply to all students would not meet this element of the definition, while a direction made to an individual student because of their sexual orientation or gender identity would satisfy this element.

Further, **clause 3 subclause (2)** clarifies that conduct which incorrectly assumes a person's sexual orientation or gender identity is still covered. This provision will prevent a technical loophole—just because the person engaging in a conversion practice does not know the other person's specific sexual orientation or gender identity, or gets it wrong, does not mean they will not be captured.

The **third limb** is that the practice, treatment, or sustained effort must be directed to change or suppress that person's sexual orientation or gender identity.

This limb means that simply making general statements or comments, even if those statements are not affirming of a person's sexual orientation or gender identity, would not be captured as conversion practices. The conduct in question must have as its goal to change or suppress sexual orientation or gender identity.

The key element of this third limb is therefore contained in the terms "change" and "suppress", and it is important to note this bill covers both.

a. Historically, many conversion practices sought to have LGBTQ+ people change their sexual orientation to being straight, or to change their gender identity to correspond with the sex designated at birth.

b. However, evidence shows that modern conversion practices have also adapted messaging that acknowledges changing sexual orientation or gender identity may not be possible, and instead suggest that LGBTQ+ people should suppress their identity by never expressing it.

c. We have been clear from the start that both change and suppression practices will be banned in New South Wales. This is in line with most existing bans in Australia and in New Zealand, which cover both change and suppression practices.

Both "change" and "suppress" are intended to take on their ordinary meaning.

a. "Change" is defined in the *Macquarie Dictionary* as "to make different; alter in condition, appearance, etc".

b. "Suppress" is defined in the *Macquarie Dictionary* as "to keep something in, repress something or put an end to activities".

Ultimately, whether something is a conversion practice, as defined under **clause 3 subclause (1)** requires all three limbs that I have outlined to be satisfied. This is a question of fact and it will depend on the particular circumstances.

In addition to the three limbs of the definition, the bill at **clause 3 subclause (3)** also provides three exclusions. These set out circumstances where, even where all three limbs of the definition apply, the relevant conduct would not be considered a conversion practice. The exclusions are not intended to be mutually exclusive, meaning a person could rely on more than one of the exclusions, depending on the circumstances.

Clause 3 subclause (3) paragraph (a) outlines the first exclusion, which provides that a health service or treatment provided by a registered health practitioner that the practitioner has assessed as clinically appropriate in their reasonable professional judgement, and that complies with relevant professional, legal and ethical requirements, is not a conversion practice.

a. The New South Wales Government is not seeking to intervene in the ethical or professional codes and standards set out in existing health regulation and by relevant health professional organisations. This exclusion gives effect to that intention.

b. Health practitioners registered under the Health Practitioner Regulation National Law (NSW), such as medical practitioners and psychologists, have existing obligations to act ethically and in accordance with professional codes and standards.

c. The exclusion is also based on health services or treatments being clinically appropriate. This reflects the views put to the Government by health professional organisations and makes sure there is no barrier to LGBTQ+ people receiving safe, inclusive and affirming healthcare.

d. This exclusion is supported by a non-exhaustive list of examples of health services or treatments which would not fall within the definition of a conversion practice if assessed by a registered health practitioner as clinically appropriate, and where the practitioner was delivering the health service or treatment in a way that complies with their legal, professional and ethical requirements.

e. The examples include providing genuine assistance to an individual exploring their sexual orientation or gender identity, or who is receiving care and treatment related to their gender identity, and providing genuine advice about the impacts of gender affirming medical treatment.

f. It is important to note that this health exclusion does not provide an absolute exemption for registered health practitioners to deliver conversion practices under the guise of providing a health service or treatment. A health practitioner will not fall within the exemption if they engage in conduct which is not clinically appropriate, or fail to abide by applicable legal, ethical or professional codes and standards.

g. For example, a psychologist that provides psychotherapy to a person based on the ideology that a person's sexual orientation or gender identity is wrong, with the aim of changing or suppressing a person's sexual orientation or gender identity, would not be providing clinically appropriate health care or treatment and, therefore, would not fall within the scope of this exemption.

h. For the avoidance of doubt, I want to clarify that this is not the only exclusion that health practitioners would be able to rely on in this bill. For instance, a psychologist that provides therapeutic services to support a person to affirm their gender identity or sexual orientation could fall within the health practitioner exclusion under clause 3 (3) (a) of the bill, or the exclusion relating to coping skills, development or identity exploration under clause 3 (3) (b) of the bill.

Clause 3 subclause (3) paragraph (b) outlines the second exclusion, for genuinely facilitating a person's coping skills, development or identity exploration to meet their needs, including by providing acceptance, support or understanding to the individual.

a. This exclusion is intended to clarify that conversion practices do not include conduct that is supportive or accepting or assists in the development of a person's identity. This might include conduct which affirms a person's gender identity or sexual orientation, such as supporting social affirmation.

b. This exclusion would also capture affirming health care provided by non-registered health practitioners. For instance, a speech pathologist that provides voice training to support a person to affirm and express their gender identity.

c. It would also include practices that are not explicitly affirming, such as neutral or non-directive conduct to better understand a person's self-identified gender identity or sexual orientation, or non-directive actions to explore or develop that identity. For instance, this might be parental conversations about sexual orientation or gender identity and the risks or benefits of certain actions, or peer support groups where people discuss and share experiences relating to their sexual orientation, gender identity or living in accordance with religious beliefs or principles. It could also include a counsellor providing non-directive and non-judgemental therapeutic services to an LGBTQ+ individual to help them to explore their identity in a way that is patient-centred and meets the individual's needs.

d. It is important to note this exclusion only applies to genuine conduct. Genuine is intended to take on its ordinary meaning—the *Macquarie Dictionary* defines it as being truly such, real or authentic.

e. This aligns with our commitments made before the election that people would not be prevented from seeking out health, allied health or other advice and assistance about their individual circumstances.

f. This qualifier is to ensure that change or suppression practices will continue to be caught by the legislation, even if they claim to be about providing support or understanding. This includes structured programs or services which have, as a predetermined outcome, that a person ought to suppress their sexual orientation or gender identity.

Clause 3 subclause (3) paragraph (c) sets out the third exclusion, which covers two matters relating to freedom of expression and belief.

a. First, **subparagraph (i)** covers the expression of a belief or principle. This includes but is not limited to the expression of religious belief or principle, and the legislation specifically recognises expressions through prayer.

b. Second, **subparagraph (ii)** covers the expression of an opinion or idea that a belief or principle ought to be followed or applied.

In both cases, the exclusion applies only if the expression is not part of a practice, treatment or a sustained effort directed to change or suppress a person's sexual orientation or gender identity. This is the critical question as to whether the exclusion applies—whether it is directed to change or suppress.

a. This exclusion makes clear that the ban does not prohibit general expressions of religious beliefs, principles or teachings. We have heard clearly that, especially with religious beliefs or principles, part of that expression can also include expressing that such beliefs should be applied to one's life. The exclusion has been carefully drafted to preserve the ability for people to express their views and their beliefs.

b. This includes the expression of a belief or principle about specific matters such as through a sermon or one-on-one conversations. For instance, explaining that a religious text states homosexuality is a sin would not be a conversion practice.

c. This exclusion also confirms that private prayer, including personal prayer and reflection, will not be a conversion practice.

d. Ahead of the consultation, the New South Wales Government was clear that neither taking offence at the teachings of a religious leader, nor expressing a religious belief through sermon, will be banned. It will also **not** be illegal for an individual, of their own consent, to seek guidance through prayer. This exclusion is consistent with these positions.

e. The bill does not impact a person's ability, of their own consent, to seek counsel or guidance from within their faith. Counsel and guidance can still be given, provided it is not directed to change or suppress.

Before I move on from the exclusions to some illustrative examples in the legislation, I do want to come back to the scope of this exclusion. It is limited to expressions of beliefs, principles or ideas. It does not automatically excuse any conduct in which beliefs, principles or ideas are invoked.

So far, I have spoken of the statutory definition and the exclusions from that definition. One of the key things we heard in the consultation process was that as much clarity as possible in the legislation would be welcomed.

The bill responds to that feedback by providing a non-exhaustive list of examples of conduct that will not be a conversion practice at **clause 3 subclause (4)**. I will briefly touch on each:

a. **Paragraph (a)** confirms that stating relevant religious teachings or what a religion says about a specific topic will not be a conversion practice. This again confirms, right on the face of the legislation, that this ban does not prevent religious teaching or expression of a religious principle. This example is intended to cover cases where a person is providing information about the relevant belief or principles, such as what the relevant holy text might say on the particular matter.

b. **Paragraph (b)** confirms that general requirements in relation to religious orders or membership or leadership of a religious community will not be considered conversion practices. Some stakeholders queried whether certain requirements, such as for seminarians to be celibate, would be considered a suppression practice. Such rules are of a general nature, and they are not directed to an individual on the basis of their sexual orientation or gender identity, and so would not be a conversion practice.

c. **Paragraph (c)** confirms that general rules in educational institutions will not be considered conversion practices. For example, general requirements in relation to school uniforms. Much like rules for religious office, these are requirements of a general nature not targeted to a person on the basis of their sexual orientation or gender identity. Such practices are not conversion practices.

d. **Paragraph (d)** confirms that parents discussing matters related to sexual orientation, gender identity, sexual activity or religion with their children will not be a conversion practice. This ban was never intended to stop parents from having discussions, even challenging discussions, with their children about these matters. This example makes this intent very clear.

This is a list of some examples, and it is an open list. It is not exhaustive, nor should it be. It is not possible, nor even advisable, to attempt to set out every hypothetical scenario in legislation. What these examples do provide is an indication of the key areas of stakeholder concern where the legislation does not apply—but ultimately, every case will turn on its facts and merits.

In combination, the definition of conversion practices and the accompanying exclusions have been carefully considered and developed to ensure that the bill strikes an appropriate balance between prohibiting LGBTQ+ conversion practices, respecting freedom of belief and expression, and providing scope for ethical and appropriate professional conduct.

I turn now to how that definition is used in the bill's provisions which set out both criminal and civil responses to conversion practices.

Part 3 - Criminal Offences

Part 3 sets out the criminal law response. As I mentioned earlier, the criminal law response is reserved for the most serious cases, and we sincerely hope that moving forward, these are offences that are rarely used because conversion practices no longer occur.

The principal criminal offence is set out at **clause 5 subclause (1)** of the bill. It contains three elements.

First, a person must provide or deliver a conversion practice as defined in the bill to an individual.

a. For this offence, **clause 5 subclause (5)** provides that "person" does not include an individual who is under 18 years of age. This means that a person under the age of 18 will not be able to commit the criminal offence of delivering a conversion practice, although they could be the victim of the conduct.

b. This reflects that the stage of development of children and young people may not be sufficient to support the persistent and intentional behaviours that warrant the intervention of the criminal law and application of criminal offences, which carry the most serious penalties under this bill. The civil response, which I will speak about in due course, would remain available and does not have the same age limitation.

c. There is no minimum age requirement for the victim—the 18 and over threshold only applies to offenders. We know that conversion practices may be imposed upon people who are children or teenagers, and the criminal response will protect those people.

Second, under **subclause (1) paragraph (a)** the person who provides or delivers the conversion practice must have the intention of changing or suppressing the other person's sexual orientation or gender identity.

a. This is the mental element of the offence, and it goes to the subjective state of mind of the offender. Importantly, the mental element of the offence does not turn on harm. This is a deliberate drafting choice.

b. Many conversion practices providers do not think they are engaging in harmful practices—many operate with the misguided view that they in fact may be helping. A mental element limited to cases where people intend to cause harm, or where they actually foresee harm and proceed anyway—which is recklessness in New South Wales law—would fail to properly capture conversion practices.

c. The mental element of the bill instead addresses a key characteristic of conversion practices. While the ultimate impact may be substantial harm, the driver behind those practices is the desire or belief that one can and should cause change or suppression of another's sexual orientation or gender identity.

Third, under **subclause (1) paragraph (b)** the individual who the conversion practice is delivered to must experience physical or mental harm that either endangers life or is substantial. This means, for the offence to be proved, evidence that the victim has experienced harm from the conversion practices must be proven beyond reasonable doubt. This element is not about the intention of the person in question who delivers or performs the conversion practice—it is solely a question of fact as to whether the harm has or has not occurred.

a. The relevant harm must either endanger the victim's life or be "substantial" to satisfy the offence.

b. Substantial harm has been held in case law to mean harm that is more than trivial or inconsequential. It must be more than taking offence, hurt feelings or shame and humiliation.

c. **Clause 5 subclause (2)** confirms for the avoidance of doubt that the harm caused may be the result of a combination of conversion practices, and that the harm should be assessed in the totality of those practices.

d. The criminal law carries the heaviest sanctions which can be imposed in a justice response, namely the deprivation of liberty through imprisonment. Criminal sanction is appropriately reserved for very serious conduct.

e. Containing the offence to cases where the harm has endangered life, or where substantial harm has occurred, aligns with these principles.

f. Further, this is a threshold that reflects and incorporates the views of the majority of stakeholders in the consultation process. It also aligns with the graduated approach that underpins the overall structure of this bill and our legislative response.

The offence will not apply unless all three of these elements are proven beyond reasonable doubt.

If proven, the offence carries a maximum penalty of five years imprisonment and will be an indictable offence. This demonstrates that the offence is serious. The maximum penalty is aligned to offences such as stalking and intimidation or assault occasioning actual bodily harm.

Schedule 3.3, item [1] amends the Criminal Procedure Act 1986 to make this a table 1 offence.

a. This means that the offence will be tried summarily in the Local Court, unless it is elected to be tried on indictment by either the prosecutor or the defendant.

b. If it is tried summarily, the jurisdictional limits of the Local Court will apply. This means that the maximum penalty which can be imposed will be two years imprisonment.

Clause 5 subclause (3) of the bill gives this offence a partial extraterritorial application. As I have mentioned before, we know that conversion practices can occur over an extended period of time.

The effect of this provision is that as long as part of the conversion practice occurs within New South Wales, the whole of the conversion practice can be taken into account for the purposes of the criminal offence. This approach is consistent with other course of conduct offences, such as the offence for coercive control introduced in the Crimes Legislation Amendment (Coercive Control) Act 2022.

Importantly, this provision does not upend the general principles about extraterritorial application of the criminal law. The criminal conduct must still partly occur within New South Wales for the offence to apply.

Clause 5 subclause (4) provides, for the avoidance of doubt, that the consent of the person is not relevant to proving the criminal offence.

a. Let me be clear—this provision is only relevant where it has been proved that a conversion practice, as defined under **clause 3** of the bill, has occurred beyond reasonable doubt.

b. It will not impact a person's ability to consent to other practices. As I have mentioned, the definition has been carefully crafted to ensure that it does not cover the expression of religious belief, including in prayer, if not directed to change or suppress sexual orientation or gender identity. Such prayer can be consented to and the legislation does not impact that.

In addition to the main criminal offence, the bill also provides for two ancillary supporting offences at **clause 6**.

Clause 6 subclause (1) paragraph (a) makes it an offence for a person to take a person from New South Wales, or arrange for a person to be taken from New South Wales, for the purposes of providing or delivering a conversion practice.

a. Removal from jurisdiction offences are also found in the Australian Capital Territory and Victoria. This offence reflects the evidence that we have seen that victims are sometimes sent overseas for conversion practices to be performed.

Clause 6 subclause (2) paragraph (b) makes it an offence for a person to engage another person outside of New South Wales to deliver a conversion practice remotely.

a. This offence is similar in character to removing a person from New South Wales, but it reflects the modern reality that conversion practices may also be delivered online.

For both of these offences, the conduct being criminalised is seeking to circumvent and undermine the primary legislative prohibition, by engaging providers of conversion practices from outside of New South Wales where our prohibitions do not apply.

Both offences carry a maximum penalty of three years imprisonment, or 100 penalty units—in dollar terms, $11,000—or both.

Schedule 3.3, item [2] makes these offences table 2 offences under the Criminal Procedure Act 1986.

a. This means they will be tried summarily in the Local Court, unless the prosecution elects to have them tried on indictment in a higher court.

b. When tried summarily, the jurisdiction limits of the Local Court—namely, a maximum penalty of two years imprisonment—will apply.

Consistent with the main offence, **clause 6 subclause (2)** provides a similar clarification around consent, and **clause 6 subclause (3)** provides that the offence cannot be committed by an individual under 18.

Consequential amendments are set out in **schedule 3.2**.

These provisions amend the Crimes (Domestic and Personal Violence) Act 2007 to enable an apprehended violence order to be made in relation to the offences set out in this Act.

An apprehended violence order is a civil order that can impose prohibitions or restrictions on another person to ensure personal safety. Apprehended violence orders can be made if a person fears and has reasonable grounds to fear the commission of certain offences or conduct against them.

Breach of an apprehended violence order is a criminal offence under section 14 of the Crimes (Domestic and Personal Violence) Act 2007, punishable by up to two years imprisonment, 50 penalty units—in other words, $550—or both.

The amendments at **schedule 3.2** will mean that fear of the commission of a conversion practices offence will be grounds for the making of an apprehended violence order. Comparable offences, such as stalking and intimidation or assault occasioning actual bodily harm, are already covered by the apprehended violence order scheme.

This adds an additional avenue of response to the risk of conversion practices and options for victim safety.

Part 4 - Civil Response Scheme

I turn now to the civil response scheme, set out in **part 4** of the bill.

The approach to the civil response scheme in this bill has been to start with the existing architecture for complaints under the Anti-Discrimination Act 1977, and then to make modifications as needed to ensure that the scheme is fit for purpose.

Consistent with that framework, under the civil response scheme, it will be unlawful for an entity to provide or deliver a conversion practice. Anti-Discrimination NSW will be empowered to receive and deal with complaints of conversion practices, as well as perform complementary investigation, education and research functions with respect to conversion practices.

I acknowledge that there is a comprehensive review of the Anti-Discrimination Act 1977 being undertaken by the NSW Law Reform Commission. However, when considering how a civil response scheme could be best administered, the Government has concluded that Anti-Discrimination NSW is best placed to administer the civil response scheme, and that the scheme should operate in a broadly consistent way to the existing complaints framework for discrimination matters.

The Government will have an opportunity to consider the relevance of any findings made by the commission to the civil response scheme under the bill once the commission delivers its final report on the review. The Government is also required to consider the operation of the civil framework established under the bill through the statutory review of this legislation, which the bill provides must take place three years after commencement.

I now turn to the specific provisions of this scheme.

Clause 8 of the bill makes it a contravention for an entity to engage in a conversion practice.

a. Entity is defined in the dictionary in **schedule 2** to the bill as either a person or an unincorporated body or organisation.

b. The term "person" includes an individual, a corporation and a body corporate or politic, drawing on the definition of person in the Interpretation Act 1987.

As is the case with the criminal offences in clauses 5 and 6, under the civil scheme, the consent of the affected individual (or another person with decision-making authority for that individual) will not be relevant to an assessment of whether an entity contravened the civil prohibition.

Part 4, division 3 of the bill sets out the process for the handling of complaints of conversion practices by the President of the Anti-Discrimination Board.

Consistently with complaints made under the Anti-Discrimination Act 1977, the framework enables a complaint of conversion practices to be made by:

a. An affected individual on their own behalf, or on behalf of themselves and others (with their consent)

b. A parent or guardian of a person who lacks legal capacity to make a complaint

c. A representative body on behalf of a named individual or individuals (with their consent)

d. An agent of any of those who I have just mentioned.

Under the scheme, once a complaint is received, the president can either accept the complaint, decline it, or refer it to a prescribed entity.

The bill allows the president to refer complaints to a prescribed entity where the conduct the subject of the complaint may be more appropriately dealt with by the other entity, provided the complainant consents to the referral. The president may also refer a complaint where required by another Act or law. This bill does not limit the application of other laws.

Prescribed entities include, to name a few, the Commissioner of Police, the Health Care Complaints Commission and health professional councils regulating health practitioners under the national law, such as the Medical Council.

The requirement for a complainant to consent to the referral accords with feedback received from stakeholders, including people with lived experience of conversion practices, who stressed the importance of ensuring that victims can choose the reporting pathway most suitable to them. If a complaint has been made to the president, this would not preclude a victim, or other person, independently approaching other complaints bodies such as the Health Care Complaints Commission to make a complaint in relation to a health practitioner's conduct.

The bill provides that the president may decline a complaint, either at the time it is received or during an investigation, for specified reasons. These reasons are set out in **clauses 15 and 22** of the bill.

There is no time limit for making a complaint of conversion practices. This differs to complaints made under the Anti-Discrimination Act, where the president has a discretion to decline a complaint on the basis that it was made 12 months after the conduct the subject of the complaint.

The removal of a time limit is responsive to feedback received from stakeholders, and people with lived experience of conversion practices in particular, who said that it can take victims of conversion practices a significant period of time to come forward.

In place of a time limit, the president will have the discretion to decline a complaint where it is impracticable to investigate due to the passage of time.

If a complaint is accepted, the president must investigate it.

As part of the investigation, the president may require a complainant or respondent, or other entity, to provide information or documents by notice in writing. The president may also seek to resolve the complaint by conciliation.

If conciliation is considered appropriate, the president may require the complainant or respondent to appear before them to seek to resolve the complaint The complainant cannot be required to appear together with the respondent. The purpose of conciliation is to allow both sides to discuss the alleged contravention, educate parties about conversion practices legislation and attempt to resolve the complaint.

It is the usual practice of the president in conciliating matters to assist parties to reach an agreement and record the agreement in consultation with the parties.

Following the resolution of a complaint, Anti-Discrimination NSW would also keep a record of the conciliation agreement reached between the parties.

If a party to a conciliation agreement considers that another party has not complied with the agreement, they may apply to the NSW Civil and Administrative Tribunal to have the agreement registered. The bill requires that this be done within six months of the date of the agreement. However, the tribunal also has a general discretion to accept applications out of this time frame under section 41 of the Civil and Administrative Tribunal Act 2013.

Part 4, division 3, subdivision 5 sets out the circumstances in which a complaint can be terminated by the president. This includes where a complaint has been resolved by agreement between the parties, or where it has been withdrawn or abandoned by a complainant.

Conciliation may not always be possible or appropriate, and the complaints framework includes a pathway to determination by the tribunal. For example, a complaint can be referred to the tribunal where:

- a complaint has been declined during an investigation and the complainant requires that it be referred.
- the complaint is unresolved after 18 months.
- the president is of the opinion that a complaint cannot be resolved by conciliation.

This is not an exhaustive list. Complaints can be referred in other circumstances, which are set out in full at **clauses 17, 27, 28 and 29** of the bill.

I want to stress that in all cases, referrals to the tribunal cannot be made without the consent of the complainant. If they do not consent, the matter will proceed no further.

Part 4, division 4 of the bill governs the determination of complaints of conversion practices before the tribunal. Under this division, the tribunal may hear and determine referred complaints, either by dismissing or finding the complaint substantiated, in whole or in part.

If substantiated, the tribunal may make orders requiring the respondent to pay damages, stop continuing or repeating the conduct, take steps to redress the loss or damage suffered, or publish an apology or retraction.

Consequential amendments are also made under **schedule 3.1** to the Civil and Administrative Tribunal Act 2013 in relation to the tribunal's functions.

The bill also gives the Anti-Discrimination Board complementary functions under **part 4, division 5** of the bill. These functions are consistent with the board's existing functions in relation to discrimination.

a. **Clause 47** enables the board to conduct inquiries, investigation, research and provide education in relation to conversion practices.

b. **Clause 48** enables the Minister, in this case the Attorney General, to refer matters that conflict or may give rise to a conflict with the Act to the board. When such a referral is made, the board must conduct an examination and report its findings and conclusions to the Minister.

The board's complementary functions will ensure that it can respond holistically to issues relating to conversion practices, without the limitations of responding to a particular complaint or complaints. Importantly, these functions will enable Anti-Discrimination NSW to engage with the community to raise awareness of conversion practices and their harmful impacts, akin to the role it currently plays with respect to discrimination.

Part 4, division 7 of the bill sets out miscellaneous provisions relating to the civil response scheme. Among other things, it includes a provision requiring the president and Anti-Discrimination Board to exercise their functions under the legislation in a manner that does not prejudice criminal investigations or proceedings. This provision will mitigate against prejudice to the criminal process where criminal and civil processes are concurrent and examining the same or similar facts.

Consistent with the Anti-Discrimination Act, **part 4, division 7** of the bill includes a provision that sets out the circumstances in which a principal or employer will be liable for the actions of an agent or employee. This provision ensures that liability can be appropriately attributed to entities that act through the actions of natural persons, such as a company or body politic.

Miscellaneous Provisions

Finally, I will conclude with a brief mention of the other miscellaneous provisions of the bill.

Clause 54 requires a statutory review of the bill be undertaken three years after commencement, with a report to be tabled within four years after commencement—in other words, the report must be tabled within 12 months of the review period commencing.

The Minister will be required to undertake the review to determine whether the policy objectives of the legislation remain valid and that the terms of the legislation remain appropriate for securing those objectives.

This kind of review is standard and important for legislation such as this, which is relatively novel. It will provide an important opportunity for the consideration of how the bill is operating in practice and any opportunities for refinement or improvement.

Schedule 1 of the bill sets out the transitional provisions. Most critically, **part 2** of the schedule makes it clear that this bill is **not retrospective**. This means that it will only apply to conduct which occurs after the commencement of the law.

Conclusion

Before I conclude, I would like to acknowledge and thank the many people who have worked tirelessly on this bill:

a. The staff of the Department of Communities and Justice—in particular, Lucian Tan, Julie Mackenzie, Salonika Mitter, Isabella Houston, Sallie McLean, Stephen Bray, Katy Wood, and Mark Follett.

b. The staff of the Ministry of Health, in particular Gemma Broderick, Hugh Percival and Amelia Parsonage, and former staff of the Ministry, Greg Smitheram and Anna Read.

This bill fulfils the Government's election commitment to ban LGBTQ+ practices. But it is so much more than just ticking the box on a promise made and a promise delivered.

This bill is a clear signal that the New South Wales Government recognises that practices which are directed to have LGBTQ+ people change or suppress their sexual orientation or gender identity are not welcome here. These are practices founded on false premises.

LGBTQ+ people are not broken. They do not need fixing. They do not need to be "saved" from their identities. I am proud to be able to bring forward legislation in this place which affirms those statements and that protects LGBTQ+ communities. I commend the bill to the House.

Second Reading Debate

The Hon. DAMIEN TUDEHOPE (23:11): I contribute to debate on the Conversion Practices Ban Bill 2024. It is now 10 past 11 o'clock at night. This is a very significant piece of legislation, and we are starting to debate it at 10 past 11 o'clock at night. People who wanted to speak on the legislation, or who may have wanted to move amendments to it, may well have gone home. They might be too tired to do so or they might not do so because of the late hour. That, in my respectful submission to the Leader of the Government, is an abuse of democracy. This debate should not be starting at this hour of the night. In many respects, it grieves me that people who should have an opportunity to speak are not given that opportunity in circumstances where they are fresh and have been able to properly prepare the speech they wanted to give.

In many respects, it is also an abuse of all the people who may want to watch the debate and participate in the legislative process. I have received more emails about this particular bill than any other bill introduced in this place. I anticipate that lots of people will want to know what members have to say about this legislation. There is no urgency attached to the bill; it is not due to commence for 12 months. Why are we debating it tonight? Why are we not doing that tomorrow or on the first available sitting day in May? I will tell members why. It is because the Government wants this piece of legislation out of the road. The Government does not want public exposure of this legislation to continue. It does not want people to have an input and potentially put pressure on members of the Government in relation to different views on the provisions in the legislation.

I can only say that the Hon. Mark Latham was right earlier today, when he said that this is part of the manner in which the Government does its business on difficult issues. First of all, the Government rejected an opportunity to have an inquiry. That inquiry could have been done over the parliamentary break, a report could have been available when Parliament returned in the first week of May, and the debate could have continued. But, no, when it comes to controversial legislation, such as this bill, this Government will say, "Get it out of the road. We will not brook amendments. We will not brook any further debate. We are perfect, and we will not even consider reasonable amendments." The perfect Attorney General is in the President's gallery. He has perfect ways of thinking about legislation.

The Hon. Penny Sharpe: We're writing this down, you know.

The Hon. DAMIEN TUDEHOPE: I am the first one to admit that this bloke has to be some sort of megastar. He is the only Minister that I have ever known who claims the title of the "perfect Attorney", who brings in legislation incapable of having amendments considered properly by the Legislature of this place. Even if those amendments are simple and, in many respects, reasonable, this bloke will not consider them because it does not fit with his agenda. I have to say that it is the height of arrogance. Mr Perfect is, in fact, Mr Arrogant.

Turning to the bill, I happen to agree with a lot of what the Leader of the Government said. In fact, I agree with her that New South Wales is a multicultural society, with a wide range of perspectives on all sorts of matters, including the nature and purpose of human sexuality and the meaning of gender identity. Views on the two matters addressed in the bill, sexual orientation and gender identity, vary significantly. Many religious organisations and individual believers hold a firm view—often based on a traditional reading of religious texts—that the meaning of human sexuality is innately tied to human reproduction and the biological complementarity of men and women. Based on this view, some religious bodies teach and individual believers accept that sexual acts should only take place between two people of the opposite sex who are married to each other. At the other end of the spectrum of views on sexuality are those who hold that any sexual acts between two or more people, who are each above the age of legal consent, are valid and indeed should be celebrated.

Similarly, there is a wide range of views on the issue of gender identity. Several women's groups, including some feminist groups, are insistent—based on science, they say—that sex is a biological reality and that the notion of an individual having a gender identity that differs from the individual's biological sex is fanciful and has no grounds in reality. In the view of these groups, pandering to those fanciful claims about an invisible gender identity poses real risks to hard-won women's rights, including the right to safe women-only spaces. Others believe not just that an individual's gender identity may differ from their biological sex as assigned at birth but that there are multiple possible gender identities; that a person may change their self-declared gender identity as frequently as they feel inclined to do so; and that anyone who objects or even fails to affirm each of these self-declared gender identities is committing a breach of human rights that should be punished.

How do we approach legislating for the whole community with such widely different views? Mutual respect, an open acknowledgement of different views and a genuine search for common ground are the appropriate approaches to the challenge of differing and often conflicting perspectives on what is truly good for the human person and for the community. Prior to the March 2023 election the member for Epping, the then Premier, was the first leader to commit to legislating a ban on damaging gay conversion practices. He referred specifically to practices such as electroconvulsive therapy and food deprivation. The main offence provision in the bill before us tonight appropriately includes an objective threshold of causing mental or physical harm to an individual that endangers the individual's life or is substantial. There is broad common consensus that such practices are wrong and should not be permitted. Hopefully, there will never be a need for a prosecution for this offence as the passage of this provision into law should cement the existing consensus that such practices are simply wrong.

However, in addition to creating a specific offence, the bill also introduces a very complex and potentially intrusive regime of civil complaints based on an unqualified provision that "An entity contravenes this Act if the entity provides or delivers a conversion practice." The complex definition of conversion practice in clause 3 of the bill takes up nearly a full page. It includes various exclusions. Understanding exactly what is and is not a conversion practice should be possible for all interested parties, including religious groups, feminist groups, families and health practitioners. Good law is transparent law that people can understand readily. If understanding is not easy to attain, there may be significant consequences. People acting in good faith may find themselves accused of engaging in a banned conversion practice. Others, fearful of breaking a law they do not understand, may fail to provide needed and helpful treatment, care or advice to a person who requests it.

As I said earlier, specific concerns have been raised about the bill in its current form by feminist groups, religious groups, health practitioners and many individuals, including parents with very genuine concerns about the potential intrusion into family life. Opposition members will support the bill at the second reading because it introduces an offence that penalises practices on the prohibition of which there is broad community consensus. During the election campaign we promised that we would ban them. However, we will move a number of amendments during the Committee stage to address at least some of the concerns that have been raised with us. We urge all members to consider each of those amendments on their merits and not follow blindly the dictates of their parties.

If the Government had had genuine and open consultations with all stakeholders before introducing the bill, the amendments may not have been necessary. Secret consultations with only a favoured few stakeholders is not how an open democracy should work. Excluding those with challenging opinions is unhelpful. Religious groups may learn, to their regret, that being invited to participate with the Minns Labor Government in a secret dialogue is not the best way to achieve the best outcome for their members. The brash way in which the Government has treated their participation as a de facto endorsement of the bill as introduced should be a reminder

that "the sons of this world are more shrewd in dealing with their own generation than the sons of light". Religious groups, and individual believers, remain concerned that encouragements to live chastely outside of marriage may fall under the ban on conversion practices and that, in some circumstances, prayers and sermons may become unlawful.

Health professionals, including those assisting children with gender identity issues, remain unclear as to what approaches to treatment they can provide without risking the wrath of the anti-discrimination president. Can genuine help with coping skills be offered to a person at their request, or only if there is certainty that the anti-discrimination president will not subsequently find that it was not directed to meeting the person's "real" needs? Will the anti-discrimination president be knocking on the door of a family home to pursue complaints against parents for going beyond a bland discussion and setting rules and behaviour standards for a child living under their roof?

I will address those concerns more precisely during the Committee stage, when I will move a number of amendments, most of which have been requested by the very faith leaders who were consulting with the Government in relation to this bill. I just want to say to those various faith leaders, who have now embraced and given a warm endorsement to this bill, that in many respects I understand that they wanted to achieve what they thought was the best outcome for the community that they represent. But, when they have written to numerous members of this place requesting additional amendments to this legislation but they do not achieve what they think is in the best interests of their community, they need to stand up and say that they cannot continue to support the bill. They are silent in relation to their participation. They have not said to members whether they should support the bill if the amendments that we will move tonight are not carried.

I say to those faith leaders that I think that is, in fact, moral cowardice. If they have requested various amendments to be made to this legislation because they think that they are important, then they should have the courage to say to those people to whom they are writing whether they would continue to support the bill if those amendments are not passed. The failure to do so represents for each and every one of those leaders a real betrayal, in my respectful submission, of the communities that they represent. If they really want those amendments passed, then they should have the courage to say so. I will reserve my further comments on the bill to the Committee stage. As I indicated earlier, the Opposition will support the second reading of the bill and will move various amendments during the Committee stage.

Dr AMANDA COHN (23:28): As The Greens spokesperson for LGBTIQA+ issues, I indicate that The Greens will support the Conversion Practices Ban Bill 2024, as well as seek to move amendments to strengthen it. Conversion practices are founded on the dangerous falsehood that LGBTIQA+ people are broken or disordered and that we can and should be treated or corrected. There is no medical basis for conversion practices. Sexuality and gender identity are not choices that can be changed. Conversion practices should not be referred to as "therapy" because there is nothing therapeutic about them. Bans of those practices have been slowly rolling out since the United Nations called for a global ban in 2020. Victoria, the Australian Capital Territory and New Zealand have outlawed conversion practices. We are debating this bill today because of the tireless work of victim-survivors who have advocated for many years to ensure that no-one will have to go through what they have endured.

There is a misconception by some that conversion practices are a thing of the past. But conversion practices are indeed taking place in New South Wales in 2024. Peer-reviewed Australian research undertaken in 2019 has shown that 4 per cent of LGBTQA+ Australians aged between 14 and 21 years have experienced conversion practices. That is a conservative estimate. With the inclusion of informal practices, it could be as high as 10 per cent. In 2022, when Victoria was drafting its legislation to ban conversion practices, at least 10 organisations in Australia and New Zealand were found to be publicly advertising these practices. Previous generations endured conversion practices with overtly cruel interventions like electro-shock therapy, but modern conversion practices look duplicitously like care. They look like psychology or counselling sessions, exorcism, people being prayed over and celibacy groups.

As many survivors of conversion practices have shared, this so-called therapy does not change anyone's sexuality or gender identity. What it has done is wear down people's self-esteem, make them believe that there is something wrong with them, that they are possessed by demons or that they are failures for not having been able to change. Conversion practices have made people hate themselves and believe that they are better off dead than being same-sex attracted or gender diverse. The Australian Medical Association stated:

> There is strong agreement among the medical profession in Australia that conversion practices have no medical benefit or scientific basis, and that there is evidence of significant harms resulting from such practices.

Of course, there is no voice more important in this debate than the voices of victim-survivors of conversion practices. I thank every survivor who bravely shared their story with members of Parliament and the broader

community and note the testimonies of Eamon, Samuel, Anthony and Dawn that were shared during debate on the bill in the Legislative Assembly yesterday, as well as the testimonies that were shared by the Leader of the Government in this debate. I share some of the testimony of Jeremy Smith. He said:

> I grew up in the conservative Catholic sect Opus Dei. The school I went to was an environment rife with homophobia. We were taught that sexually active gay people were 'intrinsically morally evil' and destined for hell.
>
> The school's motto 'the truth will set you free' was cruelly ironic, given that myself and others were told to not only hide and repress our true sexuality but to also change it.
>
> After I came out to my mum as gay at 16, she told my school tutor without my knowledge. I remember a conversation with my tutor in which he said I must never act on my attraction to other boys.
>
> My parents took me to a child psychiatrist who offered me therapy to suppress my attraction to boys. I declined this therapy.
>
> Then, my parents took me to see a Jesuit Catholic priest. I remember being taken to this priest against my will, crying in the car on the way to and during the session. This therapy would involve prayer if I had 'impure thoughts', methods to force myself to not act on my sexuality and conversations about the implications of being gay on my eternal soul.
>
> I remember nights trying to hold my breath to make any sexual arousal go away. I remember nights where I would cry myself to sleep, thinking that I was sinful and destined to be damned to hell.
>
> After a few sessions, I remember being in the car with my mum on the way home, breaking down crying saying I was growing to hate apart of myself.
>
> Although my brush with conversion practices was only fleeting, it has left lasting scars.
>
> Conversion practices of all kinds encourage dark thought patterns and self loathing and the protections must extend to gender diverse people, given the high rates of suicide for young trans people.
>
> I have since received real therapy in my 20s that helped me overcome the trauma of the conversion therapy I experienced.
>
> You wouldn't send your child to places that promote eating disorders or self harm. And yet that is exactly what conversion practices are, a form of self harm. These practices must be outlawed to save lives.

Another person with a valuable story is Ace Leeson. Ace said:

> As a teenager when I realised I was attracted to women, I did what was expected, and that was to go to church leaders. I told my youth pastor, and she said to me, God has a plan for your life. 'And if you choose the wrong path, if you date women, you will only find death and destruction'.
>
> So I tried to follow God's path for the next 15 years. God's path was prayer camps, where Demons were cast out of me, confession meetings with my church leaders, studying ex-gay ministry materials, and even installing spyware on my computer.
>
> I was also encouraged to get married, which didn't work out. But in having my kid, I had the opportunity to meet people outside of the church, including a happy lesbian couple who had kids. That was mind blowing for me, to see that being queer didn't have to mean destruction, but that I could be myself and be happy.

I thank Jeremy and Ace and other survivors who have retold their personal traumas over and over again, who have helped the Parliament and the community to understand the profound negative impact of conversion practices. I also acknowledge the many survivors listening tonight who are not able to relive or share their trauma in that way. The bill defines a conversion practice as:

> … a practice, treatment or sustained effort that is—
>
> (a) directed to an individual on the basis of the individual's sexual orientation or gender identity, and
>
> (b) directed to changing or suppressing the individual's sexual orientation or gender identity.

The inclusion of gender identity is welcome and recognises the unique vulnerability of trans and gender-diverse people, who face some of the worst discrimination in our communities. Importantly, it includes suppression as a form of conversion practice, which is critical when that is the form of many modern conversion practices and can be just as harmful. The definition proposed in the bill includes a specific exception for an expression that a belief or principle ought to be followed or applied. The Greens believe that the definition and that exclusion mean that some harmful practices will not be captured by the bill, and we will be moving an amendment to address that.

The bill sets out both a criminal offence and a civil complaints scheme to address conversion practices. A criminal penalty is appropriate where there is evidence of substantial mental or physical harm, noting that that can be cumulative. The most important change that the bill will drive in New South Wales is not that significant numbers of people will be criminalised; it is that a very clear deterrent is set that can prevent harm from taking place. It is about protecting LGBTQA+ people and particularly LGBTQA+ people of faith, who are most likely to be subjected to those practices.

I understand that the civil complaints scheme has been modelled on the provisions of the Anti-Discrimination Act 1977. That complaints mechanism requires the identification of a named and consenting complainant. However, survivors can take years before being well enough to reach out for help to make a complaint—if they ever are—let alone to make a complaint themselves. Many never realise that they are survivors.

The Greens will also move an amendment to improve the ability of third parties to report conversion practices. It is a great indignity to survivors, their supporters and LGBTQIA+ people watching with bated breath for Government members to have moved this important legislation in the manner that they have. The Government took a year to introduce the legislation and the bill was scheduled last on today's agenda. I acknowledge those who have been in the gallery for many hours waiting for the debate to start at 11 o'clock at night.

I am hopeful that the bill passes tonight. This important and overdue change will save lives. But what is next for LGBTQIA+ people to be able to participate fully in community life, free from discrimination in New South Wales? It will still have the worst laws in the country for LGBTQIA+ people, with people who are bisexual—like me—intersex or non-binary not being protected by the Anti-Discrimination Act. New South Wales still requires people to undergo violating and medically unnecessary genital surgery to be able to change their gender on official documents. We are still performing unnecessary surgery on kids born with variation of sex characteristics, which causes long-term harm. The recommendations of the Special Commission of Inquiry into LGBTIQ hate crimes have not been implemented, and we do not have a Minister or a commissioner to drive and coordinate the reform that we need. Hopefully tonight we take one big step forward. Let us relegate conversion practices to the dustbin of history, where they belong. I commend the bill to the House.

[*Business interrupted.*]

Visitors

VISITORS

The DEPUTY PRESIDENT (The Hon. Dr Sarah Kaine): I acknowledge that we are joined tonight, either in the galleries or watching in the Macquarie Room, by Chris Csabs, Anna Brown, Ghassan Kassisieh, Tammie Nardone, Teddy Cook, Sam Johnson, Danielle Yung, Naureen Shah, Tiffany Jones, Anna Venn-Brown, Emily Mulligan, LGBTQI community and supporters, the member for Sydney, the member for Newtown and the Attorney General. They are most welcome.

Bills

CONVERSION PRACTICES BAN BILL 2024

Second Reading Debate

[*Business resumed.*]

The Hon. STEPHEN LAWRENCE (23:38): I support the Conversion Practices Ban Bill 2024. Members have all received a deluge of emails and letters about the bill and related issues. The strength of feeling in the community is mirrored here, where I know there are strong and conflicting views. The bill represents a valiant attempt to balance the need on the one hand to repudiate and prevent harmful conversion practices, and the need on the other to protect freedom of religion, uphold the sanctity of communications and relationships within the family, and allow the medical profession to treat complex health issues with informed care and good judgement. I am aware of the trauma associated with the historical and ongoing use of conversion practices, and we need to be mindful of that in our contributions—while, of course, we must also speak freely.

I spoke this week to a friend of mine who was subjected to conversion therapy as a teenager back in 1967. He is a delightful human being, funny and intelligent, and now even able to see the dark humour in his own experiences. These are some notes from my recent conversation with Michael Tobin:

> I object to the term conversion, what I experienced was all about aversion. They never actually offered the conversion part. It seemed to be aimed at making one asexual.
>
> When I was growing up being gay didn't exist.
>
> When I decided I was gay, by that I mean attracted to males, I didn't want it.
>
> I wanted to be normal. Whatever that is. As you get older you discover normal itself has 50 shades of grey.
>
> I went to lifeline first. I was 19. It was 1967. They referred me to Neil McConaughey. At that time Australia's foremost expert in treating homosexuality.
>
> He took me at my word and decided I needed to be treated.
>
> I was at Prince Henry Hospital for a week in the psychiatric ward. That was deeply disturbing, because it was full of acutely mentally ill people. I didn't consider myself crazy.
>
> That week converted me to not wanting to convert.
>
> Stage one of the aversion therapy involved showing me pictures of naked boys and men and females. Early teens onwards.
>
> My penis was put in a tube and if you became sufficiently erect you got electrocuted. It wasn't painful at first, but an obvious electric shock.

> The whole process was so embarrassing, I came from a family typical Australian family where nudity was off limits, and even discussion of matters sexual was a complete no-go area.
>
> Stage 2 was nausea producing drugs. I opted out of that.
>
> After a week of being hospitalised and treated I can say I became averse to aversion therapy.
>
> I remember consciously saying to myself I would rather be gay than asexual.
>
> A year later I ran off and joined the theatre.
>
> Within 18 months I had my first sexual experience and it was so overwhelming I thought "wow was I really trying to get away from this".
>
> From my experience I would say you cannot change someone's sexuality.
>
> Neil McConaughey's daughter later put on the record that he was in fact himself same-sex attracted. I note he later had an epiphany and became an expert proponent of sexuality being unchangeable.

That is a story about being subjected to conversion practices at a leading public hospital in this State in 1967. The past is indeed another country. Even more extreme forms of conversion and aversion therapy have been practised in different places, including castration and the deliberate infliction of brain injury. I read that aversion therapies like the one Michael experienced had their roots in practices developed in Czechoslovakia, and different variations were carried out over a period of about 60 years in certain parts of the world. I read that they were rejected fairly early in the Eastern Bloc, with some early proponents in fact becoming advocates for decriminalisation of homosexuality, which occurred in Czechoslovakia far earlier than in Australia.

However, those practices were picked up in Commonwealth countries like Australia and systematically trialled for many years. Their eventual abandonment is dated to around 1973 when psychiatric bodies in several countries began to remove homosexual desire from their catalogues of mental disorders, of which the *Diagnostic and Statistical Manual of Mental Disorders* was one example. These systematic medicalised conversion practices are not, of course, the only types of conversion practices. Other types, which are still practised today, are more informal and sometimes difficult to characterise, and whose banning potentially raises issues of religious freedom, including counselling, prayer-based sessions and the like. Amnesty International states:

> These practices are often carried out in the context of pastoral care, prayer ministry, 'accountability' groups or in therapeutic contexts such as counsellors or life coaches. Because of this, they can often be difficult to spot and rationalised by religious groups as providing care for "unwanted" same-sex desire/gender expression. However, conversion practices can be identified by their common beliefs in conversion ideology.

I read that these modern conversion practices became more common as formal medical conversion practices were abandoned. They have been most common in Protestant Christian church denominations, but similar practices have also been carried out in other Christian and non-Christian faith groups. Australian studies indicate that people in Australia continue to be exposed to conversion practices. A 2019 study of 6,412 LGBTQA+ Australians under 25 found 4 per cent, or 249, attended counselling, group work, interventions or programs aimed at changing or suppressing sexuality or gender identity. A qualitative study undertaken from 2016 of 42 Australian victim-survivors found that one-third experienced conversion practices through formal therapy with a registered psychologist or counsellor, and every participant had experienced spiritual conversion practices.

Personally, I speak on this bill remembering well the shame of being a gay kid, which can drive consent to such procedures. I recall in the 1980s, as a child, fervently wishing not to be gay and praying to God that I might be changed. I remember that belief that there was something wrong with me and hoping it might just go away. But you come to know over time in your heart that it is just you. It is permanent and cannot be "fixed". Such shame is produced by a culture that can lead family and others to compel subjection to such procedures. An important thing about this bill is the message it sends to sexually and gender diverse kids. "You are normal. You are absolutely fine as you are. You don't need to be fixed." I can say to such kids, as a gay person, that I would not change a thing about my very fortunate and privileged life. While it was not true as a child, I can say now in all honesty that I would not want to have been born straight, because I would not have the wonderful life and partner that I have—and I am not sure if I would have the two dogs or not.

The Hon. Penny Sharpe: You would always have your ice bath.

The Hon. STEPHEN LAWRENCE: Indeed. I acknowledge that interjection. Proposed section 3 of the bill is a cornerstone of the proposed scheme and defines a conversion practice as:

> … a practice, treatment or sustained effort that is—
>
> (a) directed to an individual on the basis of the individual's sexual orientation or gender identity, and
>
> (b) directed to changing or suppressing the individual's sexual orientation or gender identity.

Section 5 then creates a criminal offence:

… if the person provides or delivers a conversion practice to an individual—

(a) with the intention of changing or suppressing the individual's sexual orientation or gender identity, and

(b) that causes mental or physical harm to the individual that—

(i) endangers the individual's life, or

(ii) is substantial.

I will discuss some of the concerns that have been raised with members by the community. One concern is what is said to be an inappropriate conflation of sexual orientation and gender identity as both being an immutable characteristic of a person and the consequences that might flow from such conflation. This question of immutability is relevant to anti-discrimination law and is a feature of American constitutional law, with its concern about equal treatment.

In *Grimm v Gloucester County School Board*, the Fourth Circuit Court of Appeals considered a transgender student's right to use the school bathroom that corresponded to his gender. The court had to decide whether transgender status was a "class that may be defined as a discrete group by obvious, immutable, or distinguishing characteristics". The court held that "Gender identity is formulated for most people at a very early age, and, as our medical amici explain, being transgender is not a choice. Rather, it is as natural and immutable as being cisgender." The court did however limit this to "the rights of transgender students who 'consistently, persistently, and insistently' express a binary gender" and stressed Grimm's immutable gender in the opinion, stating, for example, "Grimm always knew that he was a boy" and "would opt to wear boys' clothing". Later, the court even wrote that he "did not question his gender identity at all; he knew he was a boy".

It is commonly said and probably understood that sexual orientation is a generally immutable characteristic of a person, meaning an unchanging and fixed quality of a person. That said, I would not suggest that everyone is one way or the other, or that nobody has changes in their sexuality over the course of their life. Gender identity, on the other hand, is said to often lack that quality of immutability. It may be immutable, as demonstrated in the United States case I just referred to, but sometimes, perhaps often, it is said not to be so. It can shift over time. The research I have assessed seems to support these contentions that gender identity can be less immutable—that it can and often does change over the course of a person's life.

There is a wealth of evidence. I note that Westmead Hospital has published statistics on the rate of desistance for young people diagnosed with gender dysphoria and assessed it at 9 per cent and at 22 per cent overall among those presenting with gender confusion and distress. This would seem to show that many young people provided with the appropriate medical care who identify as trans may not do so later in life. It obviously does not say anything about young people who identify as trans and do not seek gender-affirming treatment and their rate of desistance. One would assume that it may be higher.

This in no way dismisses or undermines their right to identify as male or female and, of course, be treated with respect. In any event, it must be stressed that for many people their gender identity is fixed and immutable, as described by that American court in the Grimm case. As part of the queer community, I have known many such people. I am talking about trans people, whether or not they seek medical interventions and ultimately gender reassignment surgery, who know exactly what they are, and always have, and it is not a gender consistent with their biological sex. On the other hand, I have also known once trans people who no longer identify as such.

The phenomenon of desistance is a relevant thing to note in this debate because a large part of the community concern around trans issues at the moment is focused on the question of medical treatment of trans youth, in particular the use of puberty blockers and surgical interventions that, in effect, seek to align gender identity with sex. A concern being expressed is that trans youth will avail themselves of life-changing medical interventions in circumstances where they will later regret it and/or where they would later, without the treatment, have assumed a gender identity consistent with their biological sex—that is, that permanent medical treatment will be given at a time when a person, being a child, is less equipped to make decisions with long-term implications for a situation that is not in fact permanent, but the effects of the treatment will be.

Another concern is that there is said to be a lack of evidence that such early interventions, commonly referred to as the "Dutch Protocol", actually minimise the distressing symptoms of gender dysphoria in young people. The research on this seems to be evolving and conflicting. I do not recite these concerns to adopt them. Indeed, the complexity of the medical and research issues make it difficult for me to form a certain view on some of these concerns. I raise them because these broader concerns feed into consideration of the bill in a few different ways. There is a concern—which, again, has been expressed by community members—that the legislation adopts the premise of immutability in respect of both sexual orientation and gender identity. This is said to come firstly from the twinning of the concept of gender identity with the concept of sexual orientation but also from the provisions in proposed section 3 (3) in terms of what is excluded from the meaning of conversion practice.

The concern, as I understand it, is that these exceptions and legislative examples seem to be premised on the idea that a person has one fixed gender identity that should not be challenged, even if a person can be assisted to explore it under the legislation. A part of the concerns being expressed is particularly that same-sex attracted youth might identify as trans and ultimately undergo medical interventions when, in fact, if given time, they might ultimately desist and identify as gay or something else. There is, of course, a close connection between gender and sexuality in a society that enforces both in a close and related way. That concern is being expressed particularly strongly in respect of young same-sex attracted people, perhaps with other conditions, which might make a diagnosis of gender dysphoria a more complex exercise and which it is said might require greater exploration and may be challenged by medical professionals to determine the most effective form of care.

A second concern being expressed is that this alleged legislative premise of immutability and potential exposure to wrongful criminal prosecution might impact the way in which the medical profession administers treatment for gender distress, confusion and dysphoria. Doctors, psychologists and psychiatrists might feel compelled to affirm a stated gender identity, prescribe medical treatment and proceed on the basis that gender identity is immutable and, once articulated, must be affirmed, even if a medical professional, for example, is concerned that the etymology of the articulation of the gender identity is something else. On the other hand, they might be less likely to treat these conditions at all, as they will perceive the risk of complaint to be too great in circumstances where the line around legitimate exploration of identity might be fine and subjective.

On the second concern I think it is important to consider not just what this legislation might say and what we think it in fact means but also a range of uncertainties, not just in legal meaning but in how it will actually operate and what fields of operation it will have. I say that because our laws are not simply normative propositions with a fixed meaning and effect; they operate in many and varied ways in the way they are both understood and enforced. It should be acknowledged that those concerns, and the debate that they are part of, do not occur in a vacuum. Many of those concerns, though not all, are being expressed by churches and faith-based organisations. Many are influenced, and proudly so, by theological, scripture-based principles and natural-law philosophical precepts. I do not say that to dismiss the concerns, but it must be acknowledged that many voices in the debate have that perspective.

But not all of the voices can be characterised in that way. There are medical professionals and professional groups also raising concerns that do not seem motivated in that way. There seems to be a rapid increase in reports and diagnoses of gender dysphoria, and that, in my view, is a new and evolving area of medical speciality. As I have said, I find some of the issues and concerns hard to form a settled view on. However, I am comfortable supporting the bill because of the clear exception to liability in proposed section 3 (3) for "a health service or treatment provided by a registered health practitioner that the registered health practitioner has assessed as clinically appropriate in their reasonable professional judgement and complies with all relevant legal, professional and ethical requirements".

I also note the examples in proposed section 3 (3) of what is not considered a conversion practice, including genuinely assisting an individual who is exploring their sexual orientation or gender identity, or considering or undergoing a gender transition; genuinely assisting an individual who is receiving care and treatment related to the individual's gender identity; and genuinely advising an individual about the potential impacts of gender-affirming medical treatment. In my view, the exceptions in the examples make it clear, if clarity was needed, that a medical professional is not required to always affirm a professed gender identity, let alone required to prescribe significant medical treatment if not satisfied that it is needed and is in the best interests of the patient.

While the risk of the proposed section stifling a divergence of views in the medical profession or causing some professionals not to practise in the area because of a perceived risk of prosecution is concerning on its face, I understand that the legislative examples have helped address concerns. I trust that consultation has occurred in a proper way. Ultimately, we need to trust our institutions of justice in how the laws are enforced, just like we need to trust our professions in how they will operate in the context of those laws. Fundamentally, these are issues between patients and doctors, and that is the only way the complex issues can be worked out in the best possible way. There is a real risk in not legislating. The evidence before us is that harmful conversion practices continue to occur. That is unacceptable. On that basis, I hope that the bill passes, that it works well, that it puts an end to conversion practices and that it sends a powerful message to diverse communities that they are normal, accepted and respected. I commend the bill to the House.

The Hon. NATASHA MACLAREN-JONES (23:57): I speak in debate on the Conversion Practices Ban Bill 2024. Before the State election in March 2023, former Premier Dominic Perrottet made history as the first leader to pledge the passing of a law prohibiting damaging gay conversion therapy, should he be re-elected as Premier. Then Premier Perrottet articulated his determination to eradicate harmful gay conversion practices, citing methods such as electroconvulsive therapy and food deprivation as examples. He pledged to ensure a fair and equitable approach to crafting any legislation on the issue. During the election, the Liberal Party's stance was

centred on striking a delicate balance between prohibiting detrimental practices and safeguarding essential freedoms. I have received a lot of correspondence and met with various individuals and organisations that feel strongly about the bill. I thank them for taking the time to explain their views and concerns.

It is unfortunate that the Government has refused to give other organisations and the public the opportunity to thoroughly consider the bill in detail, rather than rushing it through at the eleventh hour. Frankly, it is undemocratic and leaves little time for members to review the legislation or consult more broadly with the community to hear their concerns or support for it. If the Coalition initially led the charge on the issue, it seems that it has been excluded from the legislative development process by the Minns Labor Government. From the Government's standpoint, the prospect of bipartisanship both on this matter and others dissipated following the State election. The approach of conducting consultation on the bill behind closed doors, with select stakeholders, is unfortunate. That opaque method underscores a growing pattern of a lack of transparency by the Minns Government across various areas.

Despite questions being asked of Labor, we still do not know which groups were consulted. I understand many were asked to be included but were not. Some stakeholders were notably absent from the consultation process, including LGB Alliance Australia, Christian Schools Australia, the Australian association of women's schools, Australian Feminists for Women's Rights and several more. Correspondence received from Rachael Wong from the Women's Forum Australia states:

> We received no feedback at all on our submission and we were not invited to participate in any of the closed roundtable meetings that were conducted, despite our clear community interest regarding the proposed bill. Unlike what has been the case for a very small select group of stakeholders. Neither were we provided with any draft bill for review. We understand that there are other women's groups, as well as children's, parents and LGB alliance groups, who similarly found themselves shut out of consultation on the bill.

Labor's decision to carry out secretive, closed-door consultations highlights that more than half of the elected representatives in Parliament, including all members of the Coalition, were left out of these discussions and were never provided a draft version of the bill at any point. Such an approach is extraordinary, particularly for a minority government. It means that the Liberals and The Nationals only sighted the bill less than a week ago, when the Attorney General tabled it and commenced his second reading speech in the Legislative Assembly on the afternoon of Wednesday 13 March 2024. This timeline effectively gave the Opposition fewer than four clear business days to engage with the bill and included only two parliamentary sitting days when other legislation was being discussed. This time frame encompassed discussing the bill among colleagues, gathering community feedback and formulating a position to present in the Chamber today.

The Government is intent on expediting the passage of the legislation through both Houses of Parliament this week, meaning it will be enacted about a week after it was first made public to the Opposition and the public. This rushed timeline is undeniably unreasonable, undemocratic and, frankly, arrogant. It has left insufficient time for the community to review the legislation and consult with their local members of Parliament, as is expected in a representative democracy. It leaves insufficient time for members to gather feedback from the communities they represent. It is not just residents of Coalition electorates who are disappointed with this situation. Members of the community residing in Labor electorates would also be gutted that their representatives are part of a government that imposes an unreasonable timetable that prevents proper public consultation.

Public consultation serves as a vital avenue for gauging community perspectives on legislation, whether it is regarding concerns that the proposed measures may not go far enough or that certain rights might not be adequately protected. On Tuesday this week the Legislative Council Selection of Bills Committee made the decision to refer the bill to an inquiry, a move supported by the Opposition. In this context, such an inquiry would have afforded greater opportunity for thorough consideration, public engagement and scrutiny of potential amendments to the bill. However, the Premier directed his Labor colleagues in this Chamber to align with The Greens, thwarting any opportunity for an upper House inquiry. This decision underscores the Minns Government's determination to sidestep proper scrutiny of its legislation, to sidestep transparency and to sidestep accountability.

Members of diverse religious communities, including Christians, Muslims, Hindus and others representing our culturally rich society, are trying to understand how this legislation may affect their freedom of faith. They seek assurances that their cultural values, religious teachings and practices will be respected, and that adherence to their beliefs will not subject them to unintended legal consequences under the bill. Furthermore, many non-religious groups and community members are also trying to understand how their families and freedoms might be impacted by the bill. For example, the term "suppression" contained in the bill is undefined, which would concern most people, particularly a parent who may want to and should be able to discuss any topic with their child without interference from government. These dynamics highlight the complexity of the issues at hand and the need for thorough examination and consideration to ensure that the legislation adequately addresses the diverse range of perspectives and concerns within the community.

The Attorney General's stance of rejecting amendments suggests a belief in the bill's perfection, disregarding the possibility of improvement through alternative perspectives on its wording and construction. However, legislation is not infallible and can benefit from input to refine its effectiveness. Given the significant impact of the bill on people's lives, it is imperative to ensure it is as robust as possible. Drafting legislation presents significant challenges, particularly in carefully delineating the definitions of conversion and suppression practices. It must address the delicate balance of safeguarding religious speech and teachings while ensuring that sincere, albeit imperfect, conversations between parents and children, rooted in love and good intentions, are not subject to prosecution.

It is strikingly ironic that despite the Government's propensity for initiating numerous reviews and inquiries, some of which endure for over a year, this legislative process will conclude within just one week. That is despite the bill having a delayed commencement of 12 months after its assent. The rapid timeline appears to prioritise political manoeuvring over genuine consideration for the people of New South Wales or the fundamental purpose for which the Parliament was established—to represent the interests of the public and hold the government accountable.

Labor has already commenced a review into the Anti-Discrimination Act, a process expected to span well over a year and remain active for several months. Notably, certain aspects of the Conversion Practices Ban Bill are intertwined with provisions of this law, yet the former is slated for passage well in advance and not within a mere week. That discrepancy raises concerns of hypocrisy and unwarranted haste. While the Government appears to have consulted with segments of the community that are highly supportive, it has sidestepped engagement with other groups and evaded dealing with challenging questions surrounding the bill.

Notably, organisations such as Women's Forum Australia and Australian Feminists for Women's Rights have strongly advocated for the removal of gender from the bill, a request that merits consideration. Unfortunately, time constraints prevent me from delving into the substantive concerns shared by me and by many others regarding the bill. I note that my colleague has indicted that we will be moving a number of crucial amendments in the Committee stage. I urge the Labor Party to maintain an open-minded approach towards the amendments put forward by the Opposition. It is imperative to strike the balance needed that will serve our community as a whole.

The Hon. MARK BANASIAK (00:06): I contribute to debate on the Conversion Practices Ban Bill 2024. Today we are faced with debating the Government's election commitment dilemma. It is a dilemma because it promised people from the LGBTQI+ community that it would do something for them and then promised the faith groups that what it delivered for the community would not infringe on religious, faith-based practices and parental rights. The reality is that the Labor Party has promised the impossible, which is freely admitted by many of the groups consulted by the Attorney General's office.

The proposed Conversion Practices Ban Bill 2024 has been introduced with no demonstrable need attached. No-one has been able to articulate it with any clarity or point to current statistics that indicate that present-day practices are causing harm or "substantial" harm. Sure, there have been historical processes and practices in the past that, upon reflection, everyone would agree were not great and are not acceptable now. But the question needs to be asked: Without a demonstrable need or current problem to solve, is this legislation necessary? We clearly do not have the balance right between these two groups. Let us be clear: This legislation seeks to regulate deeply personal matters that should perhaps remain within the domain of individual choice and autonomy.

Despite the Attorney General's attempts to insert provisions that seek to protect religious beliefs and teachings, the attempts need to be clearer and avoid leading to misinterpretation and confusion. The Attorney General has spoken about his engagement with faith groups but, unfortunately, the finished product demonstrates that either the Attorney General failed to fully comprehend the tenets of religious beliefs, faith-based practices and teachings put to him in these consultations, or he has understood them but refused to incorporate them into the bill fully. In his second reading speech, the Attorney General stated:

> The bill does not impact a person's ability, of their own consent, to seek counsel or guidance from within their faith. Counsel and guidance can still be given, provided they are not directed to change or suppress.

Yet suppression and conversion practices are not clearly defined. The bill premises that the range of conversion practices cannot be defined by the Attorney General in specific acts. Additionally, there is commentary that conversion practices are based on a misconception or presumption that LGBTQI+ people are broken and need fixing. Once again, no-one can point to specific presently committed acts that will be covered under the definition of "conversion practices" that seek to do what is suggested and treat people as broken. Because of the vague concepts described in the bill, it will limit the free expression of speech between parents, family and children, in faith-based practices and, equally important, in formal and informal counselling, which will devalue the medical profession.

The bill undermines the professionalism of our medical profession, particularly psychologists and counsellors. It essentially attempts to limit their scope of practice by law, based on this Parliament's and the Attorney General's medical expertise. While we acknowledge individuals who took part in the consultation process and shared their lived experiences of conversion practices in the past, basing the bill on events significantly in the past, without significant demonstration of current practices that cause concern, is foolish. What constitutes a conversion practice in itself is also open to interpretation, as there have been no detailed studies in recent years explicitly providing the numbers, statistics, methods or forms of the conversion practices performed necessary to base the bill on substance.

The Shooters, Fishers and Farmers Party also notes that there has been a conscious attempt by the Attorney General to protect dangerous practices on minors, such as puberty blockers and gender reassignment medical treatments, from being considered conversion practices. Of particular concern to many parents within the community is the emerging evidence from other jurisdictions of harm from gender-affirming care, particularly to those under the age of 18 years. I say to the Attorney General and this House that when it comes to conversion practices, the barn door must swing both ways.

This is one of the most polarising issues that has come up in my experience. The Shooters, Fishers and Farmers Party has been inundated with emails and phone calls from a variety of constituents, from conservative points of view to a wide spectrum of other views, including the LGBTQI+ community. This proves that that community is not in agreement on this topic and the approach being applied. The plethora of organisations that reached out to us, with very different political views, expressed a deep concern regarding the bill, reaching a unison of agreement that the bill is a very problematic piece of legislation, regardless of one's believe, faith, background or lifestyle.

The very problematic reality of the consultation process, or rather the lack of it, was also raised with us, including the premeditated exclusion of certain groups that wished to express their views and be a part of the bill-writing process. We have been told that almost 150 organisations were consulted. Even though that number may suggest a high volume of stakeholders were consulted, the result is not reflected in reality. The Attorney General acknowledges that LGBTQI+ people do not need fixing. However, the proposed legislation creates discussion around the need for legislation to ban conversion practices, which suggests that there is a problem that needs to be addressed, and yet no current events are put forward to demonstrate evidence of that problem. The opportunity to understand the issue further has been taken away by not allowing the bill to go through the committee process, as was the intention of the Selection of Bills Committee.

The bill cannot be considered balanced legislation, as it is not entirely clear how the balance is achieved, especially considering the potential conflict between banning presumed conversion practices and protecting freedom of religious belief and faith-based practices and respecting civil liberties, all based on poor consultation and unclear use of definitions. Further to the balance issue, a range of views might be presented on this topic, with polarised viewpoints on the scope and nature of the legislation, clearly indicating that many stakeholders have concerns and objections to the bill. However, it is not explicitly stated how these different views were addressed or reconciled in the drafting of the bill, as the final draft demonstrates only one side of the story.

While the bill provides exclusions for certain practices, such as those conducted by registered health practitioners or those attempting to limit some faith-based methods or practices, the criteria for determining what constitutes a conversion practice are broad and may lead to ambiguity. For instance, the definition of conversion practice includes actions aimed at changing or suppressing sexual orientation, but it is not entirely clear how the legislation distinguishes between harmful conversion practices and legitimate forms of therapy or expression if a person wishes or needs to access them with their full consent.

The bill includes a delayed commencement period of 12 months after assent. The Attorney General cites the need for implementation, training and education of the relevant agencies and community groups as reflected from the consultation. However, it is not explicitly stated how this delay will address concerns or facilitate smoother implementation, raising questions about the necessity and effectiveness of the delay or what impact it would have on the stakeholders who are very concerned about the effect of the bill.

Possibly, the awareness campaign would not be necessary for different agencies and community groups if the bill was addressing a current problem that everyone was aware of. We do not know what the implementation would actually look like or what content would constitute the material distributed. Just like the consultation process, it raises more questions than answers. Instead of enacting unnecessary and unbalanced legislation, we should be focused on fostering understanding, empathy, compassion and acceptance for all individuals and their circumstances, regardless of their sexual orientation, and trying to come up with a fairer solution that is well defined.

Another part relates to the mental element of the offence. It does not actually turn on harm but rather on the intention of the offender to change or suppress another person's sexual orientation or, as is listed in the bill, gender identity, with "suppress", once again, being undefined. However, the legislation also requires evidence of physical or mental harm that either endangers life or is substantial for the offence to be proven. That creates a contradiction as the mental element focuses on intention rather than harm, while the requirement for harm suggests a focus on the consequences.

There is a certain subjectivity of harm. The second reading speech mentions that harm must either endanger the victim's life or be "substantial" to satisfy the offence, with "substantial" harm defined as more than trivial or inconsequential. However, what constitutes "substantial" harm is subjective and open to interpretation, which could lead to inconsistencies in enforcing the law. The term has no mention in the Interpretation Act 1987. According to the bill and the second reading speech, individuals under 18 cannot commit criminal offences of delivering a conversion practice, but they can be victims of such practices. This is a confused line of thinking, when we consider doli incapax. On this occasion, I also mention the importance of parents' rights and choices, as parents are responsible for raising a child and their wellbeing and development and respecting their rights in deciding what is best for their children. That should be paramount and represented in the bill.

Consent and faith-based practices become another conflicting aspect of the bill. While the second reading speech clarifies that consent is not relevant to proving the criminal offence, it also emphasises that the legislation does not cover the expression of religious belief if not directed to change or suppress sexual orientation. However, determining whether religious practices are intended to change or suppress identity can be complex and subjective, leading to potential conflicts between religious freedom and the law's objectives, while undermining all the work that has been done in past parliaments on consent and informed consent as it relates to interpersonal relationships.

Another problematic aspect of the bill is the extraterritorial application. The legislation provides for partial extraterritorial application outside of New South Wales, meaning that as long as part of the conversion practice occurs within New South Wales, the whole practice can be considered a criminal offence. That raises practical challenges regarding jurisdiction and enforcement, especially for conversion practices conducted online, remotely or in international settings. Would any possible remotely online-delivered activities considered "conversion practices" have to be addressed and any alleged offender prosecuted? This would be extremely difficult.

The maximum penalty for the principal criminal offence is five years imprisonment, aligning it with offences such as stalking and assault. However, some stakeholders may argue that the severity of penalties is not proportional to the harm caused by conversion practices, especially considering the potential psychological and long-term effects on victims. But since there has been no open, widespread consultation and general awareness about this bill, that is an unresolved matter.

The Shooters, Fishers and Farmers Party has listened to many different groups on this issue, including many within the LGBTQI+ community. It is clear that this bill does not have widespread support even amongst people within that community. I foreshadow that we will move amendments to the bill, which we will discuss in the Committee stage, including around the medical transition procedures. The bill allows for the exclusion for medical transition to whatever gender identity a person wishes to change to.

As I have said, I believe this is a barn door that should swing both ways. It should not matter what sexual orientation a person changes to or from. If we are considering dangerous conversion practices, we should consider all possible practices that may be dangerous and examine the evidence. In conclusion, the Shooters, Fishers and Farmers Party urges members to object to this bill, which has been poorly drafted, is often confused and has vague definitions, and to stand up for the principles of freedom, the freedom of religious and faith-based practices and individual rights. We should ensure that everyone has the right to live authentically and without fear of persecution or discrimination. Unfortunately, this bill does not achieve that.

The Hon. SUSAN CARTER (00:20): We live in a society founded on mutual respect. Even if it does go without saying, it is important that it is said from time to time that all people—heterosexual, bisexual, homosexual, transsexual, asexual or wherever else one sits on the LGBTIQA+ rainbow—should be respected and have the right to live their lives in freedom and not be forced to change who they are. Though this House has recognised that fact previously, it is important that we continue to work to ensure that all people of our State are accepted and respected. The Conversion Practices Ban Bill 2024 is important, so it is important that we get it right.

The issue with this bill, as with so much of what we do in this House, is the balance between competing interests. By living in society together, we accept limits on our unfettered rights and we recognise that getting a balance point can be difficult. So it is very disappointing that the consultation process that informed the development of this bill was so private, and was by invitation only. Further, Labor used its numbers in the Legislative Council to block a committee inquiry into the bill. That is a standard process in this House. It was

regarded as useful for the jury bill and it would have been even more useful for a bill like this, which raises issues of such significant community interest—ones we want to consider carefully and get right.

I understand that only two women's groups were included in the consultation, but we do not know definitely because the stakeholder list is secret. While faith leaders may have been consulted, it is very clear from the telephone and email inbox in my office that the faithful do not feel that their voices have been heard. They have significant concerns about this bill and whether the balance of protections and freedoms has landed in the right place. We first saw this bill a week ago. Our one-and-only briefing was less than a week ago. I am speaking after midnight in a debate that is unlikely to end before breakfast, because Labor chose to organise its legislative program this way. Labor is rushing through legislation when we should be working carefully to get the balance right.

It is almost as if Labor does not really care about this important issue, and it is a KPI it wants to tick off and move on from. The exclusion of community voices is surprising in another way. This legislation, if I understand its intent correctly, is to make a powerful statement about inclusion and respect. That needs to be done with the community, not at the community. Many people have questions about this legislation and how it will interact with freedom of religion. The bill clearly identifies religious practices as conversion practices and then provides a rather circular exception for those religious practices that are not also conversion practices.

We see in this bill that collision of different world views, which will continue to happen in a pluralist society such as ours and which we need to approach respectfully. I think we also see a fundamental misunderstanding of the role of religion. Religion is always a call to conversion. But this is an internal call. The conversion is our personal response. We are not converted by the prayer or the preaching of others, which may serve as an invitation to convert; we are converted by our own free will and chosen response.

Of course, we do not want people hurt by religion. We no longer live in the days of Torquemada, and we need to find a respectful balance. But this balance is found only by truly seeking to understand and respect the role of religious faith and the way in which conversion of all kinds may be part of faith. I am concerned this bill does not do this. The role of religion is to challenge us, to ask us to examine our lives, to ask us how we want to live, and we want to make sure that this role is still protected under this law. It is part of the solemn duty of this Parliament always to be balancing world views and to ensure that people are able to pursue the good in their lives and to follow what they deem most important.

For many people of our State, that includes the ability to pursue their religion: a firm belief in a metaphysical reality, which forms an inherent part of their lives, one which we can never and should never try to suppress, to convert or to extract from their day-to-day lives. Religion, therefore, is a personal call to internal conversion. And here we come to another issue which I find perplexing about this legislation: It excludes the possibility that adults can freely consent. It is truly remarkable that adults are not respected by this legislation to be able to ask freely for support which they believe will be of assistance to them if that support could be construed as a conversion practice.

Another major concern raised with me in relation to this bill is the inclusion of gender identity as well as sexual orientation. In many ways, this is a clumsy inclusion, as gender transition needed to be included as an express exemption to conversion practices. The fear being expressed is that the way in which this has been done leads to only one lawful response to an adolescent querying their gender identity: that the new gender identity must be affirmed. This is problematic in many respects. The LGB Alliance Australia [LGBAA], another group excluded from consultation by the Labor Government, has made powerful submissions about the way in which gender transitioning before a person really knows their true self may actually be a way of what the alliance calls "transing the gay away". It is concerned that too often what is described as gender-affirming care actually seeks to medically and surgically fix homosexual and autistic people who are distressed about their gender and/or their sexuality. This runs directly counter to the other strong message in this legislation: that one's sexual orientation is not something that needs to be fixed. Internally incoherent legislation is never good legislation.

The LGBAA continues, saying that therapists, parents, families, educators, support workers and researchers could all be inadvertently captured by the proposed legislation, ultimately harming LGB people who need their support, and that this legislation will not only create a chilling effect on legitimate research, education, debate and therapy but will suppress and effectively remove from the public sphere all gender-critical views. The LGBAA considers the international experience and claims that this legislation simply ignores the overwhelming evidence—from the United States, the United Kingdom, Finland, France, Denmark, the Netherlands, Sweden and Italy—that gender-affirming care does not improve mental health or gender distress but may in fact cause irreversible harm, including sterility.

This is of significant concern, but the voice of alliance members was ignored in the consultation for this bill. Alliance members are concerned that enacting a law that bans conversion practices for both sexual orientation

and gender identity will harm the very group this legislation is supposed to protect, by implementing what they refer to as "modern conversion therapy for gays". To support their claim, they note that same-sex attracted young women are significantly over-represented in gender clinics, with rates ranging from 80 per cent to 90 per cent. They caution that, by including gender identity, the proposed legislation will wrongly affirm homosexual people as the opposite gender and will impact young people who might otherwise mature into healthy, happy adults, many of whom will be lesbian or gay. This is because they caution that embedding gender identity into law will reinforce the harmful stereotype that homosexuals are somehow born in the wrong body, suggesting medical and surgical changes as solutions for homosexuality. They are concerned that the successful evidence-based strategy for reducing gender distress—talking therapy, or "watchful waiting"—will be classified as conversion therapy under proposed legislation.

Research indicates that under the watchful waiting model 80 per cent to 90 per cent of young people resolve the discomfort with their bodies, essentially experiencing puberty and maturing into the adult they were always going to be—often lesbian or gay. They caution that the bill's inclusion of gender identity deliberately limits the ability of mental health practitioners to offer alternative models of care to patients experiencing gender distress. Those are important arguments about the effectiveness of this legislation from an authoritative community voice that must be heard if the legislation is to truly affirm that not one person in our State is born broken or is inherently flawed.

It is important that we see the whole person, and if the spirit of the bill is to assert that LGBTQIA+ persons are not born broken, wrong or flawed, then we should look seriously at whether the gender identity provisions belong in the bill alongside sexual orientation. Those are real concerns which must be addressed before the bill can proceed. A serious concern is that the bill will mandate an affirmative care model for gender identity and that young adult members of families will not be able to discuss issues of gender identity freely with health practitioners and parents and instead will only be offered an affirmation model.

Nobody is born broken, but growing up can be very hard, and so often many of us feel broken at other times of our lives as well. When we feel like that, we often think that life would be so easy if there was some external change that could be made. Our young people must be supported and helped through those feelings, but this legislation could create barricades against professionals, parents and others who love that young person being able to do that. It should be amended so that it does not. Families have also raised concerns with me more broadly about the continuing ability to provide moral guidance for their children, to set family rules, and to have the robust and challenging discussions which are always a feature of successful family life. They have also raised the issues that the view of family expressed in this legislation is unduly narrow and not consistent with the reality of modern family life, especially for our culturally and linguistically diverse communities. Families today are much more than parents and children, and this legislation should recognise the reality of family life.

The simple question I keep being asked is this: Can parents still say no, or is this now a suppression practice? We need parents to be able to set limits and enforce guidelines for their children and to do that without the forced involvement of Anti-Discrimination NSW. The criminal offence carries a requirement of substantial harm before an offence is committed. However, the civil redress scheme allows action to be taken for conversion practices without any proof of harm. Say a 15-year-old comes home and says they are transitioning. Their parents say, "Wait and see. Let's see if you still feel the same way at 18." The 15-year-old complains about his parents at school and, if this—as many fear—is regarded as a suppression practice under the Act, then a complaint can be made on behalf of that child to Anti-Discrimination NSW.

The parents could then find themselves in a conciliation conference with their own child and an enforceable agreement being made between parents and children about sexuality and gender identity. Do we really believe that the law should be that active inside family life when there has been no threshold of harm that has to be satisfied? This is characterised as a civil redress scheme. Do we really believe that children using the law to seek redress against their own parents is the right use of the law? When speaking on this matter in the other place, the Attorney General said:

> … the Anti-Discrimination Board has the power to conduct investigations and inquiries relating to conversion practices.
>
> …
>
> Action taken by the board following an investigation … may include education and engagement with relevant individuals and bodies.

Conversion practice legislation in Victoria carries a similar provision, and the Victorian Equal Opportunity and Human Rights Commission also has the power to order an individual to undertake a targeted education program at their own cost to educate them on the harms of conversion practices. The programs are provided by the Victorian Equal Opportunity and Human Rights Commission and cost between $2,000 and $4,500 per session depending on the particular program that has been mandated. Again, we turn to the question of balance. Is the right balance point between protection and freedom found in this legislation? To answer that we have to ask: What is the proper

limit of the law? I strongly submit that it is outside the parent-child relationship, and it should not include mandated education for parents in relation to their own children and should not limit parents setting guidelines for their children.

I hope that the bill is appropriately amended before it passes Parliament. There are too many concerns held by too many people for it simply to be rubberstamped by this Chamber. Passing the legislation is only one part of the process of the operation of the law. The bill will inevitably need to be interpreted by judges, tribunal members, Anti-Discrimination NSW, police and community members. To do that, "the principles of statutory interpretation"—so well articulated by Chief Justice French and other justices of the High Court of Australia—"will be engaged, which require us to consider text, context and purpose". The second reading speech of the Attorney General and the contributions by other Ministers such as the health Minister provide some extrinsic context but are perhaps more correctly characterised as statements of the will of the Executive rather than of the Parliament itself.

We know that Parliament's purpose is metaphorical and collective, and we know that it is often best found in the text of the legislation. But we also know that the purpose of Parliament is found by considering what was before Parliament at the time of enactment and what Parliament's understanding of the meaning and effect of the words of the legislative text was. To assist those who will need to interpret this legislation, I present extracts from a document that represents the understanding, the mind and the purpose of Parliament when enacting this legislation. It is the standard letter being sent by members of the Government to those raising questions about the legislation. It forms the basis of briefings to all stakeholders and members of the crossbench and, as such, represents the collective and metaphorical purpose of Parliament at the time of enactment of this legislation. It states:

> Here is what the Bill does:
>
> Protects the expression of a religious belief

That is expressed without limitation. Expression of religious beliefs in a church, a synagogue, a mosque, a temple, a school, a preschool or any other setting—it is the intention of Parliament that that expression is protected in the bill. The letter continues:

> Protects religious teachings
>
> Protects the expression that religious beliefs ought to be followed
>
> Protects the right to prayer

Again, it is expressed without limitation so it is to be understood as to operate in the bill as without limitation as the collective expression of the will of Parliament. The letter continues:

> Protects discussions between parents and their children about sexuality and gender

Of course, such discussions, as any discussions within families, will be understood to be robust, and sometimes challenging, but always loving and always looking to the long-term interests of that child. It goes on:

> Protects the rules of religious orders, for example, the celibacy of priests
>
> Protects general school rules, such as uniform requirements.

That is in addition to, and not in replacement of, the broad rights around expression of religious belief and prayer, which were outlined above, and so is protective of the rights of religious schools to present a consistent and coherent message to their pupils. The letter says:

> And to be clear - this is what the Bill does not do:
>
> IT DOES NOT: Stop you from telling a young person not to have sex before marriage
>
> IT DOES NOT: Stop you counselling a married person not to have an affair.

Clearly, by implication, it does not stop the setting of guidelines and boundaries around the expression of sexual orientation. That is what Parliament intends the legislation to mean. The legislation has excellent intentions, but serious questions need to be addressed before stakeholders will be confident that it will operate beneficially.

Ms CATE FAEHRMANN (00:39): I support the Conversion Practices Ban Bill 2024. I acknowledge the contribution of my Greens colleagues in this and the other place, including Dr Amanda Cohn, who led for The Greens in this debate. The bill has been a very long time coming for the many survivors, advocates and organisations who have worked tirelessly to end the practice of conversion—of trying to change or suppress a person's sexuality or gender identity. But it is important to recognise, from the outset, that it has also come too late for so many people who came before us and never got to live a life where they were free to be their true selves, where they could live their lives openly with joy and pride and love who they wanted to love. It has come too late

for those people who took their own lives because they were told that they were unworthy, that they were sinners, that their identity was a disorder or that they were sick. Who they really were was denied and they were erased. However, the bill is here now and it is a very good thing.

The Greens have consistently opposed conversion practices and ideologies. We have advocated for a complete ban on so-called reparative sexual orientation and gender identity conversion practices. Former Australian Greens leader Bob Brown, the first openly gay member of the Australian Parliament, has openly spoken about how, as a young medical student in Canberra, he struggled with his homosexuality, even consenting to conversion therapy. Yes, he is Christian. He received electric shocks while being shown photos of naked men, not just for one session but multiple sessions. I acknowledge the very heartwarming and excellent contribution by The Hon. Stephen Lawrence, which sounded almost exactly the same as what Bob Brown has described as happening to him. The practice Bob Brown underwent was intended to shock him straight. On the contrary, it almost drove him to suicide. That was a long time ago, in the '60s, yet even today in New South Wales the practice continues—albeit to a lesser extent, as religious organisations have been exposed and challenged over the years and others have simply woken up to how damaging those conversion practises were and are.

I acknowledge the very hard work of those who are here at Parliament House today. Some are in the public gallery, but I understand most of them are here in the Parliament. Hopefully, they will be in the Chamber when this bill passes. I acknowledge the work of Alex Greenwich, who I worked with in this place 13 years ago or something like that on the marriage equality campaign; I also worked on that campaign with Anna Brown. For everybody who has worked so hard and is here today to see this through, I am so thrilled that this bill is before the House. I acknowledge the similar bill Alex Greenwich previously introduced in the other place and the political pressure that has led to the Government introducing the bill we are debating.

Conversion therapy is pseudoscience based on archaic, bigoted ideology that people from LGBTQIA+ communities are broken, disordered and unworthy. It has lasting negative impacts on people's lives, especially so for people of faith. In 2018 a report by La Trobe University, the Human Rights Law Centre and Gay and Lesbian Health Victoria told of the lived experiences of 15 LGBTQIA+ people and their struggle to reconcile their sexuality and transgender identities with the beliefs and practices of their religious community. The report provided a comprehensive history of the conversion movement in Australia, together with legal analysis and recommendations for reform. Since the release of that report, Victoria, the Australian Capital Territory and New Zealand have all outlawed conversion practices. However, as with so many other issues concerning sex, sexuality, gender, religion and women's rights, New South Wales is playing catch-up. But here we are, and, as I have said, it is a very good thing.

The objects of the bill are encouraging: to prohibit change or suppression practices and to establish a civil response scheme, and to ensure that all people, regardless of sexual orientation, gender identity or gender expression, feel welcome and valued in New South Wales and are able to live authentically and with pride. However, the Government has weakened those objects with exemptions in the bill that have the effect of ensuring that people, particularly young people, who are part of certain religious organisations, often through no choice of their own, are still able to be subject to homophobic and transphobic sermons and preachings. These sermons and preachings can still have terrible impacts on the mental health and self-worth of people subjected to them, particularly young people coming to terms with their sexuality or experiencing gender dysphoria.

I note the contribution of the Hon. Susan Carter, who talked about religion as a choice and the conversion to religion as a choice. It is not a choice for the 12-year-old, the 13-year-old or the 14-year-old who has to go to that church because their family drags them there every weekend, sometimes every night depending on the faith. It is not a choice, and the bill is protecting those young people from that. However, a significant weakness is that the bill does not protect them from the sermons and the preachings of religious leaders who still say that being sexually attracted to someone of the same sex is sinful. It does not protect them from that, and that is a travesty.

Again, it is good that this bill is before us, but it is a significant weakness because the Government was very quick to allay concerns from some religious organisations in particular and assure them that religious freedom will not be impacted by this bill. They have gone to great lengths to ensure that expressing a belief through sermon, taking offence at religious teachings and seeking guidance through prayer are not included in the bill's provisions. To The Greens, it is a bit unclear as to just how far these exemptions go. We do not support exemptions for religious teachings, sermons or prayer.

My colleague Dr Amanda Cohn will move amendments to hopefully address that. Unfortunately, we know where things are going tonight but we, of course, will do what we can to get that over the line. Religious organisations and private rehabilitation facilities, but largely religious organisations and beliefs, have told LGBTQI+ people that they should pray the gay away. Faith-based practitioners have subjected residents to exorcism and medically abusive interventions, like chemical castration. The Greens believe that these exemptions

are completely unacceptable loopholes in the protections that the bill offers, and they should be a significant cause for concern.

I note the politics around, "Don't move amendments. We've just got to get the bill through. Accept the bill as it is." It is extremely disappointing that the community is told that. The community understands the power of those sermons and that if those sermons and preachings can still continue then people will still experience harm. They will still experience those feelings of a complete lack of self-worth, and some of them will still experience feelings of suicidal ideation. The 2018 report on LGBT conversion therapy harms from Anna Brown at the Human Rights Law Centre, which I think has been quoted before in this debate, states:

> The law is only one part of the solution, because a ban will not impact on the informal practices among adults that we know are prevalent in Australia's conversion movement, and may drive them further underground in certain faith communities. We recommend a multi-faceted approach implemented in partnership with religious institutions and communities to help, not harm, LGBT people of faith.

Regardless, of what the legislation before us tonight accomplishes, we know that these conversion practices will unfortunately continue. The sermons will continue. We need to be extremely diligent and alert in this place to the real potential of what will happen and what practices will be driven underground.

However, despite the issues that The Greens have identified—and that I think others have identified but have been urged not to make a fuss about; I put that on record—as the key weakness and disappointing aspect of this legislation, it is still a significant step on the path to full equality for the LGBTQIA+ community. The archaic and cruel practice of conversion therapy will be banned through the bill that we hope to pass tonight—or this morning. Survivors, advocates and supporters will be celebrating tonight, or tomorrow when they wake up and hear the news. That is a wonderful thing.

After the celebrations, there will be more to do. There is always more to do. For example, we will need to address the weak self-identification laws in this State, which mean that people are still required to undergo surgery to change their gender on official documents such as driver licences. We need to commit to returning to this place to fix that in the not too distant future and to continue to bring forward legislation to ensure that everyone is protected equally under the law, regardless of sexuality, gender or gender identity.

The Hon. JACQUI MUNRO (00:51): I speak in support of the Conversion Practices Ban Bill 2024. As has been foreshadowed by my colleague the Hon. Damien Tudehope, the Opposition will move amendments to strengthen the bill. When considering the bill, I was reminded of the first gay wedding I ever attended. It was a perfect union of faith and love, held at the Uniting Church on Pitt Street, between two of my very old and dear friends, David and Curtis. I had known them since university, which was around the time that they had started dating.

The Hon. Penny Sharpe: I was at that wedding. It was a very good wedding.

The Hon. JACQUI MUNRO: It was a fabulous wedding. I had the incredible privilege of singing in the choir and was given a shout-out at the reception for the very small part I played in the marriage equality campaign. It was a celebration of individual expression, of love and of their commitment to their religion in front of their loved ones and the community. I met them around the time that I first came out. My public coming out was on the second night of O-Week at the University of Sydney. The event was called "Coming Out By Candlelight", and we legally graffitied the Graffiti Tunnel. I spray-painted "Bisexuals have more fun!" and took a photo of it and put it on Facebook. I got three likes on that post, but it demonstrated that there was very little fanfare to my coming out. I felt good because my sexuality did not matter all that much. Really, who cares? The answer is that some people care too much. Some people care too much about other people's sexuality, and there are people who care about that sexuality in a damaging and detrimental way.

The bill is designed to help all people feel confident that their right to express themselves and be safe in their identity is respected; that it is okay to expect that one's sexuality is one's own business. When I ran for the seat of Sydney against Tanya Plibersek, I publicly made it clear that I do not really like identity politics, although I am comfortable disclosing my sexuality, because I am fearful of the division that it can create. But I also said that I am happy to share my story as just one of many stories in this city, because stories are what make us human. Our stories give us the ability to connect. Although I actually dislike the phrase "You can't be what you can't see"—because you should feel free to be exactly what you cannot see, as long as you are not harming anyone—there is value in connection and cohesion through finding core human similarities.

Survivors courageously sharing their stories and families and faith groups alike allow us to get to a place that is closer together, of understanding and not caring in appropriate measure. People caring too much is leading to terrible mental health outcomes. *The Sydney Morning Herald* reported the following last month, using recently released Australian Bureau of Statistics data:

> Australians with diverse sexualities and gender identities are two to four times more likely to experience a mental disorder, suicidal thoughts and self-harm than the broader population …
>
> …
>
> But in every instance, LGBTQ Australians had higher levels of mental distress than the remainder of the population.
>
> …
>
> Sixty-four per cent of lesbian and gay people had experienced a mental disorder—such as depression or anxiety—in their lifetime, as had 80 per cent of bisexual people and 93 per cent of those who used a different term. This compared with 42 per cent of heterosexual Australians.

As a member of the lesbian, gay, bisexual, trans, asexual, plus community, and the NSW Liberals' first openly LGBTQI+ woman in Parliament, I am hopeful that the kind of immutable characteristics that have previously been denigrated, including in this place, can be recognised as valuable to the depth of lawmaking in New South Wales and Australia, and to the depth of Australian society.

On 2 May 1962 in the other place, a matter was discussed which included a member raising the reality at the time that homosexual provocation would downgrade murder to manslaughter. In the late 1970s a standard template petition was tabled in Parliament many times, tweaked according to the groups petitioning, urging members to oppose any changes in our State's laws that would legalise or encourage the following activities: the adoption of children by homosexual or lesbian partners and then acts of sodomy in private or public. The petition was in response to a bill before Parliament at the time, the Anti-Discrimination Bill. Petitioners sought the deletion of a number of sections that appeared to be in direct conflict with existing State laws that clearly defined homosexual acts as unlawful conduct and could enforce the acceptance of homosexuality in the army, navy, air force, the education system and Police Force et cetera.

It also sought to delete sections from a motion from the Hon. John Dowd, the Liberal member for Lane Cove and future leader of our party at the time, for fear it would lead to the legalisation of sodomy. I note that this was one of the earliest attempts to decriminalise homosexual sex. The Hon. John Dowd attempted to introduce a private member's bill, but his bill was never introduced to Parliament, as the Labor Government voted against it being included on the parliamentary *Notice Paper*.

Back to the petitioners, who further requested that the Government establish a special department within the New South Wales Health Commission to:

> (a) develop humane methods of helping persons to overcome or deal with homosexual tendencies through counselling, psychological and medical assistance …

We know what that looks like, and we have heard descriptions of what that has done in the debate tonight. They also rather generously finally asked the Government to conduct a "vigorous campaign to combat the serious venereal disease epidemic particularly amongst practising male homosexuals". These were illiberal requests to make of Parliament, antithetical to a free society that values the role of loving families and individuals. This is the type of fearmongering that has occurred for decades, perhaps centuries, in Australia, against the acceptance and inclusion of non-heterosexual people. Honestly, what are people worried about?

Thankfully, what people consensually do in their own bedrooms is now legal. In 1984 the New South Wales Parliament passed a private member's bill to decriminalise consensual sex between men. The Liberal Party, under the then Opposition leader Nick Greiner, supported a conscience vote, which enabled the legislation to pass Parliament. Former member for Bligh Michael Yabsley, along with Nick Greiner, spoke in support of decriminalising homosexual acts between men. Fearmongering campaigns like this still exist. They may not be so overt, because the Overton window has shifted.

It is important for me to name, celebrate and honour the courage of people in my Liberal Party who were able to overcome discrimination, difference and denigration to represent Australians in Parliament and, therefore, in policy—people who have moved the Overton window closer to a society that represents the Liberal values of individual expression and freedom to help us get to where we are today. The first openly gay man elected to the other place was a Liberal, when Bruce Notley-Smith made history in 2011. In 2015 Trent Zimmerman, former Federal member for North Sydney, was the first openly gay man elected to the House of Representatives. The first openly gay woman to represent a major party in the House of Representatives was Liberal Angie Bell in 2019. Before her—although not a Liberal Party member; she is a former boss and mentor—Dr Kerryn Phelps was the first openly lesbian and, incidentally, Jewish woman elected to the House of Representatives. Before that, Dr Phelps and her wife, Jackie Stricker-Phelps, were instrumental in changing the State's laws to permit same-sex couples to adopt children.

It was thanks to the tireless advocacy of the Hon. Don Harwin, former Minister and President of this place, that the Liberal Party supported a conscience vote on adoption rights for same-sex couples. It was the Liberal

Party, under Nick Greiner, that committed to bringing all issues relating to gay discrimination under the Anti-Discrimination Act 1977. While Greiner's successor, John Fahey, decided not to fulfil that commitment, it was a Liberal MLC, Ted Pickering, who crossed the floor to enable the legislation to pass Parliament. I also pay tribute to former Liberal Senator for New South Wales, Chris Puplick, AM, who has worked throughout his life to advance LGBTQI+ rights. In 2012 he made a lengthy submission to the Senate Standing Committee on Legal and Constitutional Affairs inquiry into the Marriage Equality Amendment Bill 2010.

The New South Wales Liberal Party announced a special commission of inquiry into historical gay hate crimes thanks to the advocacy of former member of this place the Hon. Shayne Mallard, amongst other members. The Liberal Party also committed to establishing the first State-funded LGBT health centre. In 2023 the Liberal Party, under the leadership of then Premier Dominic Perrottet, announced its support for laws to ban gay conversion therapy. Tonight, as Liberals supporting the bill at the second reading, we are part of another important step towards protecting individual expression and liberty, while recognising freedom of faith. I note Robert Menzies' contribution to the diversity of faith and our diverse society. In 1942 he said:

> We are a diversity of creatures, with a diversity of minds and emotions and imaginations and faiths. When we claim freedom of worship we claim room and respect for all.

I note that while the achievements that I listed have included Liberal members, they obviously also include many members of this place from a range of parties. It is that collaboration and working together that makes progress in these areas so valuable and special. The Conversion Practices Ban Bill seeks to strengthen protections for individuals in New South Wales to feel safe and accepted. The protections honour the Liberal tenet of individual freedom. Bans to gay conversion therapy have already been granted in Tasmania, Victoria and Queensland. Sexuality should not be a cause for division or denigration; it should not be a source of fear and rejection. The bill represents a confirmation from the Parliament that maliciously seeking to change another person's sexual orientation or gender identity is not okay. We have come a long way since the crime of sodomy and the gay panic defence.

I spoke about the Overton window in my inaugural speech—how the socially and politically acceptable shifts over time. Marriage equality, delivered under Liberal Prime Minister Malcolm Turnbull, was an important step in helping to end discrimination in Australia. Senator Dean Smith's bill passed the Federal Parliament in 2017, allowing for marriages from 9 January 2018. Again, that is not an achievement that is owned by the Liberal Party; it is a result of hundreds of thousands of like-minded people working together to make this country a better place for all. Marriage equality demonstrated a further shift in the Overton window. The sky did not fall. We came closer to realising the statements of belief articulated by the Liberal Party in its "We Believe" statement, which says:

> In the inalienable rights and freedoms of all peoples ...
>
> In those most basic freedoms of parliamentary democracy - the freedom of thought, worship, speech and association.

Those principles are further progressed under the Conversion Practices Ban Bill. I read a passage from *Faith, Love and Australia: The Conservative Case for Same-Sex Marriage*, written by Paul Ritchie in the context of the marriage equality debate. He said:

> True conservatism is a temperament. It has a quiet dignity that carries people with it because it knows that it is the social fabric that binds us together. To mock my neighbour, to decry his values, is ultimately to weaken myself.
>
> It is a philosophy grounded in humility, because the conservative tradition understands that humanity is frailer than we like to imagine or care to admit. We see our lives for what they are—fragile and all too short.
>
> We know that mostly, our hopes, our loves, our losses and our very lives are not ours to control. At times, this makes us cling to the past when we should loosen our grip, forgo change when we ought to embrace it or clutch to a certainty when we might let it go, because we know that the future is not assured.

I think this passage is highly relevant in this context. Ritchie's book was a significant contribution to liberal conservative thought. It is through expression and conversation that his appeal to shared values could be made reality. Reading, talking and curiosity are essential. Asking questions, having the courage to listen, answering questions and letting go of limiting fears about judgement are behaviours that require ongoing practice. At the time of the marriage equality campaign, I had not realised how much I had denied myself the vision of a future where I had a wife, which is now possible. I did not fully understand how that national conversation would impact me personally. After leading the Irish yes vote to victory and standing on the precipice of a history-making Australian campaign, Tiernan Brady suggested to me that I would not fully appreciate the change to Australian law until perhaps years later. He was right.

I hope that tonight's bill, once passed, will give people the same sense of freedom to explore and enjoy their gender identity that I felt when marriage equality passed. The bill is not perfect, and perhaps no piece of legislation is. It is challenging to legislate for extremely human issues. Previous members have spoken eloquently

about the relationships between health, family, parents, proportionality, religion, the right to practice faith, and the right to individual expression and liberty. As I said, we will be moving amendments on this side of the House to try to strengthen the bill to address those levels of proportionality that have not been addressed appropriately in the bill. But the criminal bar is high and that is important. The civil procedures that exist in the bill also allow for conciliation, growth and progress between people.

I acknowledge the courage and leadership of a number of Liberals who I have yet to name: Federal Senator for New South Wales Andrew Bragg; Christine Forster; and my contemporary in this place, the Hon. Chris Rath. I thank Clark Cooley, Maia Edge, Patrick Wynne and Chris Puplick and the NSW Liberal Pride group for compiling the list of Liberal LGBTQI+ achievements. Importantly, I thank those who have come to me honestly, openly and in good faith with their concerns about the bill. I believe that there are important questions to answer, and these matters will be explored further, but without this open, honest and respectful debate, we cannot make progress. I thank members for contributing to respectful debate in this Chamber and in the other place.

Former Australian Senator Scott Ryan wrote an essay at the conclusion of his 14-year term. In "Challenging Politics" he talks about the increasing tendency of people with differing views to impugn motives of their opponents. He said, "It is now much more common for motives to be assigned, impugned and attacked than for a conversation to be had about specific measures or outcomes." That is why I note the respectful manner in which this debate has occurred. We all come to this place with a desire to protect rights and liberties, even though they may sometimes conflict. We come here with the respect and understanding that we are all trying to make Australia a better place.

For those who celebrate sexuality, and those who denigrate it, surely there is a sensible place that we can get to where we are not defined by our sexuality, where we are not treated differently because of our immutable characteristics. But that is not yet the case and that is why the bill is so important, because there are still places in our society where children and young people are told that they are less than and that they are wrong, sinful, broken and unworthy of love as they are.

I thank the advocates and survivors for sharing their stories. This bill belongs to them. I acknowledge the survivors of gay conversion therapy and the advocates who have worked for months and years on this bill and this movement. This bill truly belongs to them. Tonight we can say to people across New South Wales who are experiencing concern, fear or indecision about their sexuality or gender, "You are more welcome in society than ever before—welcome, just as you are. Feel no pressure to be a certain way because of outside influence. Consider your identity and sense of self with compassion and curiosity. It is worth taking the time to explore who you are without labels or constraints. You have a whole lifetime to do it, in so many ways. There is hope, and the best is yet to come."

The Hon. ROD ROBERTS (01:10): I speak in debate on the Conversion Practices Ban Bill 2024, as a member of this House and as a parent. I oppose this bill as it intrudes on parental rights and places our children at the whim of their feelings and the whispers of leftist ideologues. Being a parent is not easy and it is getting harder. Today's parents have the difficult task of guiding their child through a rapidly changing world made all the more confusing by social media and the thousands of competing voices seeking to shape children in their own image and win them to their cause. And yet this bill, in its current form, criminalises a parent who wishes to protect their child from the undue influence of others.

No government can love a child more than the child's parents can. As a parent, love often takes the form of the word "no" and the subsequent setting of healthy boundaries. Think of the many times a parent has to say no to their child. They do so out of love because what the child is requesting is not what is best for them at that time. That is what responsible parenting looks like. The NSW Department of Communities and Justice agrees. A page on its website outlines parental duties and rights. It states:

> Parents have the duty to protect their children's rights until they are old enough to make their own way in the world.
>
> …
>
> Family law in Australia defines the responsibilities that parents have in relation to bringing up their children. These include:
>
> - to protect your child from harm
>
> …
>
> - to provide safety, supervision, and control
> - to provide medical care …

Despite this statement from the Government, this bill legislates that parents will only be permitted to "discuss" matters relating to sexual orientation or gender identity with their children. When dealing with one of the most important topics and life-altering decisions, a parent is restricted by the Government to a simple series of

discussions that must end with the words, "Yes, I love you and know what's best for you in this instance, but it is an offence for me to prevent you from choosing to undergo medical treatment." There are no protections in this bill for parents who wish to offer further guidance to their child, or exercise parental authority, in alignment with the parent's own beliefs.

This flies in the face of the fact that good parenting is about setting appropriate boundaries on the behaviours of children, such as whose car they hop into, what time they need to be home by, or at what age they can sleep over at their friend's place. The good parental practice of saying and enforcing, "No, not until you're older," has prevented many young people—including me—from making terrible mistakes. The old saying that prevention is better than cure stands true. Parents need to be able to set rules and standards for their family, not simply "discuss" the topic of sexual identity, because children and teens are dependent on their parents' guidance and advice, not just discussions, on important issues. This bill seeks to strip away these rights and responsibilities from parents. It effectively criminalises the loving actions of parents who do not want their children to undertake life-altering medical interventions.

Queensland, however, respects and recognises the important role of parental guidance in its conversion therapies chapter of the Public Health Act 2005 because only health service providers are prohibited from performing conversion therapy on another person. Queensland parents are not censured and are free to choose what medical and psychological treatments are best for their family. Why not here in New South Wales, I ask? Research on the developing brain clearly shows that cognitive decision-making areas of the brain do not mature until the mid-twenties. That concept is enshrined in the common law principle of doli incapax and the age of criminal responsibility. We have discussed that at length in relation to another bill, and that is what really confuses me. Indeed, the leftist social engineers in this place have stridently argued that the age of criminal responsibility must be raised due, in part, to mental development. A recent press release from The Greens states:

> Medical and legal experts are in fierce agreement that children are developmentally incapable of criminal responsibility and the age should be raised.

Again, that is an argument we have heard in the Chamber tonight. But here is the contradiction—and contradictions are always strong on the left side of politics—in one breath they brazenly state that young offenders are unable to distinguish between the simple truths of right and wrong due to their lack of mental development, yet in the next breath they unashamedly proclaim that those same youths know better than their parents, peers and elders, and have the mental faculties to intelligently navigate the serious decision-making required to irreparably change their hormones and body. I will let members think about that for a moment.

That contradiction is sitting in the words of the bill too. The bill states that a person under 18 cannot commit the offence of providing or delivering a conversion practice to an individual. I assume that is because the drafters of the bill believe they are not of an age to know right from wrong but, bizarrely, a person under 18 can consent to gender treatment that will irreparably alter their bodies. They are ignorant to know the law but apparently wise enough to do what they want with their bodies. If Mr Alex Greenwich and the Government get their way, parents will have no say in the matter. I urge all members to join me in standing up for the rights of parents, rejecting government interference in how we lovingly raise our children, and opposing the bill.

The Hon. CHRIS RATH (01:17): I contribute to debate on the Conversion Practices Ban Bill 2024. I start with a story about my uncle. Uncle Jeffrey is left-handed. He grew up in Wollongong in the 1960s and 1970s and went to a Catholic primary school. Back then it was viewed as wrong, abnormal and an ailment to be left-handed. He was forced to write with his right hand, and every time he reverted to what felt natural to him the Franciscan nuns who taught him would hit him over the knuckles with a ruler. The pain of that eight-year-old child crying every night to his parents because he was being forced to be something he was not has no doubt caused some psychological harm to my uncle.

We know today that there is indeed nothing wrong at all with being left-handed. That is exactly what it is like to be gay. Gay people are not broken, they do not need to be fixed and there is nothing wrong with them. They are a gift from God and the creative work of his spirit. Just as bullying a child into writing with their right hand does not work, nor does gay conversion therapy. All of the evidence emphatically proves that gay conversion does not work. Even if such traumatic practices temporarily change behaviour, that is merely fleeting—just as anyone being tortured would say or do anything to end the pain. True equality will be reached when being gay is viewed no differently to being left-handed.

This bill is for Eamon, who was sent to a psychologist to treat same-sex attraction until he refused to go. He attempted suicide on his eighteenth birthday. This bill is for Tim, who was sent to a clinic where hypnotherapy was used to try to cure him of same-sex attraction. He was psychologically damaged for years but, luckily, he refused to give in to the bullying of being sent to a conversion therapy camp. This bill is for Jeremy, who cried all the way to and from his psychiatric sessions that were coordinated by his parents, his tutor and his priest. He was

coerced into believing that he must never act on his attraction to other boys or ever come out. These are all real stories, and all were reported in *The Sydney Morning Herald* only a few months ago.

It is little wonder, then, why depression and suicide rates are so much higher among our LGBT young people than the rest of the population. They need to be protected and cared for, not bullied and tormented into being something that they are not. For those reasons and many others, I wholeheartedly support the principle of banning harmful gay conversion practices. However, it must also be done in a way that protects religious freedom and parental rights.

For me, the starting point of such a bill should be the harm principle, as espoused by that great classical liberal thinker John Stuart Mill. We should be free to do whatever we want so long as we do not harm the life, liberty or property of someone else. But why? Why can I not harm others or use them for my own ends? That rests on a notion even greater than the harm principle itself: I cannot harm others because they have intrinsic worth. They have human dignity, and they are made in the image of God. When it comes to gay conversion practices, my starting point is to outlaw anything that results in physical or psychological harm.

Simply being offended is not psychological harm. There is a huge difference. Prayer, sermons, Bible studies, parents having conversations with their children and other statements of faith may offend certain people. However, that is not good enough of a reason to obliterate freedom of speech and worship by censoring such views out of existence. Working in this Chamber, with the vast spectrum of political views on offer, I am often offended, but so bloody what? Saying that I am offended is nothing more than a whinge. It gives me no extra rights and removes no rights from the person supposedly making the offensive remark.

As an example, a priest who calls homosexuality a sin in a sermon and offends a gay member of the congregation is not engaging in gay conversation therapy since he has no intention of targeting and converting that member of the congregation, and he is not causing any psychological harm—merely offence. This type of religious freedom is protected in the bill. However, hypothetically, if that same priest persistently called a 14-year-old boy into his office and berated him for hours about his sexuality, causing severe diagnosable psychological harm, then that type of conversion practice should definitely be banned. Thankfully, under this bill, it is, as legal action could be sought via either civil or criminal proceedings. It is important to note that civil proceedings in the bill can be undertaken only with the consent of the complainant and not via activists, with anonymous tip-offs to the tribunal. However, as an additional safeguard, perhaps a threshold of harm should also be required for civil proceedings.

The debate around the bill in both Chambers and in our parties has been centred on essentially one thing: getting the balance right. The balance is, of course, between banning harmful conversion practices at one end, while protecting religious freedom and parental rights at the other. The general rule is that everyone thinks they have got the balance right, and I am indeed no exception to that rule. If I had been drafting the bill, I personally would have included additional protections in line with the bill brought forward by the Tasmanian Liberal Government.

I support many of the additional protections being proposed as amendments to this bill by credible faith groups. In particular, I thank Freedom for Faith, Mike Southon and Bishop Michael Stead for their eminently reasonable approach. I know this process has been as hard for them as it has been for us legislators but, by having a seat at the table and working collaboratively with the Government, they have landed on a very moderate bill in comparison to what could have been the far more radical Victorian model, and they should be very proud of that.

I may have more to say about the amendments during the Committee stage. Many are good, some are dreadful, some I will suck up and begrudgingly vote the party line on because I am a team player. I also want to make the important point that no credible faith group, privately or publicly, has asked us to vote down this bill. There is no such request. The only request is to try to improve an already fairly moderate bill with further amendments. I am also incredibly grateful that the Liberal Party has not descended into a culture war on this issue. The LGBT community is sick of being used as a political punching bag by people who want to divide society for electoral gain.

But, in addition to that, culture wars are so unbelievably dumb, as they do not produce the electoral benefits that people think they will. Just ask Scott Morrison, who lost government and almost all our once-safe inner-city seats. Katherine Deves bashing up on trans people did not pick us up any extra votes in Western Sydney, but it certainly lost us votes in what are now teal seats. Fortunately, in this place, the Liberal Party still holds its northern and eastern seats in Sydney precisely because it has avoided that brand of unintellectual, gut reaction, nasty, divisive alt-right politics.

I would like to provide some thoughts on being one of seven openly LGBT legislators in this Parliament and one of only two in the Liberal Party, along with my good friend the Hon. Jacqui Munro, whose earlier

contribution was great. It is not easy being in our position, especially in a right-of-centre political party. This is only the second time I have ever spoken about my sexuality in this Parliament, the first being in my inaugural speech two years ago. That is probably because I think that being gay is the least interesting thing about me, and I do not want to be defined solely by it. But even still, I cannot ignore the fact that I have experienced homophobia in the Liberal Party. I lived a lie for the first 29 years of my life because I thought that coming out would hurt my political career. More recently, when I was seeking preselection and putting my brochure together, as we all do, I was told not to include a photo with my partner as it would cost me votes. It is funny how straight male politicians are so keen to include photos with their wives to humanise them, but we are told "not to rub it in people's faces".

I did not choose to be gay but I wasted what should have been the best years of my life, 18 to 29, completely in the closet, trying to be something I was not. I was not happy. I was not living my best life. This bill we pass tonight may not be frequently used, but even still, the message that it sends to the community is a powerful one. It is a message that I wish I had heard when I was 18. True equality will be reached when the truly gruelling experience of coming out is finally redundant. I look to gen Z with so much optimism in that regard. They do not have to come out: they just are. I know that, in many ways, I disappoint everyone with my views on this topic. I am never going to be the darling of the Australian Christian Lobby or Equality Australia. I am gay, I am a practising Christian, and I am a Liberal, but throughout this debate I have genuinely tried to delve deep into my conscience to reflect on how, as legislators, we can best ban harmful conversion practices while protecting parental choice and freedom of speech and religion.

Finally, I thank Alex Greenwich for initiating this important reform, the Government for drafting the legislation with broad consultation, and the Parliament for securing the bipartisanship needed for the passage of the bill. We should celebrate how far we have come as a society. The way that gay people were treated in the not-too-distant past was appalling. Homosexuality was illegal until 1984, and those who marched in the first Mardi Gras in 1978 were bashed and arrested by the police simply for being gay. Today we have marriage equality and, very shortly, an end to harmful conversion practices. As difficult as my journey has been, it certainly was much easier for me than it would have been for those who came before me, and it will be easier still for the next generation. This bill will make sure that it is.

The Hon. EMMA HURST (01:30): The Animal Justice Party fully supports the Conversion Practices Ban Bill 2024. It is hard to believe conversion practices are still legal in New South Wales and I absolutely support banning those practices with urgency. I applaud the Government for bringing this bill before Parliament, and I congratulate the member for Sydney on his dedication and tireless work on this important issue. I also thank the advocacy of Equality Australia in developing this legislation and other groups and individuals who champion compassion and inclusion for all, such as the team from the Black Dog Institute, which reached out to raise awareness of this important bill.

Conversion practices have no place in an inclusive society. The notion that anyone should change, suppress or hide their gender identity or sexual orientation is not only degrading but also profoundly harmful. As a former psychologist, I know how dangerous that kind of oppression can be. The rates of suicide, suicidal ideation and self-harm are heartbreakingly high. It is a tragedy that conversion practices have led many people to feel as though they are broken when we know that they are not. That view is shared by leading experts, with strong backing for a ban from the Australian Medical Association, the Australian Psychological Society, the Royal Australian and New Zealand College of Psychiatrists and the Australian College of Mental Health.

Conversion practices fly in the face of contemporary knowledge about health, psychiatry, emotional wellbeing and human rights. The outcome of such practices can end up harming people in deeply painful and long-lasting ways, with the trauma suffered by the individual often felt in the wider community as well. I acknowledge the reports from victim-survivors who speak of the acute distress, ongoing and severe health issues and complex, chronic trauma as a result of their exposure to conversion therapies. The testimonies and stories from community members who are connected with or have experienced conversion practices are powerful. I encourage all members to read them.

Make no mistake, conversion practices may sound archaic but they still occur. Research from the Human Rights Law Centre and La Trobe University reported that up to 10 per cent of LGBT Australians are vulnerable to conversion practices. The practices can take form in many different ways, sometimes disguising themselves as innocuous offerings of support. But whether it is presented as medical treatment or counselling or whatever form, we need to be wary of any attempt to reject a person's identity. People from the LGBTQI+ community have faced a long history of discrimination, prejudice and injustice. Shamefully, it is not only history; discrimination and rejection are still rife. Many individuals feel the weight of undue stigma and may be more vulnerable to conversion practices or being adversely pressured into giving their consent to such practices. There is overwhelming testimony to show that consent in those situations is rarely given freely or without undue pressure or influence.

The fight for full recognition and equality continues today and the need for this bill cannot be understated. It represents something very positive. It seeks only to help people and, ultimately, it will also save lives. It is very simple: If a bill can achieve greater happiness without harming anyone, then why would anyone not support it? This Parliament should have zero tolerance for homophobia and transphobia, and I express my strong opposition to any homophobic or transphobic amendments proposed by members in this House. We need an inclusive and respectful society for all. In banning conversion practices, this bill takes us one step closer to that society. I quote what Alex Greenwich said last night in the other place:

> Everyone should feel affirmed and welcome regardless of who they are or who they love.

Conversion practices are already prohibited in Victoria and the Australian Capital Territory, with a number of other jurisdictions making commitments to do the same. I welcome these laws in New South Wales, and I thank all those who played a role in bringing this bill before the House. I thank the Government for taking a stand to protect and respect all people in New South Wales. Once again I recognise the member for Sydney for his tireless dedication to this issue.

Alex Greenwich and Tammie Nardone make a formidable team that I trust innately to fight for equality. I thank them. They are both saving lives and making a real difference to so many people. Many people have been by their side: Anna Brown, Ghassan Kassisieh and the team from Equality Australia; Anthony Venn-Brown of Ambassadors and Bridge Builders International; Chris Csabs of Sexual Orientation and Gender Identity Change Efforts Survivors; and Nathan Despott of the Brave Network. Their advocacy has been essential. I thank all the activists who have spent decades campaigning and raising awareness of harmful conversion practices. With the passing of this bill, New South Wales becomes a safer and more welcoming place for all.

The Hon. JOHN RUDDICK (01:35): The Libertarian Party and its members radically support a free society and the principle of voluntary association. We therefore do not believe that the State should outlaw counselling of any nature. We support individuals or institutions offering a counselling service that attempts to convince people that they are not same-sex attracted or that they are not transgender. Of course, we do not support conversion practices that involve physical assault or mental anguish, but those acts are already crimes. I am sceptical of the success of counselling efforts regarding same-sex attraction. But if people want to give it a go we do not want the heavy hand of the State forbidding free citizens engaging in a mutually agreed private arrangement. If some want to run a public relations campaign and alert the community to what they believe to be the dangers of this form of counselling they should be free to do that.

The Libertarian Party was the first political party in Australia to support same-sex marriage. It was in our founding constitution in 2000, before the Labor Party and The Greens and well before popular culture. In fact, libertarian parties all around the world were usually the first movers in that debate. We took that view because we believe in maximising individual freedom. For the same reason today, we oppose the State criminalising voluntary association around counselling for being same-sex attracted or transgender. The Opposition has criticisms of this bill over process and procedure. I share those concerns. But of greater significance, I oppose this bill on fundamental principle. I oppose the further extension of the State and its threat of violence into private voluntary arrangements. I will have more to say when I move an amendment.

The Hon. RACHEL MERTON (01:37): I contribute to debate on the Conversion Practices Ban Bill 2024. Harmful conversion practices should be brought to an end. It was the commitment of the Liberal-Nationals Government early last year. To be clear, conversion practices like electro-shock treatment, drug treatment or other such unacceptable physical or psychological interventions are wrong. They have no place in New South Wales. We all share that commitment. While this bill sets out to ban these unacceptable practices, it significantly endangers the foundational rights of religious freedom and parental authority in New South Wales. As a representative of religious faith and of communities that have deep religious faith, I express my profound concern and propose necessary amendments to preserve these essential freedoms.

The bill as drafted defines conversion practices in a manner that is excessively broad and ambiguous, risking the criminalisation of traditional religious teachings and pastoral care. Faith leaders across our State have voiced their apprehension, noting that the bill's vague language around terms such as "suppression" could extend to basic religious activities like prayer, counselling or even discussing moral values. Such a sweeping scope is not only unprecedented but also unjust as it infringes upon our constitutional right to religious expression. Let us be clear: This is a proposed ban on speech, on religious freedoms and on parental authority. Our religious teachings, which guide the moral and ethical standards of countless individuals in our community, should not be hastily labelled as harmful conversion practices. It is imperative to distinguish between coercive and non-coercive religious expressions. While we unequivocally oppose any form of coercion or harm, the bill fails to adequately protect voluntary religious counselling and spiritual guidance, which are integral to our faiths. Moreover, the bill's approach to gender identity and sexual orientation lacks the nuance necessary to address the complex realities faced by individuals experiencing gender dysphoria.

Prominent organisations such as Women's Forum Australia, led by my very courageous and good friend Rachael Wong, have highlighted the potential harms of an affirmation-only approach, advocating for a more balanced and evidence-based treatment protocol. Ignoring the diversity of opinions and emerging scientific evidence on the subject not only undermines the bill's credibility but also jeopardises the wellbeing of those it intends to protect. The Australian Christian Lobby has pointed out that the bill's premise contradicts emerging scientific evidence and the core tenets of the Christian faith. The notion that the bill is based on—that conversion practices stem from the belief that LGBTQ+ individuals are "broken"—is a rotten misrepresentation of religious teachings on human nature and redemption. Our faith emphasises that all individuals, regardless of their sexual orientation or gender identity, are valued and worthy of respect and love. To suggest otherwise is ignorant and narrow-minded.

Furthermore, the bill's current exemptions for religious practices are utterly insufficient and create a legal ambiguity that could lead to the penalisation of religious leaders for practicing their faith. The circular definitions and conditions within those exemptions render them ineffective, offering no real protection for religious teachings and practices. The sanctity of religious freedom is a cornerstone of our liberal democratic society. As such, it mandates our vigilant defence against any legislation that might encroach upon that fundamental right. The bill threatens to grind down that liberty, essential to the very fabric of our community. Protecting religious freedom is not merely about safeguarding the rights of the faithful to worship; it extends to preserving the lived expression of faith through teachings, counselling and the communal practices that embody our beliefs and values. When we speak of religious freedom, we invoke the comprehensive right of individuals and communities to live out their faith in both private and public spheres without undue interference or restrictions from government. That right underpins the diversity and harmony of our society, allowing for a variety of beliefs and practices to coexist and enriching our cultural landscape.

Need I remind this House of our diverse cultural and religious landscape? Its variety and our tolerance for so many religions to coexist are defining aspects of why so many choose to call Australia home. Any legislative action that does not clearly and explicitly protect those expressions of faith risks diminishing the vibrancy and resilience of our religious institutions and communities. We must ensure that the bill is reframed to unequivocally uphold and safeguard the right to religious freedom, thereby honouring our commitment to a society that values and respects diverse expressions of faith and conviction.

Parental rights are also at stake under the bill. The right of parents to discuss and guide their children's moral and religious upbringing is a fundamental principle that must be upheld. The bill's limited and flimsy recognition of parental discussion fails to encompass the full spectrum of parental guidance and education, thereby threatening the very fabric of family life. We must consider the diversity of family structures in our society. The bill's provisions must be inclusive, recognising not only biological parents but also legal guardians, adoptive parents and others who fulfill parental roles. Those caregivers must be afforded the same rights and protections to guide and influence the children under their care, consistent with their moral and religious beliefs.

Furthermore, the evolving social and cultural landscape, including the increased prevalence of complex issues related to gender identity and sexual orientation, necessitates a clear legal framework that supports parents in their vital role. As societal norms and scientific understanding evolve, so too should our legislation to ensure parents have the clarity and confidence to support their children through complex issues without fear of legal repercussions. In consideration of that, it is imperative that the bill be amended to safeguard parental rights more explicitly. That includes a broader definition of parental activities extending beyond mere discussion to encompass all aspects of moral and religious upbringing. Additionally, the legislation should explicitly recognise the diverse range of parental and guardianship arrangements in contemporary society to ensure that all who bear parental responsibility are equally protected under the law.

By affirming and protecting those rights, we not only uphold the sanctity of the family but also ensure that children can grow, thrive and live within a nurturing environment guided by those who know and care for them best. As we deliberate on the Conversion Practices Ban Bill, let us be mindful of the deep and lasting impact our decisions will have on the very fabric of family life and the sacred bond between parent and child. Just as we champion the protection of individuals from harmful practices, we must equally champion the rights of parents to guide their children and the freedom of religious practice. I urge my colleagues to consider those points carefully.

The Liberals and The Nationals will move amendments to the bill in a way that preserves those fundamental rights to ensure a balanced and just approach that serves the best interests of our children, families and broader society. The consultation on the bill has been inadequate, deficient and, quite simply, lacking. It has been select and very exclusive. We know that the consultation involved 150 organisations with 134 submissions and eight round tables. What people need to understand is that the consultation was held on grounds of strict confidence. Member organisations were prohibited from discussing any materials or issues with their members. The consultation was narrow and not fit for purpose.

The legislative process the Government has followed regarding the bill has also been, quite frankly, shameful. The Selection of Bills Committee resolved that the bill be sent for inquiry. The bill is controversial and will have a significant impact upon our society. An inquiry would have taken less than two months and would have allowed all stakeholders to be heard. What happened in this place on Tuesday this week, when Labor, The Greens, the Animal Justice Party and the Legalise Cannabis Party united to put an axe through the inquiry, was a disgrace. The arguments presented as to why an inquiry was not needed were as ludicrous as they were offensive. A targeted consultation on the bill, as the Government trumpeted, is not a fair dinkum consultation. We know that so many key stakeholders were ignored and given the mushroom treatment by an arrogant and contemptuous government. The Minns Government has not acted in good faith—schools, parent groups and this side of the House have been ignored. It is not interested in hearing views that do not accord with the outcome it desires. This Government has never articulated why the bill is so urgent that it must forego a review of its impact.

Christian Schools Australia and the Australian Association of Christian Schools are amongst the many that have been ignored and cut out of any consultation. Those associations represent 60,000 students in New South Wales. Christian schools and their communities hold great concern as to their ability to care for and support young people under the bill. Let's be honest: This place sees fit to hold inquiries into all manner of policy matters. I, for example, am participating in an inquiry into dog pounds. From Inverell to Sydney I have attended hearings. I have read submissions. I have engaged with the community. This Government and its left-wing allies are saying that we will spend time and resources on a dog pound inquiry but we will not hold one into the hugely controversial and contentious matter of gender conversion. Are they serious? It is absurd.

The bill is hugely controversial. The Government is focusing simply on rushing the bill through rather than what is best for the people of New South Wales. It is not interested in the views of the people of New South Wales. We had inquiries into contentious issues like euthanasia and abortion—why not this issue? I have very grave concerns about the Government's bill, which I have spoken of tonight. I am also appalled by the Government's arrogant and disingenuous attempt to ram this bill through and ignore community consultation. As I have discussed tonight, members on this side of the House have proposed amendments in good faith to improve this rushed legislation. I call on the Government and its green left allies to consider the amendments. After already rejecting an urgently needed inquiry into the bill, New South Wales families deserve to be heard.

The Hon. MARK LATHAM (01:50): The Conversion Practices Ban Bill 2024 is typical of the style of the Minns Government, which is more interested in virtue signalling and divisive identity politics than real, practical outcomes for the people of New South Wales. With regard to gay conversion practices, it is trying to ban something that, as a medical service, went out in the 1970s along with flares and cardigans. The only real impact of the bill is on transgender—that is, gender transition—practices and medical support, and this is where most of the second reading debate has concentrated. Once exemptions are granted for parents, medicos and religions—as they are in this bill—theoretically, it should be business as usual. But the insidious aspect of the bill is the way in which it weaponises lawfare—the identity left going outside democratic parliamentary processes to the courts in order to silence and rub out its opponents under the weight of litigation costs.

The New South Wales Government funds ACON with $30 million per annum. ACON was established to deal with the AIDS epidemic, which now thankfully has passed, so it has morphed into an alphabet-monitoring, policing and lawfare body. If this bill is passed, it will try to intimidate anyone or any organisation questioning transgender with complaints to leftist human rights tribunals. The complaints do not need to be credible, as these tribunals need the work to stay open, so they accept them all on suspicion. Ultimately, the process becomes the punishment: ordinary citizens running up legal costs to defend themselves, fearful of losing their home and fearful of having to face a government tribunal. That is how so-called human rights are now run in New South Wales. For this reason alone, the bill should be opposed.

The other problem with the bill is that it is banning the wrong practices. While internationally governments are banning gender transition and puberty blockers for under-18s, New South Wales is a backwater still drinking the Kool Aid of identity alphabet politics. Wise governments overseas, learning from the medical evidence and social experience of transgender, are heading in one direction while the Minns Government is heading in the opposite direction. When I was chair of the education committee in the last term of Parliament, we conducted an inquiry into parental rights. It brought in a range of opinions on transgender in children and experts on both sides of the argument. It was a very revealing inquiry, with findings useful for the Parliament. Certainly those findings were useful for each of the MPs on the committee.

Yes, it is true, my judgement was that probably 10 per cent of the childhood transgender experiences are real and last a lifetime. But the 90 per cent remainder group was a mix of peer group pressure; autism; Asperger's; kids who are just plain lonely, longing for recognition and belonging; others who are in it for the prank—how do boys get into the girls toilet—which is something children and teenagers engage in, believe it or not; and fads, like many of the earlier fads that teenagers go through. It was a mixture, but I recognise that among that mixture—

the 90 per cent—these were not permanent changes. In many cases, the reversal of them has been deeply damaging. In many cases, telling boys they can be girls and vice versa is a cruel practice that is destroying families and children.

The real harm comes when institutions try to take over the role of parents. This is a feature. I have mentioned in this Parliament the shameful so-called training video of the NSW Teachers Federation that has told teachers, "Don't tell parents about these gender and sexuality issues in the children at school because it's not safe for the children to go home." What a hide the federation has to say that it is not safe to go home when in the vast majority of cases the home is the most loving, stable and safe institution that can be found in our society. The practices are out there, with teachers, education institutions, school counsellors and the like trying to take over the role of parents and actively keeping parents in the dark, like the Teachers Federation's so-called training seminar.

I have had a range of constituent cases where, if parents are kept in the dark, I can assure the House no good ever comes from it, as is logically expected. Parents were there at the beginning of the childhood experience—they show love, care and devotion more than anyone else. Teachers come and go. They can go to another school and you do not see them again. They are, essentially, despite a lot of their good work, strangers in our life. Keeping parents in the dark is the wrong practice, and the lesson is that parents and families must come first. Parents must always be informed about important information concerning their children, whether academic, personal development or the matters that are the subject of this bill. We need to follow the international evidence and decision-making.

Look at the United Kingdom, for example. They went early into the trans ideology experience and now they are coming out of it. Why do we not learn from their experience instead of repeating their mistakes? In the United Kingdom, they have closed the Tavistock gender clinic, which clearly years ago ignored the evidence and report about the damage being caused. We have a similar institution in Newcastle called Maple Leaf House. The Hon. Greg Donnelly, who is unfortunately absent tonight, provided compelling evidence that it too has gone down the Tavistock pathway. In the United Kingdom they have also banned puberty blockers for under-18s. The New South Wales way is 180 degrees in the wrong direction, and I am opposing the bill for that reason. I draw the House's attention to the best summary I can find about what happened in the United Kingdom, which appeared in an editorial in *The Observer* last October. It said:

> There has been a welcome shift in the way NHS England says it will provide care for children with gender dysphoria. In recent months, it has moved away from the ideologically driven "affirmative" model that views gender dysphoria in children purely as a sign of a fixed trans identity.
>
> It is instead adopting a more evidence-based approach – as laid out in the review by the distinguished paediatrician Dr Hilary Cass – that starts from the understanding that children's feelings of gender incongruence are often transient and fluid, and can be associated with autism, childhood trauma, children grappling with their own developing same-sex attraction, and intense discomfort about puberty.

As I mentioned earlier, that equates to the findings of our own education committee in the last term of Parliament. The editorial continues:

> Accordingly, the NHS now says social transition – treating a child as though they are of the opposite sex – should only be considered in cases where there is significant clinical distress or impairment in social functioning. Puberty-blocking drugs – the entry point of a medical pathway that can lead to cross-sex hormones and sex change surgery – will only be prescribed as part of a clinical trial, given fears about potential long-term impacts for bone and brain development, fertility and sexual functioning; and concerns they make permanent gender dysphoria that would otherwise naturally resolve itself. The "watchful waiting" approach—

that term is in inverted commas but it has become the policy approach—

> counsels that children should be allowed to experiment with identity with neither endorsement nor criticism from adults and access talking therapy that includes exploration of the reasons for their gender distress.

Further afield, I look at the American experience. In the United States, legislation regarding gender-affirming care largely exists at a State level. In March 2023 nine States had enacted legislative bans on gender-affirming care for youth and young adults. Some of those bans include medical interventions as well as surgery. Those States are Georgia, Iowa, Tennessee, Mississippi, South Dakota, Utah, Alabama, Arizona and Arkansas. Florida and Texas have also restricted access to gender-affirming care for minors through their executive branches.

In Europe, a number of countries have recently reviewed the evidence for, and their approaches to, gender-affirming care for minors. That has resulted in some countries placing stricter access requirements for hormones and puberty blockers and requiring that those are only used in research settings. Countries where there have been reviews and revisions to guidelines and other requirements include Finland, Sweden, France, Norway, England and the Netherlands, and most of those countries, of course, would be known as socially progressive in their politics. The time will come in New South Wales when we too will learn from these experiences and act on them. Why we do not do that right now, given the international experience where the tide has turned, is one of the great frustrations of our politics. We are a backwater in terms of our understanding of these issues. We are not

learning from the international experience. For that and for the other reasons I outlined, I oppose the bill—but if there are supporting amendments, of course they would receive endorsement.

The Hon. TANIA MIHAILUK (02:00): I indicate my opposition to the Conversion Practices Ban Bill 2024. I think it is very interesting that every time we encounter this type of legislation, the debate tends to be conducted with great urgency at very late hours—some would say ungodly hours. The proper deliberation that this type of legislation requires does not end up happening. I remember my experiences with the abortion debate, and euthanasia, and now it is likewise the case with the Conversion Practices Ban Bill. I have deliberately remained for the entire debate because I wanted to listen to everyone's contributions. I also watched the debate in the other place. I note with great interest that, despite it being a Government bill, not many Government members are making contributions to the second reading debate in this House, nor did many—only a dozen—in the other place.

I was very interested to note that Government members from certain areas did not participate. The members for the electorates of Bankstown, Strathfield, Cabramatta, Fairfield and many other parts of south-west Sydney did not make a contribution to the debate. Interestingly, neither did the member for Rockdale, who is the Minister for Multiculturalism. The Premier himself did not make a contribution to the debate. I found that very interesting. He is the Premier of this State, and prior to the election he announced that he would introduce this legislation—but in the end, he was absent. He has not made any contribution whatsoever to the debate. I recall that during the abortion debate he was the one and only MP who voted for abortion but chose not to speak and give his views. That was interesting then, and it was probably a good indication of how he stands on issues—or perhaps does not stand on certain issues.

We do not really know what the Premier's view is on this legislation because he has not put it firmly on record, other than the fact that he was prepared to use his office and particular Ministers—I think it was his chief lieutenant, the Minister for Multiculturalism, Steve Kamper, who was sent out to speak to the religious groups and massage them through this legislation. The groups were told that they really had no option but to agree to the legislation, because otherwise Alex Greenwich's bill would be pursued—and it was far worse—or potentially other legislation mirroring the Victorian legislation would be pursued instead. There have been a lot of different discussions behind closed doors, some of which has come back to people like myself and other members of this place. Some of the religious groups were, in fact, held to ransom and threatened with the idea that the equality bill would be put through to this place, or that more draconian legislation would be introduced instead and passed in this House.

The Hon. Chris Rath made the comment that no credible religious group has asked that any party oppose this legislation. I will say this: A lot of discussions took place behind closed doors, sadly. Many religious groups have not been consulted whatsoever. A number of faith groups that I know of were certainly not consulted. When the move to have an inquiry was put forward, a comment was made that about 150 stakeholders were consulted with and there was no need to have an inquiry. There was a reason why the Government did not want to have that inquiry, and that is because it would have exposed that many groups in fact were not consulted with and, more so, many religious groups did raise a whole plethora of issues that this Government chose to keep behind closed doors rather than discuss them in the open and transparent manner with which these types of very critical issues should be discussed in the public realm.

For the record, I do oppose gay conversion practices. I have listened with sensitivity to some of the terrible stories that members have relayed here tonight of people's horrible experiences from the 1960s and 1970s of electro-shock therapy, physical abuse and harassment. I am deeply sorry that they experienced that. Equally, I do not want to see children dealing with gender dysphoria being mistreated either. I do not want families marginalised and maligned by this type of legislation and tearing each other apart. I do not want them to suffer either. Sometimes when you try to right a wrong, you actually create further problems.

I hope down the track this legislation does not cause further issues for third-party healthcare professionals, pastoral carers, extended family members and others who might be there to help families manage through very difficult times. There are issues now before families that perhaps were not there many years ago. I refer specifically to gender dysphoria and gender identity, where far more people are coming forward with these issues. Families are having to navigate through very difficult times, where parental rights are being eroded. It places an immense amount of stress on the family. I refer to the many multicultural communities that face a very difficult time navigating through the laws that exist in Australia, where children are essentially told from a very young age that they can do what they like and they do not need to concern themselves with parental authority. Indeed, extended family members may be subjected to really unfair proceedings as a result of simply trying to assist their loved ones in navigating the very challenging experiences that these families might face.

I believe the Conversion Practices Ban Bill is a dangerous piece of legislation for the reasons I have said. It unfortunately normalises radical gender ideology, erodes religious freedom and is a grievous attack on freedom

of speech. Given the lifelong medical consequences associated with affirming a person's gender identity, it is preposterous to effectively disallow counselling or behavioural therapy directed at helping people with gender dysphoria to be happy in the body they are already in, rather than insisting that they change it with cosmetic surgeries and powerful life-altering drugs. In short, the bill is a Trojan Horse for radical gender theory and only benefits ideologues with vested political interests in seeing it passed.

The bill goes much further than the realm of just gender identity and sexual orientation. It usurps parental rights, encroaches into religious freedom and effectively isolates individuals and their families, leaving them bereft from being able to access appropriate third-party health care and other alternative care. That is what the bill essentially does: It will isolate people. The language in the bill is hopelessly vague. The LGB Alliance stated that conversion practices have been refined to reflect the ideological and financial interests of gender advocates by elevating gender over, or substituting it for, biological sex in law.

That is a critical point. The bill conflates sex and gender. Sex is a biological and unchangeable sex—male or female. Gender identity is how one identifies socially—man, woman or, if they are that way inclined, seemingly infinite genders in between. However, the bill defines gender identity as "the gender-related identity of an individual, which may or may not correspond with the individual's designated sex at birth". That nonsensical conflation of sex and gender is a deliberate attempt to erode the distinction between the two, which is part of the agenda of radical gender activists to eliminate sex-based rights. That will have an effect on women, children and, indeed, lesbian, gay and bisexual people. How can the New South Wales Government expect to legislate on gender identity when it cannot define it correctly?

The bill only mentions parents as exempt from being accused of an act of a conversion practice when discussing matters of sexual orientation, gender identity, sexual activity or religion with their children. That wilfully ignores the full scope of people who care for children, including grandparents, aunties, uncles, older siblings, godparents, cousins, pastoral carers and family friends. The bill also proves how hopelessly behind the rest of the world Australia is when it comes to the dangers of so-called gender-affirming care. More and more countries around the world are waking up to the fact that giving children and teenagers puberty blockers and double mastectomies is doing more harm than good. Most recently, the National Health Service [NHS] in the United Kingdom has banned the prescription of puberty blockers to children and young teenagers. It stated:

> We have concluded that there is not enough evidence to support the safety or clinical effectiveness of puberty suppressing hormones to make the treatment routinely available at this time.

I give credit to the United Kingdom for that strong position. It also said that drugs would only be able to be prescribed as part of clinical trials. The NHS has effectively acknowledged that children have been used as lab rats by unscrupulous activist adults in a worldwide experiment to see how far they can erode the boundaries of gender. Additionally, in July last year, 21 researchers and clinicians from nine countries—Finland, the United Kingdom, Sweden, Norway, Belgium, France, Switzerland, South Africa and the United States of America—signed a letter to *The Wall Street Journal* stating that the best available evidence does not support the notion that medical gender-affirming care is the best thing for the wellbeing of trans people, nor does it reduce the risk of suicide. According to those researchers and clinicians:

> Every systematic review of evidence to date, including one published in the Journal of the Endocrine Society, has found the evidence for mental-health benefits of hormonal interventions for minors to be of low or very low certainty. By contrast, the risks are significant and include sterility, lifelong dependence on medication and the anguish of regret.

They also asserted that that is why an increasing number of European countries and international professional organisations are now recommending psychotherapy instead of hormones and surgeries as the first line of treatment for young people suffering from gender dysphoria. I note that last year the Hon. Stephen Lawrence and a number of other members attended a meeting that the Hon. Greg Donnelly organised with parents of children who were going through transition. We heard about the anguish that they were experiencing and the terrible side effects, both mental and physical, that their children were experiencing.

I met with a young woman, Jay Langadinos, who I am sure many members have heard of. She saw a psychiatrist in 2010, at the age of 19, believing that she had gender dysphoria and identified as a man. Dr Toohey found that she was suitable for testosterone therapy. Jay came back to him in 2012, this time wanting a double mastectomy, and Dr Toohey affirmed her decision. The next month, Jay wanted a hysterectomy and Dr Toohey again affirmed her decision. She underwent the procedures, believing that it would help her mental wellbeing, but it did the exact opposite. Ultimately, she regretted the surgeries and deeply regretted the complications that resulted from them—depression, anxiety, complications from early menopause, impaired psychological functioning, diminished capacity for employment, and the ongoing need for lifelong and permanent medical treatment. She subsequently sued for professional negligence. She alleges that the doctor "ought to have known" that she needed further psychiatric evaluation and assistance.

There are many examples of where this type of transition goes wrong. In meeting with some of these parents, as we did that afternoon in Parliament, I could see that they were trying to find other avenues or ways to assist their children. Some of these children were under 18 and some were older. In the end, the people that we met that day clearly regretted their decision to transition. They were also clearly grateful to their parents, their extended family, their friends and the healthcare professionals who assisted them in determining the help that they ultimately needed. A number of them, as in the example of Jay, regretted their decisions to undertake surgery.

I foreshadow that I will be moving some amendments. There are good Liberal Party amendments, which I will support. I have chosen not to repeat them. The Shooters also have some fantastic amendments. My amendments raise a number of issues. The legislative provisions should not apply to any family member, near relative, healthcare official or pastoral carer who might seek to provide assistance for children under the age of 16 or children under the age of 18. My amendments will cover children in that category. If an individual consents to certain types of assistance, guidance, care or counselling and then withdraws that consent at some stage during their treatment, assistance or guidance, what transpired in that period of consent should not be used against them down the track. It is important for members to support those amendments and others that I will be moving in Committee.

I thank the many people who have emailed my office with their stories. I note one email from a wonderful lady who said that we would not condemn parents for preventing children under the age of 18 from getting a tattoo, as it is illegal, nor should we condemn them if they prevented their children from taking puberty blockers or hormonal treatments. That interesting example has been referred to in the past in the media. Ironically, it is illegal for kids under 18 to get a tattoo but it is not illegal for them to take puberty blockers or undertake hormonal treatment—an absurd but good example and comparison.

I thank the Women's Forum for the information it has provided to my office. The Australian Association of Christian Schools has also written to my office and, I am sure, to other members of Parliament. I thank the faith leaders for their contribution in putting together amendments and note that a limited number of them signed the letter, which is reflective of the fact that many faith groups were not consulted by the Government. It is disappointing that only five groups who signed that letter—the groups to whom the Hon. Damien Tudehope referred in his speech—asked us to consider further amendments, despite the fact that they have already undertaken months of consultation with the Government behind closed doors. I indicate again that I will oppose every stage of this bill.

The Hon. AILEEN MacDONALD (02:19): I contribute to debate on the Conversion Practices Ban Bill 2024. My preference would have been to take the time to get this right and for it to be done at a decent hour. I remain concerned that the role of parents and carers appears to be diminished in this bill. Parents and carers have an unbreakable bond with their children, yet this bill as it stands seems to imply their viewpoint is less worthy. Any intended or unintended consequence of marginalising parents is a backward step. Families are not flawless, but they have been the bedrock of a functioning society that overwhelmingly loves and protects its children.

The bill in its present form risks overreach. It proposes blunt regulations that do not allow for the many nuances of conversations and support that children may receive as they navigate adolescence and early adulthood. This bill is asking the State and bureaucracy to step into the shoes of parenting and care. We have seen how miserably things can go astray when we decide governments know best. I will keep my contribution short. This debate is an opportunity to improve the bill, and I urge members to consider the Opposition's amendments on their merits.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (02:21): In reply: I thank the following members for their contributions to the debate on the Conversion Practices Ban Bill 2024: the Hon. Damien Tudehope, Dr Amanda Cohn, the Hon. Stephen Lawrence, the Hon. Natasha Maclaren-Jones, the Hon. Mark Banasiak, the Hon. Susan Carter, Ms Cate Faehrmann, the Hon. Jacqui Munro, the Hon. Rod Roberts, the Hon. Emma Hurst, the Hon. Rachel Merton, the Hon. Mark Latham, the Hon. Tania Mihailuk and the Hon. Aileen MacDonald.

I address some of the matters raised during the debate on this bill. This bill has been the subject of significant consultation that was extensive and carefully considered. Almost 150 organisations were engaged in the consultation work last year, including people with lived experience, representatives from LGBTQ+ advocacy groups, faith-based organisations, parental rights groups, gender advocacy organisations, and legal, government, education and health stakeholders. These stakeholders were not limited to those initially identified by the Government working group leading this reform; they also included other organisations nominated by that initial cohort as having relevant expertise or interest in the reforms.

The confidentiality of the process sought to facilitate frank discussion and contributions from stakeholders on polarising issues. Some members have specifically named stakeholders who they say were not consulted. In

fact, many of these stakeholders did make contributions as part of the significant consultation process that informed the policy positions behind the bill. Indeed, in addition to the 150 direct consultations, there were also 134 submissions made. This bill strikes the right balance in prohibiting harmful and objectionable practices while also respecting civil liberties such as freedom of expression and, importantly, freedom of religious belief.

The Government has never intended to ban religious teachings or the expression of religious beliefs through sermon. The religious exclusion at clause 3 (3) (c) ensures that expressions of belief or principles, such as prayer and sermon, will not be banned where they are not directed to change or suppress sexual orientation or gender identity. The bill also explicitly provides that stating what relevant religious teachings are or what a religion says about a specific topic are examples of what does not constitute a conversion practice.

The bill also strikes the right balance in continuing to allow for the provision of clinically appropriate health care to LGBTQ+ people. The bill does not mandate any treatment. The bill makes it clear that a health service or treatment that is delivered by a registered health practitioner that the health practitioner has assessed as clinically appropriate in their reasonable professional judgement, and which complies with relevant professional, legal and ethical requirements, is not a conversion practice. The bill does not prevent a clinician from deciding what treatment to provide to an individual patient, based on their reasonable clinical judgement. It also does not prevent advice being given to a patient about the impacts of any proposed treatment.

The bill appropriately recognises the rights of parents to support their children and their needs when exploring their identity and values. Clause 3 (3) (b) provides that genuinely facilitating an individual's coping skills, development or identity exploration to meet the individual's needs is not a conversion practice. That includes providing acceptance, support or understanding. The bill also explicitly notes that parental discussions are not captured by the bill. The drafting of the definition of "conversion practices" means that rules of general application, such as household rules that are not targeted to changing or suppressing an individual's sexual orientation or gender identity, are not conversion practices. The bill also does not prevent a person from seeking support or guidance. It prevents the provision of a practice, treatment or sustained effort to change or suppress an individual's sexual orientation or gender identity.

I specifically address the Hon. Mark Banasiak's concerns about subjective application of the use of the term "substantial harm" when determining whether a conversion practice has taken place. "Substantial harm" already exists in the New South Wales statute book in the context of both aggravating or mitigating factors in section 21A of the Crimes (Sentencing Procedure Act) 1999. Courts have held that "substantial harm" means harm that is not trivial, transient or trifling.

I make one further comment about the role of parents and the importance of parents in children's lives, which was raised in debate tonight. There is no member of this House who does not understand how important that is. The parents of trans children have not aired their views on this matter very much. Parents of trans children work extremely hard to support and love their children. They take them to many appointments and it is a very long and complicated process. They are often dealing with children who are in a lot of distress. The care that they get is the care that they need to keep them alive. It is that important.

There is no suggestion that parents cannot speak with their children and work through it. But I make the point that, to some degree, for people who are gay, lesbian or bisexual, these traits sometimes cause people to find themselves to be completely alone, unlike for other traits that they might join with their families on, like where they live, their religion, or the sexuality or gender of the family that they live in. We must change the way in which we manage that and protect these precious people in our community from harm.

Finally, I put on record my thanks to the many faith groups and leaders who have truly engaged with this process. There was some suggestion during debate that that engagement has not occurred, but that is not the case. There has been a huge amount of consultation. The Government has greatly appreciated the thoughtful way in which people have engaged with the process and the way that they have struggled with the genuinely difficult issue of where to find the balance between these matters. I particularly thank some of the faith leaders who have encouraged us to strongly support the bill because they have seen what it has meant for the people in their congregations and how important it is.

I thank Equality Australia for its ongoing wisdom and advice. As ever, we do not agree on everything but we agree on a fair amount. The bill is better as a result of that group's input. I thank the survivors of conversion practices. Many have been mentioned tonight but I thank the survivors who have seriously engaged with the bill, including Anthony Venn-Brown, Chris Csabs, Tim Pocock, Jeremy Smith, Aaron Kelly, Ace, Teddy Cook, Dawn Emsen-Hough, Nathan Despot, Eamon McCaughan and Rachel. I also give a shout-out to the many public servants across the various portfolios in government, including the Attorney General, the Department of Communities and Justice, and Health. These issues are difficult and there is difficult law to make, with very strong views surrounding it. Hundreds of hours of work have gone into the bill. I particularly give a shout-out to my colleagues the Minister

for Multiculturalism, the Minister for Health and the Attorney General for the work that they and their staff have diligently done over a long period to get to where we are tonight.

The Government is proud of the bill. We on this side think that it gets the balance right. We believe that it values everyone and that it ensures everyone in this State understands that they are valued, no matter who they are, no matter who they love or no matter the body that they were born into. We also understand that people have a right to freedom of expression and to their religious faith, and we have deep conviction and understanding of that. To suggest otherwise is simply incorrect. Many of the people who are asking for this change are people of deep faith who experienced harmful practices—some in the distant past, some literally happening right now. We cannot pretend that this is something in the distant past or that it is not happening. The point is that tonight there has been a very long discussion, and I know that we have a mountain of amendments to deal with. The Government has considered the amendments, as members on this side have seen them on the way through, and I will outline our position on those amendments. I thank those who were involved with the bill, and I thank and remember those who are not here to see it pass. I commend the bill to the House.

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

The House divided.

Ayes 28
Noes 6
Majority.....22

AYES

Boyd	Hurst	Munro
Buckingham	Kaine	Murphy
Buttigieg	Lawrence	Nanva (teller)
Carter	MacDonald	Primrose
Cohn	Maclaren-Jones	Rath (teller)
D'Adam	Martin	Sharpe
Faehrmann	Merton	Suvaal
Fang	Mookhey	Tudehope
Farraway	Moriarty	Ward
Higginson		

NOES

Banasiak (teller)	Latham	Roberts (teller)
Borsak	Mihailuk	Ruddick

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 note that there are several sheets of amendments, being Liberal Democratic Party sheet c2024-040A, The Greens sheets c2024-033E and c2024-048A, Opposition sheet c2024-029G, and Shooters, Fishers and Farmers Party sheet c2024-037D. I also have five sheets of amendments from One Nation, being sheet c2024-042A, sheet c2024-043, sheet c2024-044, sheet c2024-045A and sheet c2024-046. For the information of members, the Liberal Democratic Party amendments Nos 1 to 12 on sheet c2024-040A, the One Nation amendments Nos 1 to 12 on sheet c2024-042A, and the Shooters, Fishers and Farmers Party amendments Nos 1, 2, 4 to 7, 9, 13, 14, 19 and 21 on sheet c2024-037D are similar. As the Liberal Democratic Party's amendments were lodged first, I invite the Hon. John Ruddick to move Liberal Democratic Party amendments Nos 1 to 12 on sheet c2024-040A.

The Hon. JOHN RUDDICK (02:42): By leave: I move Liberal Democratic Party amendments Nos 1 to 12 on sheet c2024-040A in globo:

No. 1 **Removal of references to gender identity**

Page 3, clause 3(1)(a), lines 5 and 6. Omit "or gender identity".

No. 2 **Removal of references to gender identity**

Page 3, clause 3(1)(b), lines 7 and 8. Omit "or gender identity".

No. 3 **Removal of references to gender identity**

Page 3, clause 3(2), lines 10 and 11. Omit "or gender identity".

No. 4 **Removal of references to gender identity**

Page 3, clause 3(2), line 12. Omit "or gender identity".

No. 5 **Removal of references to gender identity**

Page 3, clause 3(3), line 24. Omit "or gender identity".

No. 6 **Removal of references to gender identity**

Page 3, clause 3(3), line 26. Omit "individual's gender identity". Insert instead "individual".

No. 7 **Removal of references to gender identity**

Page 3, clause 3(3), lines 27 and 28. Omit all words on the lines.

No. 8 **Removal of references to gender identity**

Page 3, clause 3(3)(c), line 34. Omit "or gender identity".

No. 9 **Removal of references to gender identity**

Page 3, clause 3(4)(d), line 45. Omit ", gender identity".

No. 10 **Removal of references to gender identity**

Page 5, clause 5(1)(a), line 6. Omit "or gender identity".

No. 11 **Removal of references to gender identity**

Page 23, Schedule 2, lines 16 and 17. Omit all words on the lines.

No. 12 **Long title**

Omit "or gender identity".

The amendments omit the words "gender identity" entirely from the bill. When we think of conversion therapy, many of us think of the ghastly way Alan Turing was treated. Turing's extraordinary mind substantially helped the Allies win the Second World War. He should have received a knighthood, but instead, as a gay man, he was forced to choose between chemical castration and jail. He chose the chemicals and tragically committed suicide.

We somehow find ourselves in a similar position today. Trans conversion therapy is too often the new gay conversion therapy. Research conducted on thousands of gender-confused kids in the 1980s by Canadian psychologist Dr Kenneth Zucker revealed that, if left alone under the watchful waiting approach, 89 per cent of gender-confused kids turned out to be normal, healthy, happy, gay adults and that going through puberty is, in many cases, the solution to gender confusion. If these amendments are not accepted, we will be, for many, trans-ing away the gay.

We are taking normal gay kids and giving them a so-called "fix" under a heteronormative structure. This is regressive, not progressive. It is inadvertent homophobia. The trans activists tell us that gender-confused children are not gay but are born in the wrong body. This is built around the recently invented concept of a gendered soul, which has no basis in science. This has resulted in the affirmative care model, where, if a little boy questions whether he might be a girl, he is immediately praised and put on a medicalised path to trans, and evidence shows that, once on that path, he rarely gets off—though often regrets it in the longer term. When the bill states that a conversion means a sustained effort that is directed at changing or suppressing an individual's sexual orientation or gender identity, what it means is that as soon as a kid says, "I'm trans", you cannot question it.

When the bill refers to a health practitioner's reasonable professional judgement, it means there is no conclusion doctors may reach other than to affirm that the child is trans. Where does this path lead? We know from the growing list of de-transitioners that many regret this irreversible path. Often there is the loss of sexual function, a lifetime of regret, corrective surgeries, plus physical and mental pain. A class action has begun on behalf of de-transitioners in the United Kingdom [UK], and lawyers running that case claim we are living through the biggest medical scandal of all time. And in this Parliament we are being asked to entrench in law the biggest medical scandal of all time; it has already been called the lobotomy of our era, but it could be far worse because this movement is focused on children.

Dr Hilary Cass's report into the UK's biggest gender clinic, Tavistock, resulted in its imminent closure. Cass's report revealed that sometimes after just one appointment of a few minutes children's new identity was affirmed. Some were as young as three, and when they hit puberty they were put on a path to puberty blockers. I do not normally rely on the ABC, but last year's *Four Corners* had an episode on the trans industry in Australia. I quote from the ABC last year:

> In 2021 Westmead researchers published a peer reviewed report examining the clinical characteristics of 79 young people seeking help at the gender service.
>
> They pointed to complex family trauma amongst many of those reviewed: "high rates of adverse childhood experiences" including family conflict, parental mental illness and loss of important figures via separation. A history of maltreatment was also common. …
>
> They argued going straight to the gender affirming model is dangerous and said, "a trauma-informed model of mental health care" should be included in all gender care clinics. They said " clinicians (including ourselves) … are coming under increasing pressure to compromise their own ethical standards … by engaging in a tick the box treatment process".

Initially we were told that puberty-blocking drugs were safe. Now a consensus is emerging that puberty blockers and cross-sex hormones are highly experimental and may result in forms of cancer, sterility and sexual impairment.

The peak medical body the medical community relies on for advice on transgender care and the prescribing of these drugs is the World Professional Association for Transgender Health [WPATH]. Recently, leaked files have disgraced WPATH, revealing it is run largely by activists, not doctors. The leaks showed many doctors have serious concerns. So when this bill states that a conversion practice does not include treatment by a registered health practitioner that complies with all relevant legal, professional and ethical clients, WPATH is the body it is relying on. If you pay $200 to become a member of WPATH, you are in—no questions asked. So we are in this absurd position where actual doctors with gender-confused patients are asking WPATH for advice and they are being told by trans activists that their patients were born in the wrong body.

The same activists spin the terrible spectre of suicide to parents, with the question, "Would you rather have a dead son or a live daughter?" But recent research from Finland on just over 2,000 gender-confused kids is the most comprehensive study of links between gender dysphoria, mental illness and suicide risk. It revealed that medical transition does not reduce suicide. The study found that kids in gender clinics had elevated suicide risk, but this was explained by psychiatric issues and not by the gender dysphoria itself. This is why Finland and much of Europe now have a policy to treat psychiatric issues first, before any steps towards transition.

Cass's report into Tavistock revealed that over 80 per cent of patients were simply same-sex attracted people. But they had all been told they were born in the wrong body because of their gendered souls. This bill states if you question that you are taking part in conversion therapy and trying to convert a child from the natural state of trans. Yet, insidiously, the bill contains an explicit exemption, stating:

> … health services or treatments that do not constitute a conversion practice …
>
> - genuinely assisting an individual who is exploring the individual's sexual orientation or gender identity or considering or undergoing a gender transition

So encouraging a child to become transgender is not conversion, but asking them to wait a while to see how they feel is conversion. That tells you all you need to know about the deceptive nature of the proposed laws and their real purpose: to entrench medicalised gender care for minors and to suppress ethical, non-invasive alternatives such as exploratory psychotherapy that might reconcile a distressed child to his or her natural biology. We know from research that a majority of those gender-confused, so-called "trans kids" are just normal gay kids. Maddeningly, this regressive bill is asking us to convert them to normalise them to hetero. There was a sick joke amongst the Tavistock staff: "If we keep going this way, there will be no gay people left in the UK." Those in support of the bill often talk about being on the right side of history. I leave it up to the Chamber to make that judgement.

The Hon. MARK LATHAM (02:50): I move:

> That the Chair of Committees leave the chair, report progress and seek leave to sit again on the next sitting day.

The Hon. Penny Sharpe: Will the Chair clarify what that would mean in relation to the bill? I do not support the referral.

The Hon. MARK LATHAM: I have the call and a member cannot stand up when someone has moved a motion. This is the equivalent of a hard adjournment, only five hours later. If the bill is so important and valuable, why is it being debated at 3.00 a.m. on a Friday? It is for something that will not start for another 12 months. Surely the amendments cannot be considered properly by members who are sleep-deprived zombies at 3.00 a.m. The civilised and sensible approach is to support the belated hard adjournment.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (02:41): We have come this far on the bill. The Government has made clear the need to get it finished. To clarify for members who may not be aware, this is a procedural motion, and we need to decide whether we agree to it or not. I am just making it clear that the Government does not agree to it and will be voting against it.

The CHAIR (The Hon. Rod Roberts): For the information of the Committee, the Hon. Mark Latham has moved a motion under Standing Order 184 (2). The standing order states:

> (2) A motion may be made at any time during the proceedings of a committee that the Chair report progress and ask leave to sit again.

The question is that the motion be agreed to.

The Committee divided.

Ayes 16
Noes 17
Majority.....1

AYES

Banasiak	MacDonald	Munro
Borsak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward
Latham		

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Jackson
Franklin	Graham
Mitchell	Houssos
Taylor	Donnelly

Motion negatived.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (03:00): The amendments moved by a number of members are very similar and attempt to do the same thing, which is that they serve to remove gender identity from the bill. The Government opposes the amendments. From the outset, the Government's election commitment was to ban LGBTQ+ conversion practices. The "T" is in there, and that is what it is about. That unambiguously includes extending these protections to people on the basis of their sexual orientation or gender identity. The evidence shows that conversion practices are performed or delivered to people with the goal of trying to change a person's gender identity. These people deserve to be protected from such practices.

I listened very carefully to the Hon. John Ruddick's contribution. I am not going to rebut every single thing that he put on the table in relation to the debate, suffice to say there are a lot of trans people, in particular, who are alive because they have had gender-affirming care—who, frankly, would not have survived without it. There are many trans people who are living their lives in the way that they choose to, not impacting on anybody else, and are doing that as their true, authentic selves. You do not hear from them because they have had the treatment that they need and they are just going about their business.

I am not going to get into a debate tonight over the many assertions made in the Hon. John Ruddick's contribution. I am always interested in what the Hon. John Ruddick has to say, but there are many things he quoted that are not borne out much by the facts. I think members need to be careful as we are debating this issue. But I am not going to go hammer and tongs into all of that, except to say that the Government does not support these amendments. We urge other members not to support them either.

The Hon. MARK BANASIAK (03:03): I speak to the amendments moved by the Hon. John Ruddick, but also indicate the Shooters, Fishers and Farmers Party has similar amendments, as does One Nation, so

members should take it as given that I am speaking on all of those. We support the amendments. We have had overwhelming public support to our office, including from the lesbian and gay community, asking us to omit all references to the term "gender identity". They specifically say, in terms of their concern, that it seems there is a conflation of the historical reality of sexual orientation conversion practices and this translation now into it being gender identity conversion practices. They are concerned that this is being conflated. We move to omit that and support the gay and lesbian community, who have real concerns about this. We are not denying historical acts, but that should not be conflated into undocumented, unproven or imaginary ones in the present for transgender.

Dr Alex Byrne talks about the World Professional Association for Transgender Health's *Standards of Care*. These are the supposed experts in the area. She talks about how they cannot agree whether gender is a synonym for sex or whether it has another meaning entirely. To suit the convenience of the Committee, I will not read out the entire quote, or read out the quote at all. But in the absence of any clear definition of what gender identity is or is not, it is foolish to put it into legislation for the courts to interpret and decide sometime down the track when somebody is potentially facing five years in prison. It goes to my point in an earlier speech about the subjectivity of some of the terms and concepts in this bill. If we cannot define what it is or is not, why are we putting the courts and the enforcement agencies into a position where they have to interpret something we cannot even define?

The CHAIR (The Hon. Rod Roberts): Bearing in mind that the Hon. Tania Mihailuk's amendments are identical, it would be appropriate for her to speak to them now.

The Hon. TANIA MIHAILUK (03:05): I also support the amendments moved by the Hon. John Ruddick, and spoken to by the Hon. Mark Banasiak. All three of our parties have moved very similar amendments specifically removing "gender identity". I remind the Committee that right from the get-go, when the Government pledged before the last State election to ban gay conversion practices, it was always just about gay conversion. None of the materials issued by the then Labor Opposition indicated gender identity. None of the media that followed that announcement ever referred to gender identity. That was introduced much later, but it was not what the Opposition leader, and indeed the Labor Party, took to the last State election, and it was never discussed.

They do not have any kind of mandate on this issue because they did not take it to the last State election. I think that for many reasons, including the definition and many of the reasons that both the Hon. John Ruddick and the Hon. Mark Banasiak raised, and which I raised in an earlier speech on concerns about young women and girls having gender dysphoria and the many issues and complications arising from that, the bill has gone too far in straying into the area of gender identity. As such, I support the amendments to remove "gender identity" from the bill.

Dr AMANDA COHN (03:07): The Greens oppose the amendments. As a cisgender woman, I do not have the experience of being born into a body that does not fit my sense of self, but as a GP and a former provider of gender-affirming care, I have had the privilege of really intimate insight into the lives of countless trans and gender-diverse people, and it is for those people that I oppose the amendments tonight. In this debate, the comfort with which several speakers have completely dismissed and erased the experiences of trans and gender-diverse people is exactly why they need protection under this bill.

The bill is not at all about gender-affirming care, but given the amount of content of the debate that has related to gender-affirming care, I will briefly clear up some misconceptions. Given the hour, I am not going to play Whac-A-Mole with all of the untruths that have been said tonight. I used to work at the first clinic outside of an Australian capital city that provided gender-affirming care for young people; that is Gateway Health in Wodonga, Victoria. I am very proud to have been a part of that program. Gender-affirming care is a broad range of interventions that for many people does not even mean medication or surgery.

Gender-affirming care can be as simple as using the name and pronouns that someone wants you to use. It can be as simple as an outfit or a haircut. It is just affirming the gender that fits what someone feels. Medications have been referred to with terms like "dangerous cross-sex hormones", but the medications used in gender-affirming care are very common and known. These are hormones that are used to treat menopause. Puberty blockers for kids are used to treat precocious puberty. Testosterone is used to treat testosterone deficiency in older men. These are not new medications; they are common medications that are used for other things. We know how they work, and we know how they work for trans and gender-diverse people as well.

There have been a number of comments about surgery. Gender-affirming surgery is not available for people under the age of 18 in Australia. There have been many strange comments about the age of consent for overriding the parents. In Australia, medical professionals use a concept known as Gillick competency to enable young people to consent to medical or dental treatment as adults. Young people are generally considered competent from about 16—sometimes as young as 14, depending on the maturity of that young person. But we are certainly not ever talking about primary school kids making medical decisions without the consent of their parents. It is just not happening, despite what some people may have read on the internet.

The other untruth I need to correct is that medical professionals are medication vending machines. They are not. No-one turns up to a consult and says, "I want to be put on hormones", and is just given what they want. We do not do that with antibiotics or pain relief either. Medical professionals are highly skilled and highly trained to assess people, make a diagnosis and provide the treatment that they actually need. For people who have a sense that their body is not right, there are a huge range of things that could be—

The CHAIR (The Hon. Rod Roberts): I will be careful in how I say this, but there is a long night in front of us and Dr Amanda Cohn is straying from the leave of the amendments, which would remove the term "gender identity". I understand her involvement and passion, but she is speaking about medical treatment and things that do not directly involve the amendments. To keep things flowing, I draw the member's attention back to the amendments.

Dr AMANDA COHN: I think that because of the reasons trans and gender-diverse people need to be protected from conversion practices, it is important to talk a little bit about what gender affirmation means.

The CHAIR (The Hon. Rod Roberts): I have already given the member some latitude.

Dr AMANDA COHN: I will finish by saying that a number of members have quoted organisations such as the LGB Alliance. The alliance would have an ounce of credibility if it ever stood up for lesbian, gay and bisexual people when it was not about erasing trans people.

The Hon. DAMIEN TUDEHOPE (03:12): The force of the amendments moved by the Hon. John Ruddick is reinforced by the erudite speech given by the Hon. Stephen Lawrence earlier tonight. In his contribution to the second reading debate in support of the legislation, the Hon. Stephen Lawrence articulated the complex issues surrounding gender, which are in the process of being resolved. If the issues relating to gender fluidity and the manner in which they are being dealt with had been resolved and there was a body of evidence around it, then it would fit clearly within the scope of the bill. But, as the member clearly articulated, the fact is that the medical science is in a state of flux over the manner in which that issue ought to be dealt with.

I respectfully submit that the Hon. Stephen Lawrence outlined the issues in an erudite manner. But for the benefit of Dr Amanda Cohn, I disagree that the manner in which gender-affirming therapy has been administered is necessarily uniform and professional. I have received correspondence from numerous parents indicating that the gender-affirming therapy, or the gender transitioning that their children have been subjected to, which is the subject of affirmation, has not been satisfactory. The way that they were provided with professional advice has fallen far short of what would be satisfactory to ensure that information was given, proper assessment was given, and proper consideration to delay was given. In fact, in the correspondence addressed to me, it was, in many respects, an articulation of a response that was probably ill considered. I put on record one of the emails I received, which reads, "Daughter's journey with gender dysphoria began unexpectedly"—

The Hon. Penny Sharpe: Point of order: The member is now straying into the issue that Dr Amanda Cohn was pulled up on. The member has been going for four minutes so far. That is fine, but the point is that the member is straying beyond what we are debating, which is omitting "gender identity" from the bill.

The Hon. DAMIEN TUDEHOPE: To the point of order—and I probably would have supported this contention by Dr Amanda Cohn: This goes to why gender is such a complex issue and why it should not be the subject of the bill, where potentially parents and even medical practitioners are subject to a civil regime, created pursuant to the bill, which could make them the subject of penalties under the bill in respect of the advice which they give to their children or, alternatively, in circumstances where registered medical practitioners provide advice to their patients. So it is relevant to consider individual circumstances that go to show why gender should be excised from the bill to ensure that, because of its complexity—

The Hon. Penny Sharpe: This is a very long debating point on the point of order.

The Hon. DAMIEN TUDEHOPE: I think it is important that this point is made. The complexity of including gender is outlined by the facts of individual cases, so I think it is powerful to understand the experiences of some parents.

The CHAIR (The Hon. Rod Roberts): I use the old maxim of what applies to one, applies to all. I ruled on that for Dr Amanda Cohn and I will apply the same one here. The question before the Committee is to omit the words "gender identity" from the bill. There has been ample time for discussion in the second reading debate as to the issues around gender identity. I was about to warn the Hon. Damien Tudehope about cavilling with the ruling. I already made that ruling for Dr Amanda Cohn and the same rule applies to the Hon. Damien Tudehope. If the member wishes to continue addressing the amendment that is before the Committee, he is more than welcome to do so.

The Hon. DAMIEN TUDEHOPE: I would say to the Chair that, in the circumstances, I think there is sufficient complexity relating to the manner in which gender dysphoria is treated by way of the advice that parents are encouraged to give to their children, in respect of the advice that medical practitioners give to their patients, and in respect of the manner in which people who are seeking help in relation to transitioning are provided with advice by others in their immediate surroundings. Because of the complexities of the issues that they want to have addressed by those medical practitioners, and by the support and the affirming care of their parents, it is appropriate in these circumstances to excise it from the bill for the purposes of ensuring that the science is settled on the best treatment outcomes. Another part of the bill requires a registered health practitioner to act in accordance with relevant legal, professional and ethical requirements. In the absence of those legal, professional and ethical requirements being settled, it is my submission that we should not be including it in the bill at this stage.

The Hon. EMMA HURST (03:20): I oppose the amendments moved by the Liberal Democratic Party, which are similar to amendments of One Nation and the Shooters. As the amendments are mostly identical, I will address them together. By seeking to remove any reference to gender identity, it is overtly clear that the belief behind the amendments is that only cisgender people deserve protection under the bill. It is disgraceful that those parties have joined forces to propose transphobic amendments to the bill. It undermines the central tenet of the bill—its fundamental purpose—which works towards inclusion, acceptance and respect for all people. The Animal Justice Party does not tolerate transphobia, and I call on the Committee to condemn such discrimination. The Animal Justice Party acknowledges all people who have been impacted by those statements and offers an apology for any pain suffered as a result of the amendments put forward. It is not fair—

The Hon. Robert Borsak: Point of order: The Chair has already talked extensively and ruled in relation to giving second reading debate contributions, and we are hearing another one now. The condemnation of the amendments put by our parties is unacceptable at this point in the debate. The member should be speaking to the amendments and not condemning other parties for putting up amendments that she does not agree with.

The Hon. EMMA HURST: To the point of order: My speech is actually very short. I have edited it quite significantly. It is about the amendments and my party's position on the specific amendments. I have not gone outside that. Yes, I am condemning the amendments, but this is the point in the debate at which we get to talk about the amendments.

The CHAIR (The Hon. Rod Roberts): Is the Hon. Emma Hurst still talking to the point of order?

The Hon. EMMA HURST: Yes.

The CHAIR (The Hon. Rod Roberts): I will be completely honest: I was talking to the Clerk at the time and was not listening to the contribution of the Hon. Emma Hurst. However, I have heard what the Hon. Robert Borsak said, and all members should have heard what I said previously to both Dr Amanda Cohn and the Hon. Damien Tudehope. The Hon. Emma Hurst should continue but ensure she is addressing the amendments that are before the Committee.

The Hon. EMMA HURST: People of every gender identity are vulnerable to the harms of conversion practices, and the amendments would exclude people from the protection of the bill. Therefore, the Animal Justice Party finds it unacceptable. We already know that supportive gender affirmation is what trans and gender-diverse people need to live their best lives, so whether they are transgender, gender fluid, gender non-confirming, genderqueer or non-binary, they are welcome here and we stand by them. The bill must offer protection for all individuals, and this is of fundamental importance. I encourage the Committee to ensure it does so by condemning and opposing the amendments.

The CHAIR (The Hon. Rod Roberts): The Hon. John Ruddick has moved Liberal Democratic Party amendments Nos 1 to 12 on sheet c2024-040A. The question is that the amendments be agreed to.

The Committee divided.

Ayes 15
Noes 17
Majority.....2

AYES

Banasiak (teller)	Latham	Mihailuk
Borsak	MacDonald	Rath
Carter	Maclaren-Jones	Ruddick (teller)
Fang	Martin	Tudehope

AYES

Farraway	Merton	Ward

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Jackson
Franklin	Graham
Mitchell	Houssos
Taylor	Donnelly

Amendments negatived.

One Nation amendments Nos 1 to 12 on sheet c2024-042A lapsed.

Shooters, Fishers and Farmers Party amendments Nos 1, 2, 4 to 7, 9, 13, 14, 19 and 21 lapsed.

The Hon. MARK BANASIAK (03:32): I move Shooters, Fishers and Farmers Party amendment No. 8 on sheet c2024-037D:

No. 8 **Meaning of conversion practices—at individual's request**

Page 3, clause 3(3)(b), lines 29–31. Omit all words on the lines. Insert instead—

(b) assisting an individual, including in response to a request from the individual, to genuinely facilitate the individual's coping skills, development or identity exploration to meet the individual's needs or request, including by providing acceptance, support or understanding to the individual, or

The amendment affirms that an individual may request the support of another individual, particularly following the individual's request and consent. There is no mention of an individual's own opinion or consent in the clause as it stands. It simply states that an individual can be supported, notwithstanding their individual thoughts or opinions on the matter. As it stands, the clause undermines the many years of positive work and conversations that have been had in this Chamber, in the other place and in committees about the concept of consent by pretending that it does not apply in this case. It is undermining the value and importance of consent and the work that has been done in this Parliament on improving the standing of that concept. I note that the Opposition has a similar amendment. I indicate that the Shooters, Fishers and Farmers Party will be supporting the Opposition amendment. I commend the amendment to the Committee.

The CHAIR (The Hon. Rod Roberts): The Hon. Mark Banasiak moving the Shooters, Fishers and Farmers Party amendment No. 8 on sheet c2024-073D as a standalone amendment brings into conflict Opposition amendment No. 2 on sheet c2024-029G and The Greens amendment No. 2 on sheet c2024-033E. So I will invite the Hon. Damien Tudehope to move the Opposition amendment and then, after that, The Greens to move their amendment. I will then call the Hon. Mark Banasiak.

The Hon. DAMIEN TUDEHOPE (03:34): I move Opposition amendment No. 2 on sheet c2024-029G:

No. 2 **What does not constitute a conversion practice—individual's request**

Page 3, clause 3(3)(b), line 30. Insert "or at the individual's request" after "needs".

The Opposition's amendment is very similar to the amendment moved by the Hon. Mark Banasiak, which is to include on line 30, clause 3 (3) (b), the words "or at the individual's request" after "needs". The amendment would ensure that where an individual requests a person to genuinely assist the individual with coping skills, development or identity exploration by providing acceptance, support or understanding, this is not subject to a later test as to whether this met the individual's needs. Without this amendment, some people may be reluctant to respond to an individual's request for assistance in case they may be later found to have breached the Act by not meeting that individual's needs.

A person's own view of whether such assistance met their needs or not may change over time. This is perfectly valid. However, it should not be relevant to an objective consideration of the lawfulness of responding to a person's request for help with coping skills at the time when the request was made. To be clear, this does not introduce any consent element to the criminal offence provisions. It has been argued that to agree to this requirement of consent may be tantamount to a person consenting to be assaulted for the purposes of the criminal provisions contained in the bill. The manner in which it has been concluded in clause 3 (3) (b) eliminates that and there is no suggestion that the individual request constitutes a request to be assaulted.

The Hon. Mark Banasiak: Point of order: Mr Chair, before the next member steps forward for her contribution, I ask that the frivolity and the party in the members' lounge cease and desist. It is distracting. The contributions of other members are hard to hear over the excessively loud voices of members in the members' lounge.

The CHAIR (The Hon. Rod Roberts): I thank the member. The Clerk is attending to that.

Dr AMANDA COHN (03:37): By leave: I move The Greens amendments Nos 1 to 4 on sheet c2024-033E in globo:

No. 1 **Meaning of conversion practices**

Page 3, clause 3(1)(a) and (b), lines 5–8. Omit all words on the lines. Insert instead—

(a) on the basis of sexual orientation or gender identity, and

(b) directed to changing or suppressing the sexual orientation or gender identity of—

(i) an individual, or

(ii) individuals within a group.

No. 2 **Meaning of conversion practices—expression of beliefs or principles (consequential on amendment No. 3)**

Page 3, clause 3(3)(b), line 31. Omit "individual, or". Insert instead "individual.".

No. 3 **Meaning of conversion practices—expression of beliefs or principles**

Page 3, clause 3(3)(c), lines 32–37. Omit all words on the lines.

No. 4 **Meaning of conversion practices—private prayer**

Page 3, clause 3(4). Insert after line 46—

(e) personal prayer and reflection.

I move all The Greens amendments on this sheet in globo because they need to be considered together. They do not make sense if they are moved one at a time. I have just sought consent from the Chair to move them this way. The Greens amendments are to the definition of a conversion practice. Conversion messaging and conversion language is harmful, whether it is directed at an individual or said to a room full of people. Faith is an integral part to so many people's lives, and LGBTQA+ people deserve to be safe from harm within their faith community. Survivors have told me how language used, for example, in sermons, can plant the seed in a person's mind that they are broken and need to be fixed. This causes some people to seek out harmful conversion practices. For LGBTQA+ people of faith to hear every week that they need to change an essential part of themselves that cannot be changed is a powerful source of trauma. Firstly, The Greens seek to amend the definition of a conversion practice to be a practice, treatment or sustained effort "on the basis of sexual orientation or gender identity" and "directed to changing or suppressing the sexual orientation or gender identity" of an individual or individuals within a group.

Secondly, we seek to remove from the list of things that a conversion practice does not include "an expression, including in prayer, of a belief or principle, including a religious belief or principle", and "an expression that a belief or principle ought to be followed or applied". Finally, we seek to include "personal prayer and reflection" in the list of examples of what does not constitute a conversion practice, for the avoidance of doubt. These amendments are critical so that LGBTQA+ people who are members of faith communities can continue to take part in those communities safely. On that note, it is important to thank faith leaders who have advocated for a ban on conversion practices, particularly the Uniting Church, who have demonstrated that Christianity can be inclusive and affirming for LGBTQ people.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (03:40): The Government does not support any of the amendments. The effect of The Greens amendments would mean that conversion practices directed to a group would be a conversion practice and, therefore, prohibited. The Government does not support that. The intention behind it is to ensure that where conduct is delivered in a group setting the ban will still capture those practices. However, the drafting is overly broad and may have unintended consequences. The bill needs to strike the right balance between

protecting people from objectionable practices and preserving core civil liberties such as freedom of expression and freedom of belief.

I also note that the current drafting does not mean that a practice, treatment or sustained effort needs to be delivered to an individual in the absence of others. For instance, in group scenarios such as camps or training programs, the relevant conduct could, depending on the circumstances, be said to be directed to each individual participant. The Government does not support the Shooters amendment. We do not support limiting the application of the bill where a request for a conversion practice has been made. Consent is not an appropriate element for a ban on conversion practices. We oppose the amendment.

The Hon. EMMA HURST (03:42): The Animal Justice Party will not be supporting any amendments in regard to consent. From the research and from listening to survivors of conversion practices, it is clear that true consent is rarely given. Rather, individuals may be unduly influenced or pressured to consent. This is not true consent, and it should not absolve those who are in a position of power from exposing LGBTQI+ people to damaging practices. It is well known that conversion practices have lifelong negative impacts on those exposed, and that is why we are banning them today. Carving out requests or the appearance of consent would exclude most instances of harmful conversion and render the bill toothless. Therefore, I oppose the Shooters amendment. However, the Animal Justice Party supports The Greens amendments.

The Hon. DAMIEN TUDEHOPE (03:43): The Opposition opposes The Greens amendments brought by Dr Amanda Cohn. Following consultation with the religious community, the bill seeks to preserve religious freedom. The Greens are attempting to excise from the bill that part of the concessions made by stakeholders, including the LGBTQI+ community, who were consulted in relation to the preparation of the bill for the purposes of reaching agreement on it. For The Greens to come here today and say, "We don't want the religious freedom exemptions or concessions which have been made to be part of this bill", is a betrayal of the religious groups who participated in those consultation negotiations in good faith. The Opposition will be opposing that amendment.

The CHAIR (The Hon. Rod Roberts): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendment No. 8 on sheet c2024-037D.

The Hon. Damien Tudehope: I suggest that we proceed with my amendment first. If my amendment is agreed to, the amendment of the Hon. Mark Banasiak will not be proceeded with. If my amendment fails, the amendment of the Hon. Mark Banasiak will also fail.

The CHAIR (The Hon. Rod Roberts): I have been instructed that the appropriate way to proceed is with the Hon. Mark Banasiak's amendment first. However, if the Committee is mindful of proceeding in an alternative way, and if leave is granted to do so, we can proceed with the order suggested by the Hon. Damien Tudehope. Is leave granted?

Leave granted.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendment No. 2 on sheet c2024-029G. The question is that the amendment be agreed to.

The Committee divided.

Ayes 16
Noes 17
Majority.....1

AYES

Banasiak	MacDonald	Munro
Borsak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward
Latham		

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal

NOES

Faehrmann	Moriarty

PAIRS

Farlow	Houssos
Franklin	Graham
Mitchell	Donnelly
Taylor	Jackson

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendment No. 8 on sheet c2024-037D. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): Dr Amanda Cohn has moved The Greens amendments Nos 1 to 4 on sheet c2024-033E. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 5
Noes 27
Majority.....22

AYES

Boyd	Faehrmann (teller)	Hurst
Cohn	Higginson (teller)	

NOES

Banasiak	Lawrence	Murphy
Borsak	MacDonald	Nanva (teller)
Buckingham	Maclaren-Jones	Primrose
Buttigieg	Martin	Rath (teller)
Carter	Merton	Ruddick
D'Adam	Mihailuk	Sharpe
Fang	Mookhey	Suvaal
Farraway	Moriarty	Tudehope
Kaine	Munro	Ward

Amendments negatived.

The Hon. DAMIEN TUDEHOPE (04:01): I move Opposition amendment No. 1 on sheet c2024-029G:

No. 1 **Meaning of conversion practice—registered health practitioners**

Page 3, clause 3 (3)(a)(ii), line 18. Insert "the registered health practitioner's" after "all".

This small amendment is in respect of what qualifies as the relevant legal, professional and ethical requirements applicable to a treatment, for the purposes of being outside of which would constitute a conversion practice. The amendment clarifies that in providing a health service or treatment, the relevant legal, professional and ethical requirements with which a registered health practitioner must comply are those that apply to the registered health practitioner in his or her professional capacity and not, for example, a set of ethical requirements created by some other body.

Registered health practitioners have raised this as a concern, and we raise their concern on their behalf. This simple amendment clarifies the ethical and professional standards with which the health practitioners have to comply. We would have thought that this eminently sensible amendment is capable of being supported by all members in this Chamber. I would be befuddled that anyone could oppose this amendment because it gives the level of clarification requested by registered health practitioners.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (04:03): The Government does not support the amendment. It proposes an amendment to clause 3 (3) (a) (ii) to include additional, unnecessary words. The clarifying word "relevant" in that clause makes it clear that a registered health practitioner will fall within the exclusion where they have complied with legal, professional and ethical requirements that are applicable to that practitioner in the delivery of the health service or treatment. We believe that this amendment is unnecessary.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendment No. 1 on sheet c2024-029G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave not granted.

The Committee divided.

Ayes 15
Noes 17
Majority.....2

AYES

Banasiak	MacDonald	Munro
Borsak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Donnelly
Franklin	Graham
Mitchell	Houssos
Taylor	Jackson

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): I now invite the Hon. Damien Tudehope to move Opposition amendments Nos 3 to 5 on sheet c2024-029G.

The Hon. DAMIEN TUDEHOPE (04:12): I intend to move amendment No. 3 by itself and then amendments Nos 4, 5, 6, 7 and 10 in globo if I may.

The CHAIR (The Hon. Rod Roberts): It is your prerogative.

The Hon. DAMIEN TUDEHOPE: I will move amendment No. 3 by itself. I move Opposition amendment No. 3 on sheet c2024-029G:

No. 3 **What does not constitute a conversion practice—religious exemption**

Page 3, clause 3(3)(c), lines 32–37. Omit all words on the lines. Insert instead—

(c) an expression, including a prayer, of a belief or principle, including a religious belief or principle, or

(d) an expression that a belief or principle ought to be followed or applied.

The amendment outlines what does not constitute a conversion practice in relation to the religious exemption. It is an amendment to lines 32 to 37 of clause 3 (3) (c). The amendment removes the circularity in the provision excluding prayers and teachings about beliefs and principles from being in themselves a conversion practice. The

amendment would give greater certainty to religious groups, religious schools, women's groups and parents that the ban on conversion practices is not intended to suppress the freedom of religion or belief. It would not preclude a course of action from otherwise amounting to a conversion practice just because it also included a prayer or expression of belief.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (04:14): The Government will oppose this amendment. The amendment would have the likely effect of allowing an individual to claim that any religious expression of a belief or principle is not a conversion practice. That is not the intention of the bill. As I mentioned before, the reform carefully considered the best way to ensure that a ban strikes the right balance with legitimate religious and cultural practices. The exclusion, as currently drafted, does that. It makes clear that the exclusion extends to general conversations around religious beliefs or how religious beliefs might be reflected in a person's life. However, if that conduct amounts to a practice, treatment or sustained effort that is directed to changing or suppressing an individual's sexual orientation or gender identity, it will fall outside the scope of the exclusion.

The Hon. TANIA MIHAILUK (04:14): One Nation will support the amendment. It is a worthy amendment. I am surprised that that particular issue did not arise in all the deliberations that the Government apparently held behind closed doors with religious and faith groups.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendment No. 3 on sheet c2024-029G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave not granted.

The Committee divided.

Ayes 14
Noes 17
Majority.....3

AYES

Banasiak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward
MacDonald	Munro	

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Houssos
Franklin	Jackson
Mitchell	Graham
Taylor	Donnelly

Amendment negatived.

The Hon. DAMIEN TUDEHOPE (04:23): By leave: I move Opposition amendments Nos 4, 5, 7 and 10 on sheet c2024-029G in globo:

No. 4 **What does not constitute a conversion practice**

Page 3, clause 3(4), line 38. Omit "are examples of what does not". Insert instead "do not".

No. 5 **What does not constitute a conversion practice—family members and parental responsibility**

Page 3, clause 3(4)(d), lines 45 and 46. Omit all words on the lines. Insert instead—

(d) discussions, of whatever kind including challenging conversations, between near relatives on topics including sexual orientation, gender identity, sexual activity or religion, or

(e) a parent or guardian of, or other person who has parental responsibility for, a child setting rules or behavioural standards for the child.

No. 7 **Complaints about near relatives may not be made or accepted**

Page 8. Insert after line 7—

12A Complaints about near relatives may not be made or accepted

A complaint may not be made by or on behalf of an individual, or accepted by the President, if the complaint relates to an act or omission by a near relative of the individual.

No. 10 **Definition of "near relative"**

Page 23, proposed Schedule 2. Insert after line 17—

near relative, in relation to an individual, has the same meaning as in the *Anti-Discrimination Act 1977*.

Amendment No. 4 removes the reference to the exclusions listed in clause 3 (4) of the bill as "examples" and simply states that these things are not conversion practices. In *McLaughlin v Dungowan Manly Pty Ltd (No 3)*, the High Court read down a statutory provision giving an example on the grounds that the example, in the court's opinion, did not fall squarely within the substantive provisions of which it was said to be an example. Without this amendment there would be unnecessary uncertainty about what things could be considered to be banned conversion practices. Uncertainty is undesirable, especially in relation to intra-family matters. It is a very simple amendment. It moves the expression "an example" into a statutory provision.

Amendments No. 5 provides a further protection from the law interfering in family life by extending the exclusion of discussions to cover "challenging conversations", a term used by the Attorney General in his second reading speech, in which he said that the bill was intended to ensure that such challenging conversations between family members were not made unlawful. We take the Attorney General at his word and we have included the phrase "challenging conversations" as part of the relevant provision.

Amendment No. 10 extends the exclusion discussions to all near relatives as defined in the Anti-Discrimination Act 1977—that is, the spouse, de facto partner, parent, child, grandparent, grandchild, brother or sister of that person. In many ethnic communities matters such as sexuality and religion would be matters for discussion with the involvement of extended families, not within the nuclear family. The inclusion of spouses and de facto partners is deliberate. There is a valid concern that as a married person or partner in a relationship explores a previously unacknowledged sexual orientation or gender identity of a person, that spouse or partner may, for understandable reasons, actively seek to dissuade the person from pursuing and acting on that orientation or identity. That would not be made an unlawful practice that could be the basis of a subsequent complaint. The amendment also covers parents setting rules for a child about behaviour. Discussions are one thing but decisions about who can sleep over under the family roof are another. The provision is limited to those who have parental responsibility for a minor under a Commonwealth or State law.

Amendment No. 7 would complement amendments Nos 5 and 10 by excluding the making or receiving of a complaint by or on behalf of a person in relation to the actions or omissions of a near relative. The Anti-Discrimination president is not the appropriate recipient, mediator or decision-maker on intra-family matters. While it is understandable that a person who has chosen a different path in relation to sexuality or gender orientation than their near relatives—that is, parents, grandparents, siblings or spouses—may have encouraged or even pressured them to follow, it cannot contribute to anyone's wellbeing to litigate such differences through a civil complaints system. The example above illustrates the core purpose of the amendments and would make the bill better.

If complainants are excluded from litigating against their parents under the civil regime, family life is protected. What occurs within family life should not be the subject of the civil actions and remedies covered by the bill. It is important that the machinery of government does not unnecessarily interfere with family life. There are provisions within the Children and Young Persons (Care and Protection) Act that could be used if there were complaints about the way a parent was providing parenting advice to their children. It is not appropriate to regulate that discussions had with children within a family environment may later be the subject of proceedings pursuant to the civil remedies contained in the bill. Amendment No. 7 would go a long way to improve the provisions of the bill to make sure that it does not impact on parents.

The Leader of the Government indicated that parents' groups had been consulted about the bill. I asked the Leader of the Government to tell us which ones. We have been told of no parents' groups that were consulted in the preparation of this bill. If she can identify the parents' groups that have been identified and that made submissions on this issue then I would like to know what they are. I just do not believe that parents' groups have

been properly consulted. Family life should not be the subject of orders being made or interference by the machinery of government, which could be brought to bear as a result of the provisions of this bill.

The Hon. MARK BANASIAK (04:29): The Shooters, Fishers and Farmers Party supports the amendments moved by the Hon. Damien Tudehope. In doing so, I note that my amendment No. 12 on sheet c2024-037D deals with similar matters around the expansion of what we understand to be "family". In that case, I cede my amendment to the honourable member's, which is probably worded a lot more succinctly and better than mine is.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (04:30): The Government opposes this series of amendments. While Opposition amendment No. 4 appears minor, its effect is not. It converts the scenarios in clause 3 (4) from examples of excluded contact to full exclusions. That has never been the purpose of these listed examples, which is to add further clarity to the operation of the definition under clause 3 (1) and the exclusions under clause 3 (3). The examples are an open list and non-exhaustive by design. It is not possible or even advisable to set out every hypothetical scenario in legislation. The amendment will also close the list and make it exhaustive, potentially limiting it unintentionally and essentially creating additional confusion.

Opposition amendment No. 5 will expand the example under clause 3 (4) in relation to parental discussions. Those examples are illustrative only and, again, not exhaustive. The term "discussions" is not qualified in the current drafting. The words in the amendment's proposed paragraph (d), "of whatever kind", are superfluous and the existing provisions in the bill would already include "challenging conversations". The amendment's proposed paragraph (e) would fully exempt parents or guardians who set rules or behavioural standards for their children. Under the current drafting, rules of general application, such as household rules, are unlikely to be captured as conversion practices. The amendment would provide carte blanche for parents to engage in practices that could amount to a conversion practice. Such an outcome would be counterproductive to the ban and undermines its effectiveness.

Opposition amendment No. 7 will mean that civil complaints may not be made about the conduct of a near relative, defined in amendment No. 10 to have the same meaning as in the Anti-Discrimination Act 1977. Under section 4 of that Act, a "near relative" is defined as a spouse, de facto partner, parent, child, grandparent, grandchild, or brother or sister of the person. The Government does not support the amendments.

The bill already sufficiently clarifies that the definition of a "conversion practice" does not include ordinary familial discussion about gender identity, sexual orientation or sexual activity, or conduct that genuinely facilitates an individual's coping skills, development or identity exploration to meet the individual's needs. The bill provides protection to all individuals who may be subjected to conversion practices, irrespective of who engages in that conduct. The amendment would undermine this protection by allowing near relatives to engage in conduct amounting to a conversion practice.

I have got on my list that Opposition amendment No. 10 also picks up One Nation's amendments on sheets c2024-043 and c2024-044. These amendments are consequential and insert a definition of "near relative", which is only used in the amendments discussed earlier, which we have not accepted. The Government opposes these amendments.

The Hon. EMMA HURST (04:33): The Animal Justice Party will not support these amendments. I believe the bill strikes the right balance, making it clear that conversations themselves are not conversion practices. By contrast, the amendments would make this clarification further to exempt any kind of discussion between parents and children, including discussions that actually have the clear intent of making a child change or suppress their sexual orientation or gender identity. It could exempt a parent from referring the child to a formal conversion program. The ban on conversion practices is about protecting vulnerable LGBTQI+ people from harmful conversion practices, and it is not appropriate to introduce a blanket ban. Therefore, I oppose the amendments.

The Hon. TANIA MIHAILUK (04:34): I indicate my support for the Opposition's amendments. As I raised earlier, I think that if we do not support the amendments this bill could lead to vexatious complaints and will absolutely usurp parental rights. The idea that we would not include near relatives is absurd. The idea that families do not rely on grandparents or extended family in the way they raise their children, particularly in the south-west Sydney communities I have known where extended family plays an enormous role in raising children, directly encroaches on parental rights and, indeed, the way families raise children. I am very supportive of the Opposition's amendments. I note the Hon. Penny Sharpe said earlier that two of my amendments overlap, but they only overlap in part, so I will keep those separate for now.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendments Nos 4, 5, 7 and 10 on sheet c2024-029G. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 17
Majority.....3

AYES

Banasiak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward
MacDonald	Munro	

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Houssos
Franklin	Donnelly
Mitchell	Graham
Taylor	Jackson

Amendments negatived.

The CHAIR (The Hon. Rod Roberts): I shall now leave the chair. The Committee will resume at 5.00 a.m.

The Hon. MARK BANASIAK (05:01): I move Shooters, Fishers and Farmers Party amendment No. 10 on sheet c2024-037D:

No. 10 **Application of meaning of conversion practices to children**

Page 3, clause 3. Insert after line 37—

(3A) Subsection (3)(a) does not apply to a health service or medical or mental health treatment, consisting of a medical procedure, treatment or clinical assessment, that is intended to—

(a) alter the sex characteristics of an individual under the age of 18 years through elective means, or

(b) prepare an individual under the age of 18 years to undergo elective sex characteristics alterations.

Examples— medical procedures or clinical treatment relating to gender-affirmation surgery, sex reassignment surgery, gender reassignment surgery, gender affirming care, psychological treatment or counselling

It is important to state that I move this amendment from my years of experience in child development as a teacher, not just from a theoretical perspective in my years at university studying the many theorems on children's emotional and physical development. I have also witnessed it in practice. While there might be some slight variation in the emotional and social intelligence and the physical development of young people, it is a reasonably well-understood principle that young people under the age of 18 are still developing with regard to these aspects. It is particularly worth noting that, generally speaking, young boys are known to develop emotionally and socially much later than girls. With this in mind, it is important that we protect young children from making decisions that risk seriously altering their appearance and their physical and emotional wellbeing, often irreversibly.

We have heard time and again of adults regretting decisions. This is not one that we should be meddling with. There is increasing evidence that the popular therapeutic pathway called gender-affirming care is now becoming seriously disputed and a dangerous form of treatment. Some of the more recent developments that we, as legislators, should be concerned with have been mentioned in the debate already. They include the United

Kingdom National Health Service banning the general use of puberty blockers for those under the age of 18 due to the Cass review, and investigative journalist Michael Shellenberger leaking World Professional Association for Transgender Health files, exposing seriously disturbing conversations between surgeons, therapists and activists acknowledging the carcinogenic nature of testosterone and also including conversations about patients who appear to have passed away as a direct result of a hormone treatment. *The British Medical Journal* also uncovered that medical gender transition does not correlate with reduction in suicide rates.

Dr Amanda Cohn: Point of order: I was pulled up earlier for not being directly relevant to an amendment. This is only about surgical procedures, as I understand it. The member's comments are not directly relevant.

The Hon. MARK BANASIAK: To the point of order: The amendment covers a range of gender or sex characteristic changing procedures, not necessarily limited to surgery.

The CHAIR (The Hon. Rod Roberts): The amendment says that, so I am going to give the member a little more latitude.

The Hon. MARK BANASIAK: I will get to the crux of the matter. The Government's public response to some of those concerns is to say that it is going to keep an eye on those developments. I say that is not good enough, and it is failing to protect our children from serious harm. In many other aspects of the legal system we apply what is known as the precautionary principle. I would suggest that is certainly applicable in this circumstance. Why not put some protections and controls around this as we keep an eye on developments in other jurisdictions? With the amendment, we are not saying to ban those procedures outright. We are saying that it should be considered a conversion practice offence if it is done to a person who is under the age of 18 because of everything we know about child development.

In response to comments in previous amendments that this is not happening to kids in high school, in my experience in the schools in which I have taught, I have witnessed kids starting to go through those processes during their high school years. It is happening in some form. I repeat that if we are talking about conversion practices that have the potential to cause substantial harm, then the barn door should swing both ways. It should not matter what you are converting to or from when we are talking about life-altering physical transformations to the most impressionable people within our community. To have that deliberately excluded from the bill is deeply concerning. I commend the amendment to the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (05:06): The Government does not support the amendment. Clause 3 (3) (a) states:

> (3) A conversion practice does not include—
>
> (a) a health service or treatment provided by a registered health practitioner that—
>
> (i) the registered health practitioner has assessed as clinically appropriate in the registered health practitioner's reasonable professional judgement, and
>
> (ii) complies with all relevant legal, professional and ethical requirements …

The amendment would limit that exemption so that it does not apply to elective medical procedures that are intended to alter the sex characteristics of a child under 18 or prepare a child to undergo such a procedure. That is not supported. It is not the intent of the bill to prohibit any particular type of clinically appropriate health service or treatment. The decision of what treatment to give a child—any child—is one that should be based on appropriate clinical assessment and need and appropriate consent. The Government is not seeking to intervene in the delivery of clinically appropriate health care to members of the New South Wales community.

Dr AMANDA COHN (05:07): The easiest way to speak to this amendment is to quote the Royal Australasian College of Physicians, particularly because the member cited a whole range of overseas evidence but not Australian evidence in support of the amendment. The Royal Australasian College of Physicians was asked to assess the issue by the Federal Government in 2020, and said:

> Withholding or limiting access to care and treatment would be unethical and would have serious impacts on the health and wellbeing of young people. The population under consideration is an extremely vulnerable group who need the support of clinicians, the health system, their families, friends and wider support networks.

It then called for Australian governments to improve access to gender-affirming care across the States and Territories. In speaking to the amendment, I commend the Shooters, Fishers and Farmers Party for accidentally seeking to ban unnecessary surgery on intersex kids, which is something that LGBTQI+ advocates have been calling for for a long time. But we cannot support the amendment.

The Hon. DAMIEN TUDEHOPE (05:08): The amendment would be a groundbreaking reform in many respects, but it would allow the Government to say that it is acknowledging that we have moved on since 2020.

Medical science is, in fact, starting to identify serious risks to children involved in medical procedures involving sex-change procedures. This is an opportunity for the Government to say we should wait. There is significant merit in supporting the amendment because, in many respects, it acknowledges where medical science is at in 2024.

The Hon. TANIA MIHAILUK (05:09): I acknowledge and pay tribute to the Shooters, Fishers and Farmers Party for its amendment and also echo the words of the Hon. Damien Tudehope. A lot has moved on since 2020. I am not sure why a quote from 2020 was referred to, because more and more people and individuals who have had that type of treatment are stepping up and letting the public know that they have deep regret as a result of the treatment. The fact that The Greens are so vehemently opposed to this particular amendment is precisely why I am so in support of it. It is the very issue of allowing that type of treatment—or maltreatment, I should say—to children under 18, while pretending that it assists them. In reality most people undergoing that type of treatment—be it surgery, puberty blockers or hormonal treatment—deeply regret undertaking it, with particularly women who attempted to become men suffering significantly. I commend the Shooters, Fishers and Farmers Party for this particular amendment.

The CHAIR (The Hon. Rod Roberts): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendment No. 10 on sheet c2024-037D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14
Noes 17
Majority.....3

AYES

Banasiak (teller)	Maclaren-Jones	Rath
Carter	Martin	Ruddick
Fang	Merton	Tudehope
Farraway	Mihailuk (teller)	Ward
MacDonald	Munro	

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Jackson
Franklin	Graham
Mitchell	Houssos
Taylor	Donnelly

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The Hon. Mark Banasiak has confirmed that he will not be moving Shooters, Fishers and Farmers Party amendment No. 11 on sheet c2024-037D. In that case, I invite the Hon. Tania Mihailuk to move One Nation amendment No. 1 on sheet c2024-043 and One Nation amendment No. 1 on sheet c2024-044.

The Hon. TANIA MIHAILUK (05:19): By leave: I move One Nation amendment No. 1 on sheet c2024-043 and One Nation amendment No. 1 on sheet c2024-044 in globo:

[c2024-043]

No. 1 **Application of Act**

Page 3. Insert after line 46—

3A Application of Act

(1) This Act does not apply to any discussion with, or treatment or counselling provided to, an individual under the age of 18 years if the discussion, treatment or counselling is with, or directed or organised by, any of the following persons—

(a) the individual's parent,

(b) a near relative of the individual,

(c) a religious leader or other pastoral carer,

(d) a registered health practitioner who practises in mental health,

(e) another person requested by the individual's parent.

(2) Without limiting subsection (1)—

(a) a person does not commit an offence under section 5 or 6 in relation to conduct referred to in subsection (1), and

(b) a complaint may not be made or accepted under Part 4 in relation to conduct referred to in subsection (1).

(3) This section applies despite any other provision of this Act.

[c2024-044]

No. 1 **Application of Act**

Page 3. Insert after line 46—

3A Application of Act

(1) This Act does not apply to any discussion with, or treatment or counselling provided to, an individual under the age of 16 years if the discussion, treatment or counselling is with, or directed or organised by, any of the following persons—

(a) the individual's parent,

(b) a near relative of the individual,

(c) a religious leader or other pastoral carer,

(d) a registered health practitioner who practises in mental health,

(e) another person requested by the individual's parent.

(2) Without limiting subsection (1)—

(a) a person does not commit an offence under section 5 or 6 in relation to conduct referred to in subsection (1), and

(b) a complaint may not be made or accepted under Part 4 in relation to conduct referred to in subsection (1).

(3) This section applies despite any other provision of this Act.

These are two different amendments. One will mean that the Act does not apply to any discussion, treatment or counselling provided to an individual under the age of 18 if that treatment or counselling is directed or organised by the individual's parent or near relative, or by a religious leader, a registered health practitioner or any other person requested by the individual's parent, which may extend to a friend or family friend.

We have discussed at length tonight the issue of medical intervention to children under the age of 18. Also, now that we know that gender identity is certainly going to be included in the bill, because the amendments to remove that did not pass, any discussion around gender identity, gender-affirming care and issues surrounding gender are controversial, difficult for a family to manage and often difficult for the individual themselves. It is not good for anyone under 18 to have a litigious situation in front of the courts or to be involved in anything that could end up becoming a public matter.

Individuals who might be of the view that they want to undertake gender identity changes, for example, may then have issues with their parents or with extended family or friends. Any kind of discussion that takes place might become perhaps offensive. I recall what the Hon. Chris Rath said. There might be issues that are contentious, but that they could end up becoming matters before the court is so wrong and so unfair to those individuals involved. These are private matters, and the idea that we are introducing a civil system that would make matters worse is disturbing. That is particularly difficult for anyone under the age of 18.

The *NSW Health Consent to Medical and Healthcare Treatment Manual*, which I am sure members are familiar with, has a definition in relation to Gillick competence, and notes that assessment is made on level of maturity. For example, it says that children aged 13 and under are considered to have immature and insufficient understanding and, therefore, consent would be required from a parent or guardian for any type of treatment. Children aged 14 and 15 are deemed to have intermediate understanding. In those circumstances, consent from

the young person can be sufficient, but largely consent is sought from the parent or the guardian. Only at the age of 16 or 17 could the consent of the young person be deemed sufficient in most cases, based on Gillick competency.

I ask that the question be put separately on the amendment on sheet c2024-044, because the bill should not apply at all to those under the age of 16. It is completely within the rights of parents to discuss health care and medical treatments with their child. There should be no role for the Government to legally intervene if a child under 16 wants to take puberty blockers, for example, or wants to start hormonal treatment. Parents have the authority and right to play a role in their child's life.

This is a critical amendment. The Labor Party says it stands up for multicultural communities and looks after families, particularly in south-west Sydney. Labor members turn up every week at various multicultural, family, P&C committee and school events. They might want to be a little bit more honest with some of those parents about what they are proposing. Essentially, Labor is putting forward legislation that will deny parents those rights and opportunities. It will put them, their extended family and friends, and any health professional or pastoral carer whom they might seek assistance from, at risk of being the subject of a vexatious complaint or any other complaint and of being brought before the courts. I ask members to support the amendment, and I reiterate my request that the question be put separately on the amendment on sheet c2024-044.

The Hon. DAMIEN TUDEHOPE (05:26): Under Standing Order 106 (4), I request that the questions on the amendments be put separately.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (05:27): Whether the age is 16 or 18, the effect of limiting the ban for victims who are under either of those ages would defeat the purpose of the bill. It would mean that a religious leader, a near relative, a registered health practitioner specialising in mental health, or indeed any person requested by an individual's parent, would be able to deliver a conversion practice. That is not in the spirit of the legislation and does not accord with the evidence and testimony of victim-survivors who have highlighted that they experienced conversion practices in a range of settings, including religious and health settings. These amendments limit the application of the ban. Whether they are aged 16 or 18, those people are arguably more vulnerable than adults and deserve protection.

Dr AMANDA COHN (05:27): The Greens absolutely cannot support these amendments. If I recall correctly—please forgive me if I am wrong, due to the late hour—the Hon. Tania Mihailuk, during her contribution to the second reading debate, said that she opposed conversion practices. The amendments clearly show that she does not understand what a conversion practice is. The amendments say that conversion practices would be allowed to be performed on people under a particular age, who, as the Leader of the Government said, are the most vulnerable.

The CHAIR (The Hon. Rod Roberts): The Hon. Tania Mihailuk has moved One Nation amendment No. 1 on sheet c2024-043 and One Nation amendment No. 1 on sheet c2024-044. A request has been made that that the questions on the amendments be put separately. The question is that One Nation amendment No. 1 on sheet c2024-043 be agreed to.

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): The question is that One Nation amendment No. 1 on sheet c2024-044 be agreed to.

Amendment negatived.

The Hon. MARK BANASIAK (05:29): By leave: I move Shooters, Fishers and Farmers Party amendments Nos 16, 17 and 18 on sheet c2024-037D in globo:

No. 16 **Offences relating to conversion practices—extraterritoriality**

Page 5, clause 5(3)(b), line 16. Insert "but within Australia" after "outside New South Wales".

No. 17 **Offences relating to conversion practices—consent**

Page 5, clause 5(4), lines 17–21. Omit all words on the lines.

No. 18 **Offences relating to conversion practices**

Page 5, clause 6, lines 24–41. Omit all words on the lines.

I have moved these amendments in globo because they deal with similar concepts. I have already spoken about consent, so I will not labour that point. Amendment No. 16 deals with extraterritoriality. My concern is that some of the clauses, if left unamended—and even the Attorney General admitted this in the briefing he gave the Opposition and crossbench—will mean that we have no authority about what happens overseas, but one of the

clauses states the Government's intent to prosecute people for anything that happens overseas. The clause is problematic because it attempts to predict the intent of taking someone overseas for the specific purpose of conversion practices rather than assessing it after the act has occurred. The amendment raises the issue of the overall enforceability of extraterritoriality and the investigative powers and evidence collection from overseas. If a law is difficult to enforce, it is not an effective law. That is straight out of the legal studies year 11 textbook.

The Hon. Penny Sharpe: May it be a lesson to us all.

The Hon. MARK BANASIAK: Yes, may it be a lesson to us all. On that note, I leave it there. My comments on consent remain the same and I am trying to clear up the issue of enforceability with extraterritoriality.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (05:32): The Government does not support any of these amendments. In relation to amendment No. 16, the Government is of the view that the criminal law offence should apply to overseas offences as well, as long as part of the conversion practice occurs within New South Wales. That appropriately reflects the evidence we have seen that victims are sometimes sent overseas for conversion practices to be performed. The Government stresses that this provision does not undermine general criminal law principles. The offence will always require some conduct to have occurred in New South Wales.

In relation to amendment No. 17, as I have said about the other amendments, adopting consent as an element of the bill is dangerous. It is difficult to say that victims of conversion are freely and voluntarily engaging because of the pressures that they have faced and the messages that they have internalised. Having spoken to many victim-survivors, that is one of the most important points they have made the entire way along this process. They have spoken about various activities and practices that happened to them and that, at times, people would say that they were consenting when they were not. I accept that it is a complicated issue, but it is an incredibly important part of the bill. The Government does not support that amendment.

Amendment No. 18 serves to omit the offence of taking individuals from New South Wales or engaging persons outside of New South Wales for conversion practices under clause 6 of the bill. It is important for the bill to highlight that both offences of removal from jurisdiction and remote delivery are criminalising those who try to circumvent the ban by engaging providers of conversion practices outside New South Wales, where the ban does not apply. Again, the bill would make sure that citizens and residents of New South Wales are not subjected to harmful practices. We do not want to have loopholes that allow that to be undertaken. That is why the Government does not support the amendments.

Dr AMANDA COHN (05:34): I speak briefly to reiterate the comments of the Leader of the Government around consent. Anyone who has listened to survivors during this whole process would have heard that many people are coerced into consenting to these procedures. It is a fundamental part of conversion practices, and the analogy would be that one cannot consent to assault.

The CHAIR (The Hon. Rod Roberts): The Hon. Mark Banasiak has moved Shooters, Fishers and Farmers Party amendments Nos 16, 17 and 18 on sheet c2024-037D. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. MARK BANASIAK (05:35): I will not move Shooters, Fishers and Farmers Party amendment No. 20 on sheet c2024-037D.

The Hon. TANIA MIHAILUK (05:35): By leave: I move One Nation amendment No. 1 on sheet c2024-045A and One Nation amendment No. 1 on sheet c2024-046 in globo:

[c2024-045A]

No. 1 **Consent to conversion practices**

Page 5. Insert after line 41—

6A Effect of withdrawal of consent for counselling or other advice or guidance

(1) This section applies if—

(a) an individual under the age of 18 years, or a parent, guardian or other person who has decision-making authority for an individual under the age of 18 years, gives consent to the individual receiving counselling or other advice or guidance about the individual's sexual orientation or gender identity, and

(b) the individual or parent, guardian or other person subsequently withdraws the consent.

(2) The entity that provided the counselling or other advice or guidance does not commit an offence for any act or omission forming part of the counselling, advice or guidance that occurred before the consent was withdrawn.

(3) This section applies despite sections 5 and 6, including section 5 (4) and 6 (2).

[c2024-046]

No. 1 **Consent to conversion practices**

Page 5. Insert after line 41—

6A Effect of withdrawal of consent for counselling or other advice or guidance

(1) This section applies if—

(a) an individual, or a person who has decision-making authority for an individual, gives consent to the individual receiving counselling or other advice or guidance about the individual's sexual orientation or gender identity, and

(b) the individual or other person subsequently withdraws the consent.

(2) The entity that provided the counselling or other advice or guidance does not commit an offence for any act or omission forming part of the counselling, advice or guidance that occurred before the consent was withdrawn.

(3) This section applies despite sections 5 and 6, including section 5 (4) and 6 (2).

These amendments relate to consent that originally might be given by the individual—or, indeed, the parent or the guardian on behalf of the individual—namely, consent by the individual for a third party to intervene and provide some counselling, advice or guidance regarding the individual's sexual orientation or gender identity. In light of the fact that the individual may then withdraw the consent, my concern is that any counselling or other advice or guidance that might have been provided prior to the consent being withdrawn could be constituted as an offence, should the individual take matters further.

I note that amendment No. 1 on sheet c2024-045A concerns individuals under the age of 18. There may be private conversations and confidential discussions that took place at the time that the individual gave consent. If the consent is withdrawn, those conversations and discussions may be used as evidence at a later stage. That is, essentially, the crux of my amendments. I ask that the Committee supports these amendments.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (05:37): The Government opposes both amendments. They will insert an effective defence of consent to the criminal practices in circumstances where consent is given and then later withdrawn. I note that amendment No. 1 on sheet c2024-045A specifically relates to individuals under the age of 18. The Government has been clear that the bill does not impact the ability of a person to seek guidance or support. However, in banning LGBTQ+ practices that are known to be harmful, just because a person requests something, it does not mean that the conduct ought to be permissible. That is especially the case in LGBTQ+ conversion practices.

As part of the Government's consultation process, we have engaged directly with victim-survivors. I am grateful to have had the opportunity to hear from them in person and to consider the experiences that they have so bravely shared. One of the notable things that was shared across many experiences of conversion practices is that there was some level of volition from victims. In some cases, this was because they had internalised messages that they needed fixing because of their sexual orientation or their gender identity. In other cases, victim-survivors felt that engaging in conversion practices was the only way for them to maintain ties with their family, their faith or their community. It is very difficult to say that those individuals are freely and voluntarily engaging in conversion practices. Adding this exclusion would, in effect, establish a consent threshold that would undermine the legislation. The ban rejects the premise behind LGBTQ+ conversion practices, which is that people can and should suppress or change their sexual orientation or gender identity to conform with heterosexuality or with their sex assigned at birth.

The CHAIR (The Hon. Rod Roberts): The Hon. Tania Mihailuk has moved One Nation amendment No. 1 on sheet c2024-045A and One Nation amendment No. 1 on sheet c2024-046. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. CHRIS RATH (05:40): I move Opposition amendment No. 6 on sheet c2024-029G:

No. 6 **General prohibition on conversion practices only if practice causes harm**

Page 6, clause 8, line 24. Insert "that causes harm" after "practice".

I spoke a lot about the principle of harm in my second reading debate contribution. Harm already exists in the criminal provisions, and the Opposition believes that it should exist in the civil component as well because it is not clearly identified there. We have spoken at length in the lead-up to and during the debate in the Parliament over the past few days about banning harmful gay conversion practices. We believe that harm should be included in the civil component of the legislation for exactly the same reason that it is included in the criminal component. Harm is a fundamental component of conversion practices defined by the bill. It does not make sense to claim on the one hand that conversion practices are inherently harmful and then on the other hand anticipate instances which do not cause harm.

I personally believe that practices are inherently harmful. In fact, whether or not a conversion practice has occurred can be measured, in one respect, by the existence of resulting harm. The bill rightly contains, in clause 47, the ability for the Anti-Discrimination Board to carry out investigations, research and inquiries alongside the ability to arrange the dissemination of information, public discussions and seminars on the subject of conversion practices. Those powers rightly can be used to avoid harmful conversion practices before they arise. Yet, if we are to prevent legal compulsion through offences, it should be in the form of punishing noncompliance—civil or criminal—with clear and consistent definitions. The Opposition's approach is to ensure that harm is added to the civil component, and by "harm" we obviously mean both physical and psychological harm. I commend the amendment to the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (05:42): The Government does not support the amendment. The amendment would amend the civil prohibition against providing or delivering a conversion practice to apply only to practices that cause harm. This is not the approach the Government is taking in the bill. Under the civil scheme, it is unlawful for an entity to engage in a conversion practice, with no requirement to establish harm. In contrast, the criminal offence of providing or delivering a conversion practice at clause 5 targets more serious conduct. It requires proof of substantial harm, and it is punishable by a maximum sentence of five years imprisonment. This tiered approach is deliberate. We are saying that those practices should not have any place in New South Wales, and we have two different ways to deal with them. We can make complaints through the civil scheme or, if it causes serious harm, there is a criminal offence that is being undertaken here. The bill is deliberately drafted that way, and we cannot support the amendment because that fundamentally underlies the structure and architecture of what we are trying to achieve.

The CHAIR (The Hon. Rod Roberts): The Hon. Chris Rath has moved Opposition amendment No. 6 on sheet c2024-029G. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14
Noes 17
Majority.....3

AYES

Banasiak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward
MacDonald	Munro	

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Donnelly
Franklin	Graham
Mitchell	Jackson

PAIRS

Taylor Houssos

Amendment negatived.

The Hon. DAMIEN TUDEHOPE (05:52): I move Opposition amendment No. 8 on sheet c2024-029G:

No. 8 **Complaint may not be made about individual under the age of 18 years**

Page 8. Insert before line 8—

12A Complaints about individuals under the age of 18 may not be made or accepted

A complaint may not be made by or on behalf of an individual, or accepted by the President, if the complaint relates to an act or omission by another individual who was under the age of 18 years at the time the act or omission occurred.

I would call this amendment an amendment to cover the idle reflections of people who often are still children. Often we say things when we are under 18, when we are kids. Why on earth would we ever want to include something we said when we were still at school, or something we said at the dinner table at home when we were under 18, that, potentially, later in life is the subject of a complaint? This amendment means that we exclude from the civil complaints system complaints about the actions or omissions by a person aged under 18 years at the time.

I would have thought The Greens would have been pretty keen on this type of amendment, given their commitment to ensuring that young people who do silly things do not get criminal records and are not denied opportunities of reforming their behaviour, and probably get opportunities to accept the things that they say can sometimes be unkind. But, quite simply, it is inappropriate to use a civil complaints system in relation to actions taken by a person when they are a minor. Fifteen-, 16- or 17-year-olds may say or do inappropriate things, especially to their peers. Those matters should be handled by parents, teachers and others in authority at the time they arise. It should not be open to a person 10 or more years later to, as it were, seek redress or payback by using the complaints system against a person for foolish actions that they may have been involved in when they were a minor. This is a sensible amendment and should be adopted by the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (05:54): The Government does not support this amendment. This amendment would mean that persons under the age of 18 cannot be the subject of a complaint of conversion practice under the civil complaints scheme. In practice, it is unlikely that a person under the age of 18 would provide or deliver a conversion practice such that there would be grounds to make a complaint against them under part 4 of the bill. The civil prohibition is consistent with that of other jurisdictions, which similarly do not limit the civil prohibition in the way proposed by the amendment.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendment No. 8 on sheet c2024-029G. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Banasiak	Maclaren-Jones	Munro
Carter	Martin	Rath (teller)
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward
MacDonald		

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Houssos
Franklin	Jackson
Mitchell	Graham
Taylor	Donnelly

Amendment negatived.

The Hon. DAMIEN TUDEHOPE (06:03): I move Opposition amendment No. 9 on sheet c2024-029G:

No. 9 **Definition of "entity"**

Page 23, proposed Schedule 2, lines 9–13. Omit all words on the lines. Insert instead—

entity includes a person.

Note— Under the *Interpretation Act 1987*, Schedule 4, a **person** includes an individual, a corporation and a body corporate or politic.

This amendment seeks to cure a novel provision included in the bill, which I fail to see in any other bill passed by this Parliament. This amendment addresses the novel position that would give to an unincorporated association a legal status that would allow the unincorporated association to both make a complaint on behalf of an individual and to be the subject of a complaint. This is contrary to the universal practice in all Commonwealth and State laws. The bill fails to provide a sufficient framework for that novel approach. How are members of the unincorporated association to be identified? Who are notices to be served on? Who is liable for responding to demands from the president? It is unworkable, clumsy, ill thought out and unnecessary.

By law, an unincorporated association has no legal personality and, as such, cannot engage in conduct. Each person who happens to be a part of an unincorporated association is responsible personally for his or her own conduct. If the amendment is accepted, complaints can still be made against the individuals in an unincorporated association who engage in an unlawful practice. I commend the amendment to the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (06:05): The amendment would mean that the civil complaints scheme does not apply to unincorporated bodies or associations, meaning those entities cannot be the subject of a complaint of conversion practices under part 4 of the bill. For that reason, the Government opposes it. It is appropriate that there is an option for complaints to be made against unincorporated associations and bodies where they have provided or delivered a conversion practice. Conversion practices should be unlawful no matter who is doing it. An individual should not be excluded from such protections because the entity that has subjected them to the practice does not have a particular legal structure.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendment No. 9 on sheet c2024-029G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Banasiak	Maclaren-Jones	Munro
Carter	Martin	Rath (teller)
Fang	Merton	Tudehope
Farraway (teller)	Mihailuk	Ward
MacDonald		

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe

NOES

D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Donnelly
Franklin	Graham
Mitchell	Houssos
Taylor	Jackson

Amendment negatived.

The Hon. DAMIEN TUDEHOPE (06:09): I move Opposition amendment No. 11 on sheet c2024-029G.

No. 11 **Definition of "suppressing"**

Page 23, proposed Schedule 2. Insert after line 29—

suppressing means attempting to eliminate.

This is the last amendment that we will move to the bill. All of the amendments should have been approved cumulatively by the Committee, including by the Hon. Jeremy Buckingham, who has slept through most of them. This is the last one. I am sure, because he is awake, that he will vote in favour of it.

The Hon. Penny Sharpe: This is your last chance. Roll the dice, Jeremy.

The Hon. DAMIEN TUDEHOPE: It is your last chance, Jeremy. This amendment provides a definition of what is meant by the word "suppressing". It proposes to include that "suppressing" means "attempting to eliminate". The amendment seeks to define suppressing because it is not defined in the bill. It potentially means, for example, suppressing acting on a sexual orientation by encouraging a person not to engage in sexual acts based on that orientation. We have heard a lot about that tonight. It could be in the context of a self-help group, such as the Courage groups, at which men and women with a same-sex orientation who also personally hold religious beliefs that they ought not to act on that orientation by engaging in sexual acts outside of a man-and-woman marriage meet together to encourage one another through prayer and by sharing how they deal with the challenge of chastity and for mutual friendship.

Are members of those groups engaging in unlawful practice of suppressing their sexual orientation? The amendment makes it clearer that they would not be. Similarly, would a psychiatrist or a counsellor who offered to help a man—married to a woman—who was endeavouring, perhaps for the sake of his young children, to stay faithful to his marriage vows and not act on his same-sex orientation, be guilty of suppressing a person's same-sex orientation? The election commitment made by the Liberal Party and The Nationals was to ban gay conversion practices, which are generally understood to be an effort to turn a gay man or a lesbian into a straight or heterosexual man or woman. That is captured by the word change. Defining suppressing as "attempting to eliminate" would capture practices that attempted to eradicate a same-sex orientation without seeking to replace it with a sexual orientation to persons of the other sex.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (06:12): The Leader of the Opposition was very worried about the Government's response to his previous amendment but, I have to say, this one is pretty interesting. The Government opposes the amendment to insert a definition of "suppression" to mean "eliminate". It is an attempt to invent a meaning for suppression that does not exist and is significantly more limited. Adopting the amendment would significantly undermine the policy objective to ban conversion practices. The ordinary meaning of the word "eliminate" is to "get rid of, expel or remove". There is a significant body of evidence from research and victim testimony that one of the major forms of conversion practices is to acknowledge that a person is LGBTQ+ but to instruct them not to act as such or to live as their authentic selves. That kind of action is not elimination because it does not seek to get rid of, expel or remove sexual orientation or gender identity. It is action to keep in or repress sexual orientation or gender identity, the very meaning of suppress in the *Macquarie Dictionary*.

The Hon. EMMA HURST (06:13): I will be very brief. Suppression practices are a growing form of conversion that can be disturbingly covert. They adopt many of the same practices, such as counselling and group therapy sessions, but the stated aim is not to change sexual orientation or gender identity but to help a person suppress it. Suppressing your sexuality or gender identity involves living and thinking contrary to your sense of self, and repressing your thoughts, needs and wants. Suppression practices deny people some of the crucial parts of being human, like love, meaningful connections and accepting yourself as you are.

Suppression practices are psychologically disruptive. The amendment would redefine suppression practices to mean practices that attempt to eliminate sexual orientation or gender identity, which essentially would remove suppression practices from the bill. It is difficult to understand how "eliminate" will be interpreted as something different to "change practices". How does one eliminate sexual orientation or gender identity without changing it to something else? The amendment is fraught and disingenuous, and puts LGBTQA+ people at risk of harm. It should be opposed.

Dr AMANDA COHN (06:19): The Greens also oppose the amendment. In my contribution to the second reading debate I read out partial testimony from a very brave survivor. In the full version of that testimony it names one of the organisations that the mover of the amendment also named. That brave survivor talked about the harm that that organisation is causing through suppression, and it should be covered as a conversion practice.

The CHAIR (The Hon. Rod Roberts): The Hon. Damien Tudehope has moved Opposition amendment No. 11 on sheet c2024-029G. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 15
Noes 17
Majority.....2

AYES

Banasiak	MacDonald	Munro
Borsak	Maclaren-Jones	Rath (teller)
Carter	Martin	Ruddick
Fang (teller)	Merton	Tudehope
Farraway	Mihailuk	Ward

NOES

Boyd	Higginson	Murphy (teller)
Buckingham	Hurst	Nanva (teller)
Buttigieg	Kaine	Primrose
Cohn	Lawrence	Sharpe
D'Adam	Mookhey	Suvaal
Faehrmann	Moriarty	

PAIRS

Farlow	Houssos
Franklin	Jackson
Mitchell	Donnelly
Taylor	Graham

Amendment negatived.

Dr AMANDA COHN (06:19): I move The Greens amendment No. 1 on sheet c2024-048A:

No. 1 **Additional functions of Board**

Page 18, clause 47. Insert after line 43—

(1A) The Board must, if the Board receives reports from third parties about suspected occurrences of conversion practices—

(a) consider the reports to determine whether there is a high risk conversion practices are occurring, and

(b) if there is a high risk conversion practices are occurring—carry out investigations into the suspected conversion practices.

To enable harm to be prevented while conversion practices are being undertaken, survivors have advocated for a model that allows a third party who observes conversion practices or a high risk of conversion practices to report that to a clear entry point into the civil complaints scheme, similar to the Victorian Equal Opportunity and Human

Rights Commission process. That is because survivors can take years, if ever, before being well enough to reach out for help to make a complaint, let alone make a complaint themselves. Many never realise they are survivors.

A third-party reporting mechanism would allow harm to be stopped while a person is still going through conversion practices, or even prevented, as well as empower the community. My Greens colleagues raised these concerns in the Legislative Assembly. In his response, the Attorney General pointed to clause 47 of the bill under which the Anti-Discrimination Board has the power to conduct investigations and inquiries relating to conversion practices. However, this is not a clear entry point into the civil complaints scheme and relies on resolutions of the board or a sympathetic Minister to refer reported matters under clause 48.

The Attorney General also spoke of the opportunity for the Law Reform Commission review of the Anti-Discrimination Act to provide recommendations for reform of the discrimination complaints framework that would be relevant to the framework set out in this bill, but it is unclear if or when this process would result in any improvement. To that end, this amendment seeks to add an obligation for the Anti-Discrimination Board to consider reports it receives from third parties about suspected occurrences of conversion practices and carry out an investigation if there is a high risk that conversion practices are taking place. A complaints scheme is largely about redress. While it will play an important role in prevention, its fundamental purpose is not prevention. That is why we need a third-party reporting mechanism to bring conversion practices to light before an individual is harmed and makes a complaint.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (06:20): The Government does not support the amendment. It would require the Anti-Discrimination Board to consider, determine and investigate third-party reports about high risk conversion practices. It is not clear what a "high risk conversion practice" is, or how the board could practically assess that. Existing mechanisms in the bill allow Anti-Discrimination NSW to become aware of and take action in relation to conversion practices separate to receiving individual complaints. These include the power of the Anti-Discrimination Board to conduct investigations relating to conversion practice under clause 47 of the bill. That power is not reliant on the receipt of individual complaints or limited to investigating the subject matter of a particular complaint. For example, the board could resolve to conduct an investigation relating to conversion practices based on information that it has received in the course of conducting community outreach or as part of the complaint-handling process.

In addition, under clause 48 of the bill, the Minister has the power to refer certain matters to the board. Once referred, the board would be required to examine the matter and report to the Minister about its findings and conclusions. The Minister also has the power to refer certain matters to the tribunal as a complaint under clause 33 (2) of the bill. I also note that the amendment would require the board to make determinations in relation to conversion practices. That is inconsistent with the president and the board's functions under the Anti-Discrimination Act and the bill. Under the existing framework, such determinations are appropriately made by the tribunal, following the referral of an individual complaint.

The Hon. DAMIEN TUDEHOPE (06:22): This is a very scary proposition. For the reasons articulated by the Leader of the Government, the Opposition will not support the amendment.

The CHAIR (The Hon. Rod Roberts): Dr Amanda Cohn has moved The Greens amendment No. 1 on sheet c2024-048A. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 5
Noes 25
Majority.....20

AYES

Boyd	Faehrmann	Hurst
Cohn (teller)	Higginson (teller)	

NOES

Banasiak	MacDonald	Nanva (teller)
Borsak	Maclaren-Jones	Primrose
Buckingham	Merton	Rath (teller)
Buttigieg	Mihailuk	Ruddick

NOES

Carter	Mookhey	Sharpe
D'Adam	Moriarty	Suvaal
Fang	Munro	Tudehope
Kaine	Murphy	Ward
Lawrence		

Amendment negatived.

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

Leave granted.

The Committee divided.

Ayes 22
Noes 4
Majority.....18

AYES

Boyd	Hurst	Murphy
Buckingham	Kaine	Nanva (teller)
Buttigieg	Lawrence	Primrose
Cohn	MacDonald	Rath (teller)
D'Adam	Mookhey	Sharpe
Faehrmann	Moriarty	Suvaal
Fang	Munro	Ward
Higginson		

NOES

Banasiak	Mihailuk (teller)	Ruddick (teller)
Borsak		

Motion agreed to.

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

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (06:31): I move:

That this bill be now read a third time.

I thank members for their contributions to the debate. It has been a marathon debate. There have been 15 divisions, but the Conversion Practices Ban Bill remains unamended. Today New South Wales has said to its LGBTQ community that they are fine the way they are and that it will look after and protect them. It has also said that harmful practices have no place in this State. On behalf of the Government, I thank all of those people who have got us here. There are many. Some of those people have had a very long night, but I am glad that they are here to see how the sausage is made. I acknowledge the people in the gallery who have done the hard yards for many hours. New South Wales is better today as a result of the passing of the Conversion Practices Ban Bill 2024.

The Hon. DAMIEN TUDEHOPE (06:32): I join with the Leader of the Government to acknowledge the civil way in which the debate was held. I take the view that the bill could have been made better. There could be better protections for parents, families and religious groups, and it could better protect religious freedom without diminishing the appreciation of our obligations to make sure that we acknowledge that people are the way they are and that they are not broken. There was an opportunity to improve on the legislation, but the Government adopted the view that it would not accept any amendments to the legislation.

I also say to the faith groups that the Opposition has moved every amendment that those faith groups wanted it to move. It did so in circumstances of good faith towards those groups. I say that with some sorrow because I do not think that they showed sufficient good faith in their support for the people who were moving amendments on their behalf. That is a matter of some regret. Honourable members were here all night for the bill, but the Opposition made no attempt to filibuster, move unnecessary amendments or use unforeseen tactics during debate. Sometimes the hard adjournment is suspended in view of filibusters, but that case could not be made out tonight from the way the Opposition participated in debate on the bill.

I thank everyone for their patience tonight, including those who have a vested interest in the outcome of the bill. I know probably a lot of them do not agree with us, but we acted in good faith in seeking amendments to the bill, because we thought we were improving it. I acknowledge that members have differing views, and many in my own party have differing views, but I am proud of every member of my party for the way we have conducted the debate internally and in the Chamber tonight. It complemented the way that this House works. Although we are all very tired, I say this to those who will celebrate the outcome of the bill: congratulations. For those who might be disappointed, I say work harder.

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

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. PENNY SHARPE: I move:

That this House do now adjourn.

The Hon. Rod Roberts: I ask that we apply the Geneva Convention, because prisoners get treated better than I have been treated. I ask to be called first.

The PRESIDENT: The Hon. Rod Roberts has the call.

The Hon. Rod Roberts: Before I start my adjournment speech, I thank the Clerks who have been with me all night, in particular Stephen Frappell, who has not left my side.

HOUSING AND IMMIGRATION

The Hon. ROD ROBERTS (06:37): Last week in the other place Premier Chris Minns was asked a very simple question: "How much do you think property prices will decrease when your housing zoning reforms come into action?" He could not answer the question. Instead, he called one economist an anti-vaxxer, tried to disparage Mr Henskens for reflecting community concerns and tried to link scepticism for his housing policy to climate denialism. The Premier is acting desperate because he is desperate. He is throwing out these ridiculous accusations, hoping to hide the fact that his supply-side solutions cannot solve the housing catastrophe unfolding under his watch. He talks about climate denial, but it is obvious the Premier and his party are in economic denial.

They are in economic denial of the fact that 174,000 people moved to New South Wales last year, a vast majority of whom settled in Sydney. They are in denial of the fact that this happened at a time when New South Wales was suffering a shortfall of over 200,000 homes. And they are in denial of the fact that this is the real reason for a housing disaster. Housing is supply as well as demand. It is not just supply, and it is not just demand. It is not just about how many homes we can build. It is about how many people come here, in how a short period of time, and how many homes are available.

That can mean only one simple thing: Housing and immigration are clearly related. If the Premier cannot acknowledge that, he does not deserve to be Premier. The fact of the matter is, by ignoring this, it becomes the Premier's fault that homelessness is up 58 per cent, with advocates calling the situation "heartbreaking". It becomes the Premier's fault that a recent productivity report found that Sydney is experiencing an exodus of young people, with 70,000 people leaving the State last year. It becomes the Premier's fault that, as people tell me every day, the creativity, nightlife and soul of the State are being stamped out. In his speech, the Premier quoted former Reserve Bank of Australia [RBA] economist Peter Tulip. It is a shame that he did not keep quoting him, because in 2019 Mr Tulip stated:

… high immigration, also explains the tight housing and rapid growth in rents …

Mr Tulip recognised what immigration does to a housing market. Why is it that Chris Minns cannot see it? Minns quoted the RBA. Maybe that was a mistake or maybe the Premier received bad advice, because this is the same RBA that time and again has come out saying that immigration is putting upward pressure on rental and housing demand, which in turn is putting upward pressure on inflation and the cost of living.

Premier Minns cites the example of Auckland, referencing a popular report that purported to show how upzoning in the city led to cheaper rental prices. Of course, he failed to take into account that this fall in rental prices happened exactly at the time when COVID kicked off, with locals leaving the cities and migrants leaving the country. Is he being disingenuous, desperate or deliberately misleading? Chris Minns is the only one keeping the Labor ship afloat, but on the issue of immigration even he is faltering. The question is why he is doing this. Is he trying to appease the radical leftists in his party? Is he bringing in more people, knowing that once they become citizens they are more likely to vote Labor? Is he trying to help out his big business, union and property developer mates? What is his play here? I remind him that his only duty is to the people of New South Wales; it is not to donors, factions or rich mates. His duty is to the people who build and run this State, those who pay our wages and vote us in.

By ignoring this and facilitating more immigration against their wishes, he is setting this State on a path to ruin. I believe in housing supply, and I am no nimby. As far back as 2019, when the Coalition was in charge, I spoke in this Chamber multiple times about the importance of addressing housing supply constraints. But unlike the Premier, I also believe in the demand side of the equation. Ignoring that is a recipe for disaster. That is exactly what we are seeing today: a disaster unfolding. Respected economists and the RBA all recognise this. The Federal Government recognises it. Even 53 per cent of Labor voters recognise it. Why does the New South Wales Labor Party not recognise it? Why is it that the Premier cannot recognise it? The Premier is allowing this city and this State to devolve into chaos, simply because he does not want to face one simple truth. Shame on him.

IMMIGRATION

The Hon. TANIA MIHAILUK (06:42): Australia is one of the most enviable countries to inhabit in the world. We have a magnificent lifestyle, ample resources and a friendly, accepting culture. It is no wonder that people from all corners of the earth want to live here, which is why we need to keep a keen eye on our immigration intake, to ensure that we do not take in more people than we can sustain. Unfortunately, it is clear that the Federal Government has wilfully neglected that necessity. Australia is being scammed by Prime Minister Anthony Albanese on immigration and housing. In December last year, the Prime Minister said he intended to slow immigration to more sustainable levels. However, we have seen the opposite of that in just the past couple of months.

Figures released by the Australian Bureau of Statistics last week reveal that in January Australia had 125,410 new permanent and long-term arrivals—a net growth in arrivals of just over 55,000—and the majority came into New South Wales. It is worth pointing out that, in a not-so-stunning coincidence, a previous high record of immigration was set in January 2009, during the first term of former Prime Minister Kevin Rudd's Labor Government. Evidently, in his first term, Anthony Albanese is taking a leaf out of his ill-fated predecessor's book. This should alarm everyone.

Meanwhile, New South Wales Premier Chris Minns is not in the ring fighting for our fair share of GST repayments, after New South Wales was short-changed by the Commonwealth Grants Commission. That should not come as a surprise to anyone. Chris Minns is failing all of us with his weak, insipid and tunnel-vision response. He needs to press the pause button on migrant arrivals, but he is too timid to fight on our behalf. Instead of bending over backwards to accommodate his old mate Albo, Minns should be shirt-fronting him. This poor response by the Premier is going to make life harder for the people of New South Wales in terms of infrastructure and housing. Despite the fact that the New South Wales Labor Government has committed to increasing housing supply in New South Wales, we know that demand for housing will not be met.

Last year Prime Minister Albanese amended the National Housing Accord to deliver 1.2 million homes in the next five years instead of one million. That is despite the figure being disputed and the targets being called unrealistic by many in the building industry and the Housing Industry Association. Indeed, the Premier himself was shocked by that unrealistic target. There is no doubt that Albanese is fixated on a Big Australia, but he does not have a mandate for a Big Australia and it is putting immense pressure on the States, particularly New South Wales.

According to PropTrack, the current national rental vacancy rate is just over 1 per cent. To give some perspective, a healthy rental market that meets a balance of supply and demand should have a rental vacancy of 3 per cent, or 2 per cent at a minimum. Not only is Albanese stifling Australians who are already living here and

are trying to find and buy a home, he is giving false hope to the record number of migrants who are arriving in Australia that there are homes for them to either buy or rent to live in.

As such, it is time for NSW Labor to stand up to its Federal counterparts and demand that they pull the handbrake on migrant intake. The reality is that no planning law amendments or infrastructure builds can be made fast enough to address the housing shortfalls, with New South Wales projected to only meet 40 per cent of its housing targets. We do not want a tent city, which is starting to occur in Brisbane in Queensland. It is already considered the norm that Australians couch surf and sleep in their cars. Australia does not want or need that.

I take the opportunity to thank *The Daily Telegraph* for running an op-ed today in a similar vein to my comments. As a member of this place, I will have more to say on this matter. People are constantly thinking about migration and whether we can meet the numbers that are coming in and supply the housing. It is time for Premier Minns to not only fight back on the GST but also be clear that New South Wales is essentially full and cannot take any more people in.

PROTEST LAWS

The Hon. CAMERON MURPHY (06:47): The right to protest is an important issue in New South Wales. I speak about the anti-protest laws, which were introduced in 2022. Those laws were subsequently subject to a successful legal challenge and are now due to be considered as part of a legislative review. In March 2022 the then Government passed the Roads and Crimes Legislation Amendment Bill. That legislation amended the Roads Act 1993, which criminalised causing serious disruption by entering, remaining on or trespassing on prescribed major bridges and tunnels, to include "all main roads". That law harshly criminalises non-violent forms of protest, with protesters facing two years in prison or fines of $22,000 or both should they protest on a road without authorisation from police.

The notion of needing to ask permission to protest undermines its very purpose. The right to peaceful assembly is a fundamental democratic right, protected under article 21 of the United Nations International Covenant on Civil and Political Rights, of which Australia is a signatory. That right is further supported by New South Wales common law and by the implied right to freedom of political communication, including peaceful protest, in the Australian Constitution. Protest is essential to the functioning of democracy in this State.

Without the tireless efforts of peaceful protesters, gains in areas including Aboriginal land rights, marriage equality and fair working conditions would never have been realised. Further, some, such as Anastasia Radievska of Legal Observers NSW, have argued that those laws have emboldened the use of police violence in breaking up peaceful protests. Additionally, the Supreme Court has already found two elements of this legislation to be invalid for prohibiting political communication. It is clear that, for many reasons, these laws have a deleterious effect on the public discourse in New South Wales.

The 2022 anti-protest legislation is a fundamental attack on this right to protest as well as on the integrity of our democracy. Peaceful protest is the only equal-opportunity method available to Australian citizens to communicate with policymakers, and it is all the more vital for ensuring that vulnerable communities are able to participate in the political process. By criminalising peaceful assembly that causes even minor traffic disruption, New South Wales' current anti-protest laws fundamentally alter the relationship between protest organisers, attendees and the Police Force, further straining the relationship between the New South Wales police and vulnerable segments of the community.

The legislation does not minimise the incidence of violent, hateful or reckless protests. Instead, it silences peaceful activists across the entire political spectrum. It prioritises convenience experienced by commuters and passers-by who are temporarily delayed by peaceful assemblies over the important right to political expression. I understand that no-one wants to be made late to work or unable to go about their day due to protest actions—even those of us who work at Parliament House know how distracting and inconvenient the protests outside this place can be. However, in a democracy such as ours, occasional inconvenience is the price we pay for freedom and a free, public political discourse. That is a bargain that we must be willing to make.

Protests inevitably involve some incidental disruption to other persons. As Justice Adamson stated in *Commissioner of Police v Longosch* [2012] NSWSC 499, "It is of the nature of a protest that others will be affected." That is simply how change is made. For those reasons, I welcome the legislative review of the 2022 anti-protest laws, which is scheduled to begin on 1 April. The review is to be carried out by the department of roads and the Attorney General's department, and it will investigate if the amendment meets the policy objectives of the legislation and whether it excessively curtails the constitutionally protected right to peaceful protest. I hope that the review produces a positive result for the right to protest and political freedoms in New South Wales.

CHARITABLE ORGANISATIONS

The Hon. NATASHA MACLAREN-JONES (06:52): In recent weeks I had the opportunity to meet with some amazing organisations dedicated to serving our regional communities. Despite the daunting challenges of homelessness, domestic violence and the escalating cost-of-living pressures, the generosity and commitment of these local groups and the individuals who volunteer for them is inspirational. I pay tribute to the remarkable dedication of these organisations and share some of their amazing stories.

Recently I visited the Bega Valley Shire, where you cannot miss the beautiful coastline, nor the harsh reality of individuals sleeping rough in tents and on couches. Fortunately, organisations like the Sapphire Community Pantry are there to lend a hand. During my visit, Mandi Rush, the pantry manager, and Josh Shoobridge, the board president, graciously took the time to show me the operation and the work that it does within the community. Like so many organisations across the State, it is dealing with increasing demand for services, reflective of similar trends across the shire and the State.

I note that the community pantry does not receive any government funding. It is a purely not-for-profit endeavour that relies on donations, with proceeds from grocery sales reinvested into purchasing additional items for its shelves, sourced from food rescue organisations like Foodbank in Sydney. It serves as a gateway for individuals in need to access various support services in the region, catering to over 500 customers weekly. Mandi shared with me that in the preceding week alone, the organisation assisted 18 customers who are unable to afford groceries, with a weekly influx of around 10 to 20 additional homeless individuals. She emphasised how the need has surged over the past two years, affecting not only Centrelink clients but also the working poor. Each month Mandi and her volunteers will also run a mobile pantry in the towns of Cobargo and Bemboka, supporting many residents who are unable to get to Bega, which could be close to 50 kilometres away.

The challenges posed by the cost-of-living crisis are not confined to Bega Valley. During my recent visit to Newcastle, I joined Thomas Triebsees, the former State Liberal candidate for Newcastle, and met with critical services across the Hunter, including Soul Hub—which, like the Sapphire Community Pantry, is self-funded and not assisted by government. Soul Hub is a not-for-profit organisation dedicated to providing homelessness services and accommodation. During our visit we were moved by the generosity of two local schoolgirls, Ellie and Katarina, who selflessly donated $3,000 that they raised through a fundraising page to support the service. Soul Hub's general manager, Matt Ortiger, noted that the donation would sustain three weeks worth of food provisions. Like many organisations serving the homeless, Soul Hub relies heavily on donations to meet the growing demand for their services.

We also participated in a roundtable discussion with the Hunter Domestic and Family Violence Consortium, which includes Jenny's Place, Nova for Women and Children, Carrie's Place Inc., Port Stephens Family and Neighbourhood Services, Newcastle Women's Domestic Violence Court Advocacy Service, Family Support Newcastle and Got Your Back Sista. These organisations serve as a lifeline for victim-survivors and their families, offering crucial support and early intervention services. The most recent Bureau of Crime Statistics and Research quarterly update for December 2023 revealed a 42.6 per cent increase in domestic violence related assaults in the Hunter Valley compared with December 2019. This data, however, only captures reported incidents.

The relentless rates of domestic and family violence across the Hunter region are exacerbated by the housing and cost-of-living crises, which have resulted in an overwhelming demand for services in the area. It is imperative that women and children in the Hunter who are victim-survivors of domestic violence or are experiencing homelessness have timely access to temporary accommodation, specialist workers and services. Furthermore, the New South Wales Labor Government needs to provide adequate funding and resourcing for these services to ensure they can meet the growing demand for their services. Specialist services in the Hunter must not be burdened with the task of fundraising to cover essential staff wages. This unsustainable practice jeopardises the security and certainty of both workers and service providers, hindering their ability to effectively support women and children in need. It is imperative that essential domestic violence workers receive the necessary funding to carry out their vital work.

The dedication and compassion exhibited by community groups like the Sapphire Community Pantry in Bega Valley and Soul Hub in Newcastle, as well as the critical support provided by domestic violence organisations across the Hunter region, are truly inspiring. Their tireless efforts in the face of escalating challenges from homelessness and domestic violence underscore the resilience and strength of our community, yet they cannot shoulder the burden alone. With the budget just around the corner, I hope the Government will rally behind these organisations and provide them with the resources and funding they need to continue their vital work.

URBAN TREE CANOPY

The Hon. ANTHONY D'ADAM (06:57): As the proverb goes, the best time to plant a tree is 20 years ago—and the second best time is now. Trees are invaluable to our society, providing oxygen for us to breathe, shade to keep us cool and habitat for our wildlife. However, trees are being removed faster than they are being replaced. We are aware of deforestation occurring at alarming rates around the world, but the issue of tree loss is also exacerbated by other causes. In urban spaces, property development significantly contributes to the decrease in tree canopy cover. Trees are essential during heatwaves, which are a common occurrence in summer. Over the past 200 years, extreme heat events have caused more deaths in Australia than any other natural hazard.

In streets with a tree canopy, temperatures are significantly lower. Research has shown that shaded surfaces may be between 11 and 25 degrees Celsius cooler than unshaded surfaces. In addition, water vapour released from the leaves of trees reduces the temperature of the surrounding area. Trees also provide natural protection from harsh ultraviolet rays. Population-dense areas without many trees or green spaces absorb and hold heat, making those areas hotter than surrounding areas. This is known as the urban heat island effect, which is particularly felt in Western Sydney. Trees are vital for our communities, yet are often destroyed for short-term gains. Sydney is one of the least green cities in Australia, with only 21.7 per cent tree canopy cover as of 2022.

The New South Wales Government agrees that urban tree canopy and green cover play a central role in creating healthy and liveable neighbourhoods, and has set the goal of achieving 40 per cent urban tree canopy cover for Greater Sydney by 2036. Clearly, we have our work cut out for us. Reaching that target is currently heavily dependent on tree plantings on public land. Whilst this is necessary and important to make progress, it is also crucial for the State Government to support local councils, which have the ability to regulate trees on private land. Another factor to consider is deep soil zones, which are areas of soil not covered by buildings within a development. Deep soil zones have significant environmental benefits, such as promoting healthy growth of large trees with large root systems and protecting existing mature trees. With the construction of newer, larger houses, deep soil zones are often reduced, thus making it much harder to plant trees.

Trees are removed and not replaced for a number of reasons, including fear of tree root damage, falling branches as a result of storms or difficulties removing leaf litter in gutters. To address those concerns, we need a range of long-term solutions. One suggestion is to incentivise private landholders to maintain and expand the number of trees on their properties through council rates. Councils should introduce differential ratings or discounts for properties that have specified tree cover. In other words, the more trees on your property, the greater the discount on your rates. We should also consider complimentary arboreal services for those in our community who require extra support. Different home insurance providers offer different tree-related coverage. With some companies, root damage from a standing tree is not covered. If tree roots cause damage to pipes or cause them to leak, the pipes themselves are also not covered. Socialising the risk of tree root damage could help in those situations.

Furthermore, implementing council policies around the valuation of natural assets, including a public and private tree audit, would assist with data collection and help keep us on track for the 40 per cent target. The City of Melbourne has robust tree-protection rules. The council charges developers for not only tree replacement but also the dollar equivalent of lost amenity and ecological values. When a tree diameter is a metre thick, costs can exceed $100,000—and that is if there are no alternatives to removal. There is plenty of precedent and a myriad of solutions out there. It is great to see the New South Wales Government committing to planting five million trees by 2030. But in the words of the Lorax, who speaks for the trees:

> Unless someone like you cares a whole awful lot, nothing is going to get better. It's not.

There is a lot more that we can and should be doing to protect and grow more of our precious trees.

HEALTH SERVICES UNION

The Hon. MARK BUTTIGIEG (07:01): I bring to the attention of the House yet another great victory for the Health Services Union [HSU] and its members. On 15 March this year, HSU members had a monumental win in the Fair Work Commission, over three years after the HSU brought forward a work value case in November 2020. The result is historic, with HSU aged care direct and indirect workers being granted significant pay increases. It followed years of campaigning by the HSU and its members. Direct care workers will receive between 13.3 per cent and 28.5 per cent increases. That is inclusive of a 15 per cent pay rise awarded to the workers in stage one of the HSU's work value case in 2022. Indirect care workers such as laundry hands, cleaners and food services assistants will receive a pay increase of 6.96 per cent.

In handing down the decision, the expert panel found that "the work of aged care sector employees has historically been undervalued because of assumptions based on gender". In respect of the direct care employees covered by all three awards, the expert panel was satisfied that there were work value reasons for the minimum

award rates of pay for such employees to be increased substantially beyond the 15 per cent interim increase determined in the stage one decision. To give just one example of the significance of the increases, a personal carer will go from $23.10 per hour to $32.52 per hour, according to HSU secretary Gerard Hayes. That is a hugely significant outcome after many years of hard-fought campaigning by thousands of HSU members around the country.

The decision is significant not only because of the well-deserved headline wage increases but also because it signals that we as a society place great value on and recognise the enormous contribution of aged-care workers to human wellbeing, which hitherto has been historically undervalued. We must start to value and pay people according to their contribution to society, rather than simply leaving it to market forces to put a value on labour. As a major employer, the Government can and should play a leading role in setting the standard. Workers' remuneration should be based on their contribution to society. In this respect, there is scarcely a more deserving profession than aged-care workers.

It is patently obvious to any casual observer of modern society, including Australia, that in many circumstances monetary reward is not commensurate with the contribution to society. We have a situation where CEOs of corporations are earning millions upon millions of dollars, simply because they have the ability, the wherewithal and the position to tell other people to do work, but people in the aged-care sector are adding value where it is most needed—in palliative care and health care, showing compassion and helping the most vulnerable people in our society. It is significant to have such an important wage case outcome that places value on the important area of aged care, where people are contributing to society. It is a gratifying decision.

I thank all the HSU members for their perseverance and persistence, and for sticking together under the outstanding leadership of Gerard Hayes, under whose direction the union, on top of this great victory, has achieved phenomenal outcomes for its members in the hospital sector and for paramedics, allied health workers, and imaging, pathology and disability care workers. It is a great union that is achieving great things because members are sticking together and campaigning together. But this aged-care outcome is particularly gratifying because it means that society is finally recognising the people who contribute to our wellbeing by offering that care and is rewarding them for their efforts.

The PRESIDENT: The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 7:06 on Friday 22 March 2024 until Tuesday 7 May 2024 at 12:30.