

# LEGISLATIVE COUNCIL

**Thursday 6 June 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*

### **EMERGENCY SERVICES LEVY INSURANCE MONITOR BILL 2024**

### **EMERGENCY SERVICES LEVY AMENDMENT (LAND CLASSIFICATION) BILL 2024**

### **MUSEUMS OF HISTORY NSW AMENDMENT (CHIEF EXECUTIVE OFFICER) BILL 2024**

## **Returned**

**The PRESIDENT:** I report receipt of messages from the Legislative Assembly returning the bills without amendment.

## *Announcements*

### **MACQUARIE STREET PROTESTS**

**The PRESIDENT (10:01):** I advise members that a number of protests are planned today on Macquarie Street, which may have a noise impact on proceedings.

## *Motions*

### **GUNNEDAH EISTEDDFOD**

**The Hon. SARAH MITCHELL (10:02):** I move:

- (1) That this House notes that the Gunnedah Eisteddfod Music and Speech and Drama programs were held from Monday 22 May 2024 to Thursday 30 May 2024.
- (2) That this House further notes that:
  - (a) eisteddfods are an integral part of the artistic and cultural landscape in regional New South Wales;
  - (b) local eisteddfods offer a stage for aspiring artists, musicians, dancers and performers of all ages, allowing them to share their talents, nurture their passion and gain valuable experience; and
  - (c) many schools and early childhood programs also participate in local eisteddfods, providing a fantastic opportunity for students to engage in the performing arts.
- (3) That this House acknowledges:
  - (a) the incredible efforts of the 2023-2024 Gunnedah Eisteddfod committee and convenors, including president Meryl Hennessy, vice-presidents Marg Amos and Leonie Harley, Trish Studdy, Tahlia Morrisey, Rebecca Ryan, Mel McCulloch, Cheryl Hoffman, Lizzy Bell, Marg Kersley and Lyn Pengilly; and
  - (b) the generous local sponsors who supported the eisteddfod with donations and cash prizes.
- (4) That this House congratulates all participants in the Gunnedah Eisteddfod Music and Speech and Drama programs in 2024.

**Motion agreed to.**

### **RESIDENTIAL DWELLING AUDIT**

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

That this House calls on the Minns Labor Government to:

- (a) provide an update on the actions they have taken to conduct a residential dwelling use and vacancy audit to accurately estimate the usage of residential properties across the State, which they agreed to undertake on 13 September 2023; and
- (b) report on their investigation of the causes of residential dwelling vacancies, which they agreed to undertake on 13 September 2023.

**Motion agreed to.**

*Committees***PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND THE ARTS****Reference**

**Ms CATE FAEHRMANN:** I move:

That Portfolio Committee No. 6 - Transport and the Arts inquire into and report on the use of e-scooters, e-bikes (including shared schemes), related mobility options, and in particular:

- (a) the current and anticipated role of all three levels of government in enabling and encouraging safe electrified active transport options;
- (b) opportunities to reform the regulatory framework to achieve better and safe outcomes for riders and the community;
- (c) local council, industry and stakeholder perspectives on the utilisation and impact of e-mobility devices in the community;
- (d) opportunities to improve mobility, the customer experience, safety for users and the community;
- (e) the potential benefits and risks of existing regulatory and policy settings, including the Roads Act 1993, Road Rules and Road User Space Allocation Policy and other related legislation regarding safety, traffic, and personal convenience;
- (f) the extent that e-mobility devices have positive community benefits such as encouraging mode shift, relieving congestion, addressing social disadvantage and tourism;
- (g) opportunities across government to improve outcomes in regard to e-scooters, e-bikes, and related mobility options;
- (h) best practice in other Australian and international jurisdictions;
- (i) the economic analysis of e-mobility contribution to safe transport at night for shift workers and women, to mode shift and to first and last mile transport; and
- (j) any other related matters.

**Motion agreed to.**

*Documents***WATT ADVOCACY AND COMMUNICATIONS****Production of Documents: Order**

**The Hon. EMMA HURST (10:03):** I move:

That, under Standing Order 52, there be laid upon the table of the House within 21 days of the date of passing of this resolution the following documents in the possession, custody or control of the Minister for Aboriginal Affairs and Treaty, Minister for Gaming and Racing, Minister for Veterans, Minister for Medical Research and Minister for the Central Coast, the Department of Enterprise, Investment and Trade, the Greyhound Welfare and Integrity Commission, or Greyhound Racing New South Wales relating to Mr Kel Watt or Watt Advocacy and Communications:

- (a) all documents relating to Mr Kel Watt or Watt Advocacy and Communications;
- (b) all correspondence between Greyhound Racing NSW and Mr Kel Watt or Watt Advocacy and Communications; and
- (c) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

**Motion agreed to.**

*Business of the House***WITHDRAWAL OF BUSINESS**

**The PRESIDENT:** I inform the House that the Hon. Mark Buttigieg has withdrawn the formal business request regarding private members' business item No. 1111 standing in his name relating to the Lion Dance Kids First Competition 2023.

*Documents***TABLING OF PAPERS**

**The Hon. PENNY SHARPE:** According to the Passenger Transport Act 1990, I table the report of the Office of Transport Safety Investigations entitled *Bus Safety Investigation Report: Collision between buses m/o9982 and m/o1531 Campsie: 20 March 2024*, dated June 2024.

**AUDITOR-GENERAL****Reports**

**The CLERK:** According to the Government Sector Audit Act 1983, I announce receipt of the following reports:

- (1) Performance Audit Report of the Auditor-General entitled *Oversight of the child protection system*, dated 6 June 2024, received out of session and published this day.
- (2) Performance Audit Report of the Auditor-General entitled *Safeguarding the rights of Aboriginal children in the child protection system*, dated 6 June 2024, received out of session and published this day.

*Business of the House***POSTPONEMENT OF BUSINESS**

**The Hon. PENNY SHARPE:** I postpone Government business notices of motions Nos 1 to 7 until a later hour of the sitting.

**SUSPENSION OF STANDING AND SESSIONAL ORDERS: CONDUCT OF BUSINESS**

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

That:

- (a) on Thursday 6 June 2024, proceedings be interrupted at approximately 2.00 p.m., but not so as to interrupt a member speaking, to allow Government business notice of motion No. 1, standing in the name of the Hon. Penny Sharpe relating to an apology for the criminalisation of homosexuality, to take precedence until concluded or adjourned; and
- (b) the mover of the motion may speak for not more than 15 minutes, any Minister or the Leader of the Opposition may speak for not more than 15 minutes, any other member may speak for not more than 10 minutes, and, if the motion is not sooner disposed of, proceedings be interrupted after 90 minutes to allow the mover to speak in reply for not more than 10 minutes.

**Motion agreed to.**

*Bills***LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AND OTHER LEGISLATION  
AMENDMENT (KNIFE CRIME) BILL 2024****Second Reading Debate**

**Debate resumed from Tuesday 4 June 2024.**

**The PRESIDENT:** Before I call the Hon. Tania Mihailuk, the Hon. Daniel Mookhey sought the call on Tuesday evening in reply. If he cedes that call now so that the Hon. Tania Mihailuk can speak, he is welcome to do so.

**The Hon. DANIEL MOOKHEY:** To be clear, I sought the call to adjourn the debate, not to reply.

**The PRESIDENT:** I understand. Unfortunately, it had the same impact.

**The Hon. DANIEL MOOKHEY:** In that sense, I will happily cede the call to the honourable member.

**The Hon. TANIA MIHAILUK (10:19):** I thank the Treasurer. I make a contribution to the debate on the Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024. I commend the Government for bringing the bill forward. I acknowledge the work of the Beasley family. This morning I listened to Ben Fordham interviewing them on 2GB. They are delighted that the legislation is passing swiftly through Parliament. I acknowledge how difficult this must be for them, given the tragedy that occurred to their family with the loss of their son. I put on record some issues I have with the bill and I thank the office of the Attorney General for its assistance guiding me through my concerns. I listened intently to the debate, and I also listened to the debate in the other House. I note the Opposition seeks to move a number of amendments and I will speak to them when we are in the Committee stage.

The regulations are fairly unrestrictive and will allow for a plethora of changes that the police will be able to make about how the legislation will unfold in reality and in practice. I think that is most fitting and I certainly support that. I imagine that as the legislation is put into practice, the reality will be how areas are designated, the terms, timing and so forth, and possibly the need to repeat those designations. There may need to be some alterations to the regulations. This is unique legislation. We have reached a point in New South Wales where we have to be tougher about knife crime.

The last time knife crime was debated was last year and the penalties in relation to possession and wielding of a knife were doubled. I note that there has already been some data about how that has played out in the judiciary.

I brought a motion to the House—which sadly was rejected by the Government, working together with The Greens; in fact, the Liberals supported it—to have a short, quick inquiry by the Standing Committee on Law and Justice to look into why it is that, despite the fact that last year we doubled penalties for knife possession and wielding, the most recent Bureau of Crime Statistics and Research data indicates that just one custodial sentence out of 67 charges was imposed by the judiciary. That is a concern, as will be the result of this legislation.

We must ensure that Parliament passes effective legislation that is a reflection of the will of the people. I believe right now the people of New South Wales want strong action to deter knife crime after the recent incidents at Bondi Junction Westfield and the Assyrian Christian church, the attacks in regional New South Wales—at Dubbo and Coffs Harbour—and in Western Sydney. We must do everything we can to support the police and always look to other States, as we have in this case by following the path of Queensland with Jack's law. I again commend the Government for that. I am disappointed it did not agree to conduct an inquiry as to why the judiciary was not taking up the legislation passed last year to increase custodial sentences or at least impose them. I welcome the legislation and put on record that I support what the Government is doing to have this bill pass today. It will be passed despite amendments. I note The Greens amendment, which I will speak against in the Committee stage.

I ask the Treasurer in reply, representing the Attorney General, to respond to some issues I have. One is recreational fishing. The Hon. Rod Roberts was right to raise this in his speech. Knives are an integral part of fishing. It is important that a child under 18 has some restrictions around purchasing a knife, particularly if it is for the wrong reason. The vast majority of young people purchase knives for the right reason. Fishing is a recreational activity. Anyone who understands fishing—and I have a family of fishermen, particularly my sons—knows you cannot fish without a knife. It is part and parcel of fishing. I am forced to take my son to BCF or Anaconda and I am stuck there for an hour or two, at least. He goes through looking at fishing rods and from time to time he wants to buy a fishing knife. He is 14 years old. My other son is 16.

I hope that the way the legislation reads at the moment—where there is an exemption of reasonable excuse, being for occupation, education and training—takes in recreational fishing. I am not sure if the current definition does. It might be able to be amended later by regulation. I would like the Government to respond to my concerns about that. What we do not want to do when we pass critical legislation is open up a plethora of problems and issues for people who are doing the right thing and are law-abiding citizens.

I also think it is important that we have the capacity to review how effective this legislation has been after a short period as well as some of the legal parameters. I do not want police subject to accusations of profiling. To some extent I am glad that the regulations will allow for some opportunity to amend the legislation in the future to ensure that we do not put police in a difficult position if they are sued or attacked as a result of individuals suggesting that the legislation is being used for the purposes of profiling certain members of our society.

This legislation hits the right balance; it is exactly what people are after right now. We might remember the days of former Premier Bob Carr. As a Bankstonian I lived through the time of the Bilal Skaf rapes. That time was horrific for the community of south-west Sydney. Everyone paid tribute to then Premier Bob Carr for taking such a strong stand. He knew he had to stand strong against that type of crime by ensuring that Parliament legislates strongly, as it did. It made a profound difference. There was a serious problem in south-west Sydney with gang rapes. Sometimes it takes that level of leadership.

Right now I have to say the Premier has demonstrated that level of leadership. Despite members of the left in his party and, I am sure, The Greens, civil liberty groups and others suggesting that this is going too far, I think he is on the right side of history here. Sometimes we have to show a level of leadership to say we have had enough. The last six weeks in New South Wales have been horrific when it comes to knife crime. We need to throw the book at people who are prepared to wield knives and use them. Deterrence is of course the best option for police. We must support police in the way they manage these issues. We see people congregating in areas around train stations and shopping centres. These are areas where people may take up an opportunity to attack others. The horrific circumstances at the Assyrian Christian church were horrible. Anything we can do as a Parliament to be tough on knife crime is critical, which is why I absolutely support the Government to pass this legislation.

**The PRESIDENT:** I welcome two particularly important guests to the gallery today. Brett and Belinda Beasley are here from the Jack Beasley Foundation. They are both very welcome.

**The Hon. DANIEL MOOKHEY (Treasurer) (10:30):** In reply: Belinda and Brett Beasley's son Jack was attacked and fatally stabbed by a group of youths during a night out with friends in Surfers Paradise in 2019. He was only 17. In the wake of this shocking tragedy, Belinda and Brett launched the Jack Beasley Foundation. Since then, they have spent years raising awareness of the dangers, repercussions and tragic consequences of knife violence. Due to their advocacy, Queensland passed Jack's law, which allows for the wanding of people without

suspicion in designated areas. It has proved so successful that other States, including this one, are acting to introduce wandering in their own jurisdictions.

Belinda and Brett have helped advise us on today's legislation. They came to Sydney to meet with the Attorney General and the Minister for Police and Counter-terrorism during its development, and met with the Premier this week. Their steadfast determination to make our community safer, in response to the immense grief they suffered over the death of their son Jack, is, of course, awe inspiring. We thank them for their generous assistance with this legislation. This law honours Jack's legacy and the legacy of too many people in New South Wales who have been tragically killed as a result of knife crime. The House is honoured and humbled to have them present with us today.

I thank honourable members for their contributions to debate, including the Hon. Susan Carter, Ms Sue Higginson, the Hon. Stephen Lawrence, the Hon. John Ruddick, the Hon. Jeremy Buckingham, Dr Amanda Cohn, the Hon. Rod Roberts and the Hon. Tania Mihailuk. The Government's bill targets the public possession of knives and the clear risk they pose to the community. As the Attorney General said in the other place, knife possession is the necessary precursor to violent knife crime. While fortunately the number of prosecutions for violent knife crime is decreasing, knife possession charges remain steadily high and reoffending is common. The measures in the bill are designed to tackle knife crime and give police the powers they need in the places they need them the most, with the aim of preventing incidents of knife crime such as those we have unfortunately all seen recently.

I address some of the issues that have been raised in the debate. The reforms will give police improved tools to quickly detect concealed knives and weapons and take action before a potential perpetrator has had the chance to use them. It is important to note that the bill will authorise police to stop any person in a designated area without a warrant or any sort of reasonable suspicion and require the person to submit to a scan with a handheld metal scanner. If the scanner indicates metal, police will be able to require the person to produce the item that might be setting the scanner off and resubmit to another scan. Police are able to detain any person for as long as is reasonably necessary to exercise the power under the bill. Given the extent of the powers given to police in the bill, it is vital that the powers are balanced with the fundamental common law rights and freedoms enjoyed by every person in the State. The criteria for declaring an area as designated, the safeguards on the use of powers in the bill and the statutory review provision with a three-year sunset clause strike this balance.

The bill was developed in close consultation with the NSW Police Force, which provided advice and guidance on the places where the metal detection powers should be available. The bill is about giving police the powers that they need in the places they need them. The people best placed to advise on that are the people within the NSW Police Force who will be using these powers. They have advised on the bill, and their advice has guided the development of it. It is important to note that the bill does not expand existing search powers. Although proposed section 45K of the bill provides that a police officer may, without a warrant, stop any person and scan them with a handheld scanner, this does not authorise a police officer to search the person. In order to undertake a search of a person without a warrant, police will still be required to comply with part 4 of the Law Enforcement (Powers and Responsibilities) Act. Whether or not the reasonable grounds to search threshold is met in connection with the use of the handheld scanner powers will depend on the specific circumstances of a particular interaction.

In response to the concerns raised by Ms Sue Higginson, the Hon. John Ruddick and the Hon. Jeremy Buckingham regarding any unintended consequences on vulnerable communities, particularly First Nations people, I am pleased to note that an implementation group jointly chaired by the Secretary of the Premier's Department and the Commissioner of Police, with representatives from key government agencies and the Coalition of Aboriginal Peak Organisations, has been established. The purpose of this group is to guide the development of operational procedures for the use of handheld metal scanners to align with the Government's ongoing commitment on Closing the Gap.

In response to comments made by the Hon. Rod Roberts regarding the inability of police to use wandering powers where police have intelligence or information about persons being armed in locations not captured by the bill, I note that the NSW Police Force has existing powers to search persons for weapons without a warrant where a police officer suspects on reasonable grounds that a person is unlawfully in possession of a weapon. The police can also rely on other powers to effectively respond to immediate threats, where appropriate. The police will also facilitate training arrangements to ensure that handheld scanners and associated operational guidelines are ready for use once the reforms commence. I also note that the handheld metal scanner powers will be reviewed after two years and sunset after three years. The review will consider all aspects of the new powers, including data on the use of the powers. This will assist in determining whether the powers have had a disproportionate impact on any parts of the community.

I now turn to comments made by the Hon. Tania Mihailuk, who was concerned about those who fish. I simply say that the bill does not change reasonable excuses for the possession of a knife. Of course, recreational

use is a reasonable excuse, as was made clear in the Attorney General's second reading speech and in my own speech. The danger posed by the possession or use of knives is unacceptable. We know that the community expects us to do more, and we are doing that in a sensible, practical and measured way with the bill. I commend the bill to the House.

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

**Motion agreed to.**

### **In Committee**

**The CHAIR (The Hon. Rod Roberts):** There being no objection, the Committee will deal with the bill as a whole. I have three sheets of amendments: Opposition amendments Nos 1 to 13 on sheet c2024-085A, The Greens amendments Nos 1 to 9 on sheet c2024-080A and the Libertarian Party amendment No. 1 on sheet c2024-083A.

**The Hon. SUSAN CARTER (10:40):** By leave: I move Opposition amendments Nos 1 to 13 on sheet c2024-085A in globo:

**No. 1      Designated areas**

Page 3, Schedule 1, proposed Part 4A, heading, lines 5 and 6. Omit "**in designated areas**".

**No. 2      Definitions**

Page 3, Schedule 1, proposed section 45D, heading, line 8. Omit "**Definitions**". Insert instead "**Definition**".

**No. 3      Definitions**

Page 3, Schedule 1, proposed section 45D, lines 10–31. Omit all words on the lines.

**No. 4      Meaning of "public transport station"**

Pages 3 and 4, Schedule 1, proposed section 45E, line 34 on page 3 to line 14 on page 4. Omit all words on the lines.

**No. 5      Designated areas**

Pages 4 and 5, Schedule 1, proposed Division 2, line 15 on page 4 to line 10 on page 5. Omit all words on the lines.

**No. 6      Designated areas**

Page 5, Schedule 1, proposed Division 3, heading, line 11. Omit all words on the line. Insert instead—

**Division 2      Power to scan persons**

**No. 7      Power to scan anywhere**

Page 5, Schedule 1, proposed section 45K, heading, line 12. Omit "**in designated areas**".

**No. 8      Power to scan anywhere**

Page 5, Schedule 1, proposed section 45K, line 13. Omit "(1)".

**No. 9      Power to scan anywhere**

Page 5, Schedule 1, proposed section 45K(1), line 13. Omit "**in a designated area**".

**No. 10      Power to scan anywhere**

Page 5, Schedule 1, proposed section 45K(2) and note, lines 15–21. Omit all words on the lines.

**No. 11      Power to scan anywhere**

Page 5, Schedule 1, proposed section 45L, lines 22–38. Omit all words on the lines.

**No. 12      Power to scan anywhere**

Page 5, Schedule 1, proposed section 45M(1)(a), lines 41 and 42. Omit "**in a designated area**".

**No. 13      Power to scan anywhere**

Page 6, Schedule 1, proposed section 45M(2), note, lines 4 and 5. Omit all words on the lines.

The amendments will essentially achieve a common outcome, which is to remove the geographical and time restrictions on the use of the wandering powers that can be found in this legislation. If the amendments are agreed to, they will allow the Police Force to engage in non-invasive searches at any time, in any place. This makes it proactive legislation that reaches out to further enhance community safety.

As members would be aware from the second reading debate, the Government's bill refers to certain circumstances in which a place may be declared a designated area under new section 45G, which is that offences of a particular kind must have occurred in the previous 12 months. It is reactive to a situation which has already occurred. It does not actually facilitate the use of police intelligence so that they can be proactive in identifying

areas in which concerns may arise. Under new section 45I, once a designated area has been declared as a lawful place where wandering can take place, that declaration only lasts for 12 hours. So we have geographical restrictions and time restrictions. There is also the publication requirement in new section 45H: Having declared an area, the police are to publish that area as soon as practicable.

I would be pleased if the police would, as soon as practicable, publish the locations of their random breath testing or their speed cameras, in particular. That would be convenient, but it would entirely defeat the purpose of that proactive community policing exercise. I suggest that new section 45H entirely goes against the idea of a proactive policing exercise. The Opposition's amendments would replace all of these restrictions with, essentially, an "anytime, anywhere" ability to wand. The reality is, if we think about the example of random breath testing, that there is in truth no reason to have these restrictions in place. We know that this legislation is based on the Queensland model. I recognise the presence in the President's gallery today of Mr and Mrs Beasley, Jack's parents, for the saddest of reasons. I also recognise that they are giving to the community out of their personal tragedy, which is a rare gift.

We recognise that the bill is based on the Queensland model. However, due to the advocacy of the Beasleys, Queensland is not the only State that has this legislation. New South Wales is not the only State that is considering this legislation. Western Australia is also about to implement Jack's law. What is the difference between the very left-leaning Queensland Labor Government and the more centrist Western Australian Labor Government? Queensland has a "sometimes, somewhere, if there is already a problem" model, which New South Wales wants to adopt. Western Australia has an "anywhere, anytime" model. That is a much more centre of the road, community-based model for protecting the community from knife crime, and it is exactly the model that our amendments seek to put in place. That is the challenge for this Government: Which model will it follow? I call on the Government to follow its Western Australian colleagues rather than its Queensland colleagues.

It has been argued in the other place that our amendments do not balance freedoms against police powers in the appropriate way. We are not seeking to change any of the safeguards or review mechanisms that are in place in this legislation. All we are seeking is to change the criteria for the initial searches so that they are, frankly, more like what occurs in the real world when we go to a sporting event or to an airport, when we go across the road to the court, or when someone seeks entry to this place but does not have a pass. Today Mr and Mrs Beasley would have had to go through a metal detector to get in the building. There is no option. What I find remarkable about the way that this legislation is structured is that it seems to place greater powers to perform a non-invasive search on security guards than it does on the police, who we know we can trust to provide for our safety.

I encourage the House to adopt the Opposition's amendments. I encourage the adoption of a sensible approach in the public interest for the benefit of the community. It is entirely reasonable that if the legislation was for an invasive strip search there would be great and many limits around how those powers were to be exercised. Wandering does not involve even touching a person at all. It does not require a person to do anything other than present themselves and allow a wand to be put around them. Frankly, it happens almost every day in where we go about our daily lives. We certainly believe that the police can be trusted to use these powers appropriately. I recommend that the Western Australian model be adopted rather than the Queensland model, although I will point out two ways in which it would be good if the Queensland model were to be followed.

New section 45H talks about publication as soon as practicable. The Opposition's amendments remove that problem. It is interesting to compare that with Queensland, where publication is required within a two-month window. That is a much more realistic way to address community safety than telegraphing to everybody where the wandering operations will take place, as is contemplated by this legislation. The other thing that I encourage is the practical investment that Queensland has made to ensure that these powers can operate properly. On 1 May the Queensland Government announced that it is putting \$900,000 behind this legislation to ensure that there are wands that could be used. We will look with interest at the budget to see whether the Government really intends to make this legislation work by resourcing it appropriately. I commend the amendments to the Committee.

**The Hon. DANIEL MOOKHEY (Treasurer) (10:49):** The Government supports the bill as is. The risk-based approach in the Government's bill strikes the right balance between providing police with powers that will protect the community from knife crime and upholding fundamental common law rights and freedoms. Under the Government's bill, the areas that may be declared as designated areas are public transport stations, shopping precincts, sporting venues and other public places prescribed by the regulations—including, for example, places that host special events and events that are a part of, or support, the night-time economy. The bill also allows for additional places to be declared as designated areas by regulation. That is not provided for in the equivalent law in Queensland and means that further areas can become designated areas where metal detector powers can be used with the important safeguard of the oversight of Parliament.

**The Hon. JOHN RUDDICK (10:50):** The Libertarian Party opposes these amendments. I know the Hon. Susan Carter knows her history. She therefore knows that, across the history of humanity, dictatorships and

tyrannies of various degrees have been the norm; free societies have been the exception. The front line of any tyranny is the police. We need to keep them in check. Free societies keep strict limits on police through parliaments, because those things can devolve. She brought up the example of people going into a sporting event or into Parliament. Those are voluntary decisions. No-one is forcing them to do that. The member is proposing to stop and search free citizens anywhere anytime on no suspicion. That is way too dangerous policing, I am sorry to say. I am appalled by the amendments.

**Ms SUE HIGGINSON (10:51):** The Greens do not support these amendments. They are not well founded in terms of data and evidence. If we are trying to achieve the successful maintenance of peace and community safety, they are just not in the right vein. I know that every member in this place comes into the Chamber with that motivation and intention as we make decisions. I will talk more when I move The Greens amendments, but I put on record that we will not be supporting these amendments. I thank the Hon. Susan Carter for her contribution. I understand where the Liberal Party is coming from, but it is just not the direction that this State should be going in.

**The Hon. TANIA MIHAILUK (10:52):** I do not support the amendments. I respect what the Liberals are trying to do. I understand it. It is not what the Queensland Liberal-Nationals did when that State's laws were introduced in Parliament. They took a more bipartisan approach with the Queensland Government. The amendments are unnecessary. I do not know how many members of the Liberal Party actually agree with it. It is an overreach. It is probably playing a little politics with an issue that I think the community does not need politics for at the moment. It just wants the legislation passed quickly. For that reason, I will oppose the amendments.

**The CHAIR (The Hon. Rod Roberts):** For procedural reasons, I invite Ms Sue Higginson to move The Greens amendments. After we have debated those, we will put the question on the Opposition amendments.

**Ms SUE HIGGINSON (10:53):** By leave: I move The Greens amendments Nos 1 to 9 on sheet c2024-080A in globo:

**No. 1      Form of declaration**

Page 4, Schedule 1, proposed section 45F. Insert after line 25—

- (2) The instrument must be in the form prescribed by the regulations.
- (3) The instrument must contain the following information—
  - (a) the location of the designated area,
  - (b) the dates and times during which the area is a designated area,
  - (c) the offences that gave rise to the declaration,
  - (d) details of the consideration given by the senior police officer of the matters in section 45G(b) and (c).
- (4) The instrument must—
  - (a) be published in the Gazette, and
  - (b) made available on a website of the NSW Police Force.

**No. 2      Declaration made in relation to the same place**

Page 5, Schedule 1, proposed section 45J. Insert after line 10—

- (2) Each declaration for a place that would result in the place being a designated area or part of a designated area more than 3 times in a 12 month period must not be made unless the Minister has given written approval for the declaration.

**No. 3      Application to persons under 18 years of age**

Page 5, Schedule 1. Insert after line 11—

**45JA Application to persons under 18 years of age**

- (1) A power under this part must not be exercised on a child who is under 14 years of age.
- (2) A power under this part may be exercised on a person who is at least 14 years of age and less than 18 years of age if—
  - (a) a parent or guardian of the person is present, and
  - (b) the police officer exercising the power is reasonably satisfied that the exercise of the power is necessary as a measure of last resort.

**No. 4      Safeguards before power exercised**

Page 6, Schedule 1. Insert after line 11—



**45NA Safeguards before power exercised**

- (1) This section applies if a police officer proposes to exercise a power under a hand-held scanner authority to require a person to stop and submit to the use of a hand-held scanner.
- (2) The police officer must before exercising the power—
  - (a) inform the person that the person may do either or both of the following—
    - (i) produce any metal object in the person's possession before being subject to the use of a hand-held scanner,
    - (ii) leave the area without being subject to the use of a hand-held scanner, and
  - (b) if the person does not leave the area—
    - (i) offer the person an information notice that clearly explains why the power is to be exercised and the persons rights in relation to the exercise of the power, and
    - (ii) give the person a reasonably opportunity to read the notice and ask questions.

**No. 5 Detention of person**

Page 6, Schedule 1, proposed section 45O(4), line 20. Omit "as long as". Insert instead "no longer than".

**No. 6 Exercise of other powers**

Page 6, Schedule 1, proposed section 45O. Insert after line 23—

- (6) Nothing in this part authorises a police officer to exercise additional powers following a scan other than the powers in section 45M(2).

**No. 7 Records and reporting**

Page 6, Schedule 1, proposed section 45P(1) and (2), lines 25–29. Omit all words on the lines. Insert instead—

- (1) The Commissioner must keep records about the use of the powers under this division, including the following information—
  - (a) the date, time and location at which a power to scan was exercised,
  - (b) whether the scan indicated that metal is, or is likely to be, present,
  - (c) whether a knife or other weapon was found as a result of the scan, including details of the knife or weapon,
  - (d) whether another prohibited item or substance was detected as a result of the scan, including details of the item or substance,
  - (e) whether other police powers were exercised in conjunction with the scan, including details of the powers exercised,
  - (f) whether the scan resulted in a criminal charge or other legal action against the person subject to the scan,
  - (g) other information prescribed by the regulations.
- (2) The following information must be included in the NSW Police Force's annual reporting information under the *Government Sector Finance Act 2018*, Division 7.3—
  - (a) the number of instruments made under section 45F during the reporting period, including for each instrument—
    - (i) the location of the designated area, and
    - (ii) the duration of the declaration,
  - (b) the number of persons required to stop and submit to a scan during the reporting period, including—
    - (i) the age and gender of the persons, and
    - (ii) whether the persons were Aboriginal or Torres Strait islanders,
  - (c) the number of scans conducted during the reporting period,
  - (d) the number of knives detected because of scans during the reporting period,
  - (e) the number of other weapons detected because of scans during the reporting period,
  - (f) the number of scans during the reporting period, that led to no detection of a knife or weapon,
  - (g) the number of scans during the reporting period, that led to the detection of a knife or weapon,
  - (h) the number and type of other police powers exercised following a scan during the reporting period,

- (i) the number of scans during the reporting period that resulted in a criminal charge or other legal action against the person subject to the scan,
  - (j) other information prescribed by the regulations.
- (3) In this section—
- scan* means a scan using a hand-held scanner in a designated area.

No. 8 **Review of Part 4A by LECC**

Page 6, Schedule 1. Insert after line 29—

**45PA Review of part by LECC**

- (1) The Law Enforcement Conduct Commission (**LECC**) must continuously review the exercise of powers under this part.
- (2) The Commissioner must give LECC information that LECC requires for the purposes of the review.
- (3) LECC must prepare a report on the outcome of the review as soon as practicable after 12 months after the commencement of this part.
- (4) LECC must give a copy of the report to the Minister and the Attorney General.
- (5) The report must be tabled in each House of Parliament as soon as practicable after it is given to the Attorney General.
- (6) LECC must report on the exercise of its functions under this section in its annual report.

No. 9 **Expiry of Part 4A**

Page 6, Schedule 1, proposed section 45R, line 39. Omit "3 years". Insert instead "18 months".

I acknowledge that Mr and Mrs Beasley have just left the gallery. I acknowledge and thank them for being there during part of this debate. As a parent, I do not know what it means to have lost a child, but I do know what it means to be the daughter of parents who lost their son. I witnessed my parents when I lost my brother. I do not think there is any greater grief or pain that parents could ever live through. There is not a day when I do not miss my beautiful brother, who was a young man, and feel the grief of my parents. My mother, who is still alive today, grieves every day.

Our amendments would give weight to the views of the New South Wales Bar Association and other law experts and civil liberties advocates. They lend consideration to effective minimum legislative safeguards in relation to the powers proposed, including for the Law Enforcement Conduct Commission to keep the exercise of the proposed increased police powers under better scrutiny and an earlier review of the powers than presently proposed. They are incredibly sensible amendments. I urge all members to support them. I turn to amendments Nos 1 and 2. New section 45F of the bill prescribes the places that a senior police officer may by written instrument declare to be a designated area. New section 45G of the bill outlines the circumstances in which a place may be declared a designated area.

New section 45I of the bill states that the period during which the declaration of a designated area is in force is that period of not more than 12 hours specified in the declaration. New section 45H of the bill requires an instrument declaring a place to be a designated area to be published on the New South Wales police website as soon as practicable after the declaration is made. The bill should be amended to require that such instruments remain publicly available on the New South Wales police website for the entirety of the period that the legislation is in force. That is necessary to enable people subjected to the handheld scanner search to determine whether the exercise of police power was lawful.

New section 45J of the bill provides that more than one declaration of a designated area may be made in relation to the same place. In the current form of the bill, there is no restriction on a senior police officer making a new declaration as soon as the declaration expires subject to the criteria in new section 45F and new section 45G of the bill—therefore defeating the obvious intention that serial continuation declarations not be made. The bill should be amended to impose a limit on the number of times a location can be declared a designated area in the absence of ministerial approval. It should also stipulate a minimum period that must be allowed to expire before any repeat or subsequent declaration takes place.

I turn to amendment No. 3. In its current form the bill provides that a police officer can require a child of any age to stop and submit to a handheld scanner search. There are no additional safeguards for the exercise of powers to conduct searches on children despite their well-known vulnerability in the face of police and other authorities and the longstanding principles of a child's right to privacy and bodily integrity. The unrestricted deployment of police search powers has historically led to poor outcomes for young people. We know that. An example of that was the search power routinely deployed as part of the Suspect Target Management Plan [STMP],

a policy designed by the NSW Police Force that aimed to prevent crime by interrupting criminal behaviour by through proactive re-engaging with high-risk individuals.

A further example emerged from the Law Enforcement Conduct Commission inquiry into strip search practices, which noted systemic concerns with the training and education provided to officers about the requirement for conducting searches of that kind. In 2023 the LECC found that the STMP policy applied to young people encouraged officers to act beyond their statutory powers. First Nations children were grossly over-represented in STMP numbers. This bill will permit targeting of children in a similar manner. There is no doubt. That is how such laws work. While the Attorney General's second reading speech acknowledges that the Young Offenders Act 1997 will continue to apply to children who are found to be in possession of a knife in a public place without a reasonable excuse, that does not address the significant concerns we have in relation to the impact of the bill on children and the effective watering down of the reasonable suspicion threshold prior to the exercise of coercive police powers.

These amendments also therefore seek to make children under 14 years of age exempt from schedule 1 to the bill entirely. Children aged between 14 and 18, or children who would otherwise be subject to schedule 1 to the bill, should only be subject to a handheld scanner search in the presence of a guardian, parent or designated responsible adult, such as a legal representative. The use of a handheld scanner is notionally less invasive than a frisk search. The proposed police power to stop and submit a person to a handheld scanner search does not require a reasonable suspicion. Where the handheld scanner identifies any metal objects, including an electronic device or other benign metal object, this will invariably lead to a more invasive search. Such a search should take place in the presence of a guardian or designated adult.

I turn to amendment No. 4. While the intention of the proposed powers may be to detect metal knives and other metal weapons, it is likely that the handheld scanners will also detect other metal objects that individuals ordinarily carry, including keys, shoes and belt buckles.

**The CHAIR (The Hon. Rod Roberts):** According to sessional order, it being 11.00 a.m., I shall now leave the chair and report progress.

**The PRESIDENT:** The Committee reports progress. Further consideration of business before the Committee is set down as an order of the day for a later hour of the sitting.

According to sessional order, business is now interrupted for questions.

*Visitors*

#### VISITORS

**The PRESIDENT:** I welcome to the Parliament student leaders from high schools across New South Wales who are attending the Secondary Schools Leadership Program conducted by the Parliamentary Education and Engagement unit. You are all very welcome in the Chamber today. I hope you enjoy this edifying experience.

*Questions Without Notice*

#### MAITLAND SHOWGROUND

**The Hon. DAMIEN TUDEHOPE (11:00):** My question is directed to the Special Minister of State. I asked the Minister for Regional Transport and Roads, through the Minister, when a commitment had been made that NSW Labor would deliver \$84,000 to upgrade Maitland Showground and whether this commitment was made public prior to the election. Somewhat surprisingly, the Minister—again through the Special Minister of State—answered, "This is a matter for the Special Minister of State." When was this commitment made, who made the commitment and when was it made public?

**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) (11:01):** I thank the Hon. Damien Tudehope for his very good question. It does relate to a matter of detail, though. I am happy to seek an answer for the member and return to the Chamber with it.

**The Hon. DAMIEN TUDEHOPE (11:02):** I ask a supplementary question. Returning to the question, to which the Minister has agreed to come back with an answer, he has approved funding for this grant to be eligible under the Local Small Commitments Allocation scheme. A project under that scheme must have been nominated prior to the election. If neither the Minister nor the Minister for Regional Transport and Roads made the commitment prior to the election, will the Minister confirm when the commitment was made?

**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) (11:02):** I thank the

Leader of the Opposition for his supplementary question. As usual, he has over-egged it. These are serious commitments. This is a low-value commitment. I am right to check the details. As usual, the Leader of the Opposition has over-egged it. He has come into the Chamber and suggested something much further.

**The Hon. Natalie Ward:** Check it during question time. You've got ages. You've got an hour.

**The Hon. JOHN GRAHAM:** I have not refused to answer this question. I have agreed to seek the details. There is a range of these commitments.

**The Hon. Damien Tudehope:** You should know.

**The Hon. JOHN GRAHAM:** "You should know," says the Leader of the Opposition. I take my obligations to this House very seriously, as the member knows. I will seek the details so I can correctly place them on the record in the House, in the usual way. The idea that the member might come steaming into this Chamber trying to bait Ministers to give detail immediately, hoping they will do so incorrectly—

**The PRESIDENT:** Order! The Hon. Natalie Ward is not assisting by saying that the Minister can do it in question time. The Minister has the right to take a question on notice and come back to provide that answer when he wishes. The shadow Minister will cease going down that line of inquiry. The Minister has the call.

**The Hon. JOHN GRAHAM:** Of course, the Leader of the Opposition's case would be stronger if he and other members of the Opposition did not meet Ministers, who try to assist them—such as the Hon. Rose Jackson—with a barrage of criticism. I say to the Leader of the Opposition that of course I will try to assist the House. I will do so in the usual way. He is right to ask these questions—I have no problem with that—but there is no need to over-egg it. I will come back to the House in the usual way and provide that answer.

## PARRAMATTA LIGHT RAIL STAGE 2

**The Hon. PETER PRIMROSE (11:05):** My question is addressed to the Treasurer. Will he outline how the current New South Wales Government is building better-connected communities in Sydney's growing west?

**The Hon. DANIEL MOOKHEY (Treasurer) (11:05):** I thank the Hon. Peter Primrose for his question. I too welcome our student leaders in the gallery. There are about 100 of them, reminding me why it was a good idea that we did not cut funding for that program. In respect to the fine question, I am pleased to inform the House that earlier this week the Government confirmed a \$2 billion investment to begin construction of the Parramatta Light Rail Stage 2 project. For years this project was peddled by our predecessors in 17 separate press releases, without a single dollar of funding put aside in the budget. It is a salient example of another phantom project—a pipedream of the Liberals that is now in the pipeline of the Labor Government. Importantly, it allows us to build more homes. It allows us to ensure that people have a home to live in. Indeed, the reason why we think that is important is:

... as a nation we should never believe in a type of neo-feudalism—a system in which an elite group of people own property and the majority of people are serfs subservient to them. We must reject that archaic and regressive agenda and support home ownership through increasing private supply.

That is some wisdom from the Hon. Chris Rath. I also say:

The Opposition must come to terms with the fact that our previous Government is culpable in this crisis.

Equally, I make the point:

Existing train and light rail stations in Sydney provide an excellent opportunity for zoning changes ... That is where the development needs to take place.

I assure the Hon. Chris Rath that, with the \$2 billion investment in Parramatta Light Rail Stage 2, he has every reason to support the Government's agenda and reject that of his own party and his own leader's legislation to bring a halt to this agenda. Once more those opposite asked—and we delivered. We are delivering the infrastructure that is required for housing. I conclude by saying:

... to Liberal members of Parliament who are a little worried every time they get a phone call, an email or a letter from one of those boomer nimbys in their electorates: The reality is you will not lose your seat because of 10 letters from a few nimbys who do not want a development to go ahead.

I respect the wisdom of the Hon. Chris Rath. I wish his party would heed it.

**The PRESIDENT:** Before I call the Deputy Leader of the Opposition, I say to members that although the Treasurer was being mildly inciteful—that is with a "c" rather than an "s"—I do think there were too many interjections from Opposition members. It is important that the students in the gallery hear what the Ministers have to say.

## DOMESTIC AND FAMILY VIOLENCE

**The Hon. SARAH MITCHELL (11:09):** My question is directed to the Minister for Housing, representing the Minister for the Prevention of Domestic Violence and Sexual Assault.

**The Hon. Stephen Lawrence:** Here we go again.

**The Hon. SARAH MITCHELL:** Government members might want to listen to this question. It has been reported today that, two weeks before the alleged murder of Molly Ticehurst, she had been promised that lights, cameras and tough window screens would be installed at her home under the Staying Home Leaving Violence program, but that was not done. Will the Minister please advise the House about why there was a two-week delay, and how many other women are waiting for the urgent improved home security that is needed to keep them safe?

**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:10):** I thank the member for her really important question. Like many members, I was very concerned to read those reports today. I can advise that I have already followed up with the Minister for the Prevention of Domestic Violence and Sexual Assault, whom I represent in this Chamber. She has advised me of a couple of things. Firstly, the Cabinet Office is conducting a full review into all of the interactions and services that Ms Ticehurst had with the New South Wales Government and with NGOs that deliver services on behalf of the Government to see whether there were any failings. That work to follow up those reports has already begun. I am sure we will be able to make any findings in relation to that available.

Secondly, the incredibly tragic death of Molly Ticehurst is the subject of a police investigation and a coronial investigation. It is not appropriate to comment on those details in Parliament as it risks prejudicing those incredibly important investigations. They need to happen as thoroughly and independently as they can. The Government supports important programs like Staying Home Leaving Violence. We acknowledge that it is a good program and it was implemented by members opposite. We credit the former Government for implementing it, and we have expanded it. While it is a good program, if there is a problem or an issue with its delivery on the ground by an NGO partner, we absolutely need to look into that. That is what is happening right now through various investigations that are being done by the police, the Cabinet Office and the Coroner.

If the findings point to work that needs to happen to make sure that what was reported in the case does not happen again, there will be no hesitation in following that up. If women reach out to a program that is intended to keep them safe and, as has been reported, that fails to happen, then that is not acceptable. If the investigations that are currently underway speak to that, we will absolutely follow that up. I give this House the commitment that we will look at that thoroughly. That is happening right now and we will let the House and, indeed, the community know if changes need to be made as a result of those investigations.

**The Hon. SARAH MITCHELL (11:12):** I ask a supplementary question. I thank the Minister for her answer and recognise that this is a very sensitive issue. I agree with her that transparency is important. Will the Minister elucidate the part of her answer where she said that the Cabinet Office has already commenced a review into Ms Ticehurst's dealings with the Government? Will the Minister advise when that review from the Cabinet Office began?

**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:13):** I do not have that information to hand, but I am advised that the investigation is underway. I will take on notice when the investigation began and provide that information to the member.

## CATHOLIC SCHOOLS AND RELIGIOUS FREEDOM

**The Hon. TANIA MIHAILUK (11:13):** My question is directed to the Treasurer. *The Australian* reported that the Catholic Archbishop, the Most Reverend Fisher, has warned that in response to Federal Labor's attempts to erode religious freedom rights, specifically to remove protections relied upon by religious schools around the hiring of teachers, such action could trigger Catholic school closures similar to the landmark 1962 Goulburn case. Given the views of Archbishop Fisher and given that NSW Labor is also reviewing the Anti-Discrimination Act and entertaining an equality bill, if the Catholic dioceses withdraw from providing education services, does the Treasurer agree that the transfer of approximately 265,000 students into the public system would have a significant impact on the State budget? Will the Treasurer task his agency to model the financial impact on the budget of the potential mass closure of Catholic schools?

**The Hon. Penny Sharpe:** Point of order: The member asked about six questions and she also asked for an opinion, which is outside the standing orders.

**The Hon. Damien Tudehope:** To the point of order: I understand the point of order, but the substance of the question was whether the Treasurer has asked his department to carry out an investigation on the impact of the closure of those schools and the transfer of those students.

**The PRESIDENT:** I do not uphold the first part of the point of order. Questions may be asked in a number of parts. I uphold the second part of the point of order. The question seeks an opinion and possibly also contains a hypothetical when it asks whether the Treasurer agrees that the transfer of approximately 265,000 students into the public system would have a significant impact on the State's budget. I rule that part of the question out of order. Nonetheless, the Leader of the Opposition is correct. The part of the question that asks whether the Treasurer will task his agency to model the financial impact on the budget of the potential mass closure of Catholic schools is in order. The Treasurer has the call.

**The Hon. DANIEL MOOKHEY (Treasurer) (11:16):** I thank the member for her question. I am aware of the comments that the Archbishop made at either a canonical conference or a conference of bishops. I am also aware of the context in which the Archbishop made those comments. He made the point that a dialogue is happening in parallel with a Federal parliamentary examination of amendments to Federal Government anti-discrimination laws. In addition to those comments, the Archbishop said words to the effect that such an action would have to be grave and would have to be considered as a last resort on behalf of the Catholic dioceses. Further, he said that he was seeking the possibility of dialogue with the Federal Government.

To the best of my recollection—and I am happy to follow up if I am wrong—both the Prime Minister and the Federal Leader of the Opposition have welcomed that proposition. The Prime Minister has indicated at a Federal level that the preference is for bipartisanship if there is to be any law reform on that issue. I have not asked my department to do any such modelling, and I do not intend to ask my department to do any such modelling in respect of a hypothetical scenario that may not arise. The people who flagged such a scenario themselves said that is not what they are immediately contemplating. I wish our Federal colleagues in the Federal Parliament the very best for their deliberations on this matter. Of course, we will examine the issue once they reach a conclusion as to that law.

**The Hon. TANIA MIHAILUK (11:18):** I ask a supplementary question. Given that the Treasurer has said he will not task his agency to look into the potential financial impact of the transfer of Catholic students to the public system, will he have discussions with his Federal counterparts to ensure that any religious protections are not eroded via any review that they are undertaking, given that there will be a significant impact in New South Wales if that transfer did occur?

**The Hon. DANIEL MOOKHEY (Treasurer) (11:19):** Again, the short answer is no. The Government engages with the Federal Parliament on propositions of law reform, and I have complete confidence that the Government will engage on that question. I will have the conversation with my Federal counterpart about increasing funding for all schools in New South Wales, and continue to have those conversations about Catholic, independent and public schools. Right now we are in the midst of a negotiation of a five-year agreement in which the position of the New South Wales Government is clear: We want the Federal Government to fully fund its obligations under the Gonski reforms, to keep its promise on those 2012 reforms, some 12 years later.

I say to the Hon. Tania Mihailuk that our advocacy in that regard is such that we would be in a position to welcome more people to our public schools. But, regardless of whether or not those outcomes are resolved, every child is welcome in a New South Wales public school. We respect the rights of parents to choose the best schools for their children, but we take seriously our obligation to ensure that children have access to a world-class education, regardless of where they live in the State. In 12-ish days, when I hand down the budget, I will be pleased to demonstrate how this Government is matching its resources towards that task so that we can catch up on the 12 years of declining education standards that we inherited from our predecessors. Under the former Government New South Wales education—Catholic, independent and public—declined from the second best in the world— *[Time expired.]*

**The Hon. Tania Mihailuk:** Mr President—

**The PRESIDENT:** A second supplementary can only be asked by a member of a different party or a different member.

## HOUSING SUPPLY

**The Hon. CAMERON MURPHY (11:21):** My question is addressed to the Minister for Housing. Will the Minister inform the House how the Government is addressing the housing crisis in New South Wales?

**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:21):** I indicate to the

House and to the school leaders in the gallery—who obviously have a huge interest in what we are doing to address the housing crisis because it is their future we are trying to build—that we are not just talking about it. We are doing so much work. We are reforming the planning system. That work is well underway. We are completing the Government land audit: What assets do we have to bring to the table? We are exploring "meanwhile use" and modular housing, which are the kind of options that can deliver housing quickly.

**The PRESIDENT:** Order! There are too many interjections from Opposition members.

**The Hon. ROSE JACKSON:** Opposition members are trying to interrupt because they do not like addressing the housing crisis. Meanwhile use and modular housing are immediate steps that we can take. Just recently I, along with the Prime Minister, announced the completion of our restore vacant homes program: a multimillion-dollar program to bring back online almost 300 derelict and uninhabitable homes left vacant by the previous Government. Over 700 people are now living in those properties. Those immediate steps of putting money into bringing homes online are the ways that we address the housing crisis. We have committed to the National Housing Accord, which is an ambitious plan—achievable but difficult. In order to achieve it we will have to draw on that post-war bipartisan effort to build the homes that are needed.

We are in the post-COVID era now but, unfortunately, we do not have the bipartisan commitment to address this deep crisis. The Opposition policy has about as much coherence as a Facebook comments section. It is impossible to tell what it wants. This week, it introduced legislation to try to crush the Government's Transport Oriented Development, or TOD, program. I do not really like the term TOD. What does it mean? I say to the young people in the gallery that it stands for transport oriented development—building homes near transport. For the Opposition it stands for "terminate our dreams"—the dreams of young people. Nimby used to stand for "not in my backyard"; now it stands for "not in Mark's backyard". I feel bad for the Hon. Chris Rath. He should join us. He has been steamrolled by his party. I suggest a make-friends session, maybe a games night, where everyone can get together again to try to figure out their policies.

**The Hon. Jacqui Munro:** Monopoly!

**The Hon. ROSE JACKSON:** I hope it is not Monopoly because members opposite all want to be the bank; none of them want to build the houses. That is the problem. I am very frustrated by the opposition of those opposite, but we will keep getting on with it.

### ENERGY TRANSITION

**The Hon. ROD ROBERTS (11:25):** My question is directed to the Minister for Energy. In her ministerial statement to this Chamber on 4 June 2024, she told the House that the Government "injected \$1.8 billion" into the State's green energy transition, culminating in the creation of more than three gigawatts of renewable energy. This was "enough to power one million homes". Will the Minister confirm how long that power will power those one million homes—one minute, one hour or one day? Does it include peak or just off-peak periods?

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:25):** I thank the Hon. Rod Roberts, who is always batting me into form; I really appreciate it. We can deal with that. The member has conflated a number of the things that I said the other day, which I might need to unpack. It is all fine.

**The Hon. Rod Roberts:** It was your statement.

**The Hon. PENNY SHARPE:** I know it is my statement. That is fine. In relation to the number of homes and the number of gigawatt hours, I will take it on notice. My understanding of how electricity works—how we store, generate and dispatch it—has become pretty good, but I am not able to answer those questions off the top of my head today, so I will take that away and look closely at it. The point remains that in the past 12 months this Government has spent a lot of time investing more money into the energy transition, because we have to. The Hon. Rod Roberts probably is not all that happy about that, to be honest. But the system we set up in New South Wales through the energy road map is incredibly important. But my honest view is that it was ambitious because it suggested that we would not have to use taxpayer funding for this transition.

We have realised that we do. Of the \$1.8 billion, \$800 million went into the Transmission Acceleration Facility, or the TAF, which allows us to bring forward the work in the renewable energy zones that will then be paid back into the future. The \$1 billion is for the Energy Security Corporation. We will introduce some legislation to the House very soon—in fact, I think the next time we are sitting—which will set up the energy security board corporation. That will allow the Government to co-invest in things like community batteries and pumped hydro that are needed for the transition. We need co-investment from the State to get those things going.

**The Hon. Damien Tudehope:** Do you want the private sector to put money into it?

**The Hon. PENNY SHARPE:** Yes, they are already investing \$32 billion.

**The Hon. Damien Tudehope:** Good to know.

**The Hon. PENNY SHARPE:** I am glad that you know. I am glad you have been paying attention to all of this excellent information that I have been providing to you all of this time.

**The PRESIDENT:** Order! I am here.

**The Hon. PENNY SHARPE:** Hello, Mr President.

**The PRESIDENT:** The Minister will address her comments through the Chair.

**The Hon. PENNY SHARPE:** Thank you, Mr President. I love the Hon. Rod Roberts' questions. I am serious about getting to the bottom of his query. I am just not able to break that down for the member today. But I will come back and give him the full answer. I am happy to get my office to run a briefing on how electricity works for any members that would like one.

**The Hon. ROD ROBERTS (11:28):** I ask a supplementary question. I appreciate the Minister's frankness and honesty in not being able to give me the answer straightaway; it was not a gotcha moment. I am interested in how long this power is going to last for in the one million homes. I note that the Minister will come back to me. Perhaps in her answer the Minister could provide us with the modelling that was used to determine how long those million homes will be powered for.

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:29):** I should absolutely be able to do that and will be willing to unpack all that. I am not trying to be tricky here; I am not trying to spin things that are wrong. To give the honourable member a basic idea, if you have solar on a roof, it depends on how big the system is. Basically, solar panels are lasting between 20 and 25 years. We have some excellent technology that the Federal Government is investing in, with an organisation called SunDrive producing Australian-made panels that are 25 per cent more efficient than the ones being imported from China. We are investing in the Australian-made process to work through that and look at manufacturing opportunities, right on the Liddell coal-fired power station site, which I would have thought most people would support, but maybe not.

**The Hon. Jacqui Munro:** Manufacturing solar against China is going to be ridiculous.

**The Hon. PENNY SHARPE:** Here we go. Now we are against manufacturing solar in Australia—great! Good to see that bipartisanship flowing through.

*[Opposition members interjected.]*

Let's talk about nuclear again, shall we?

**The Hon. Wes Fang:** Let's do that. Let's talk about nuclear. Let's bring it on.

**The Hon. PENNY SHARPE:** Cue the excitement; I love that. The Hon. Rob Roberts asked very sensible questions. I will get as much information as possible. As I said, the door to my office is always open for those who want to brush up on various things.

**The Hon. Wes Fang:** You never invite me.

**The Hon. PENNY SHARPE:** Always welcome. As long as you can understand what we are telling you, sure. Everyone is welcome and we will be able to provide any information that they need. The bottom line for those interjecting across the Chamber is this: Sure, if you want to go for nuclear, you do that. It costs three times as much and it takes 15 years longer. It is a very convenient device to stop us getting on with the renewable energy revolution that New South Wales is undertaking.

**The PRESIDENT:** Before I call the Hon. Natalie Ward, I acknowledge a guest of hers in the President's gallery today, Ms Bella Mantakoul, who I am told is a member of the Young Liberals. She is very welcome.

#### DOMESTIC AND FAMILY VIOLENCE

**The Hon. NATALIE WARD (11:31):** My question is directed to the Minister for Housing, representing the Minister for the Prevention of Domestic Violence and Sexual Assault. Yesterday the Minister told the House that Staying Home Leaving Violence "will now be a statewide program thanks to the Labor Government's injection of \$48 million into its expansion". Is the Labor Government injecting \$48 million into Staying Home Leaving Violence, or is the \$48 million to be split between Staying Home Leaving Violence and integrated domestic and family violence services, with the split to be determined after further analysis, as the Minister stated in answer to a question taken on notice?



**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:32):** I thank the honourable member for her question. The \$48 million commitment is part of the \$230 million that the Government is committing to a range of programs across the domestic and family violence space, including funding for our law reform programs; funding for Staying Home Leaving Violence; funding for the integrated domestic violence support scheme; funding for the Women's Domestic Violence Court Advocacy Service [WDVCAS]; and the court support workers. There are a range of programs that are funded under the \$230 million. They are all important programs that are informed by the—

**The Hon. Natalie Ward:** Point of order: I thank the Minister for elucidating the wider program, which I am very familiar with as the former Minister, and that is great work. But my question was very specifically about the component of the \$48 million. I ask that the Minister be drawn back to the question.

**The PRESIDENT:** May I have a copy of the question? I have sympathy for the point of order. At the moment the Minister is being directly relevant, but I encourage her to refer specifically to the elements of the question that the member referred to.

**The Hon. ROSE JACKSON:** As I was saying, that \$48 million is part of a \$230 million program. My understanding is that there is \$48 million for Staying Home Leaving Violence, that there is an additional \$48.2 million for the specialist workers for children and young people in refuges and that there is \$38.7 million for the primary prevention program, which I have mentioned many times before. It is important that this primary prevention program is funded. It is the first time we have had such a program. That \$230 million is broken down into a number of different components and programs. All of those programs play an important role. They sit together supporting women to stay safe at home, supporting women who want to leave home and are staying in crisis refuges and shelters, supporting the children of those women and the particular impacts on them, and supporting women through the court process with the WDVCAS court support program. The many different touch points on the program all sit together as part of the comprehensive response that the Government has announced.

As I have indicated, my advice is that the \$48 million is to make Staying Home Leaving Violence a statewide program. As I have said before, I welcome questions about domestic violence, and I welcome the interest in these important programs. I have always tried to make sure that I provide the information that I am given by Minister Harrison to honourable members because I recognise that these important programs are much needed and, to some extent, overdue. It should not have taken the kind of tragic incidents that we have seen in recent months for this action to be taken. Women have died at the hands of male violence for some time in this State and country. Now is an important moment and it is good that we have been able to take advantage of that with this program. Of course, there is more to do. We remain open to working with experts and listening to their guidance as we continue to make sure we do everything we can do to address this issue.

**The Hon. NATALIE WARD (11:35):** I ask a supplementary question. I thank the Minister representing the Minister for the Prevention of Domestic Violence and Sexual Assault for her answer. I ask her to elaborate on that part of her answer where she referred to the breakdown to clarify for the House. It seems today that the Minister has informed the House that the \$48 million is specifically and only for Staying Home Leaving Violence. I want to clarify, in light of her answer yesterday, that that is subject to further analysis. Is that analysis continuing or is the \$48 million now exclusively for Staying Home Leaving Violence and not split between the two, as per her written answer on 30 May?

**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:36):** I will take on notice a question with that level of detail and seek clarification from Minister Harrison so I can provide accurate information.

**The PRESIDENT:** Before I call the Hon. Dr Sarah Kaine, I welcome to the Parliament student leaders from high schools across New South Wales who are attending the Secondary Schools Leadership Program conducted by the Parliamentary Education and Engagement unit. They are all very welcome.

*[Members interjected.]*

**The PRESIDENT:** Order! Would the students like to swap places with the members in the Chamber? I welcome all students from the Secondary Schools Leadership Program. They are all very welcome here today. As I was saying, I also welcome students from Engadine High School, who are participating in the Legal Studies and the Legislature program conducted by the Parliamentary Education and Engagement unit as well. They are also very welcome.

### CONSULTING SERVICES

**The Hon. Dr SARAH KAINE (11:37):** My question without notice is addressed to the Minister for Finance. Will the Minister update the House on how the Government is bolstering the public service and bringing the spend on external consultants under control?

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (11:37):** I thank the honourable member for her question and the excellent work that she did as part of the upper House inquiry into consultants. I also take the opportunity to welcome the students to question time today. This is an important question and relevant for them because the Government is undertaking a fundamental and important job of rebuilding our public service.

**The PRESIDENT:** Order! The Minister has the call.

**The Hon. COURTNEY HOUSSOS:** Today the Minns Labor Government announced machinery of government changes which will integrate the Public Service Commission into the Premier's Department but will also create the New South Wales government specialist capability network. This is a crucial reform to overturn the culture of those opposite—the outsourcing, privatisation and mismanagement that characterised the previous Government. We will rebuild a better public service. We will stop wasting money on consultants. We will keep crucial knowledge in-house and we will spend the money reinvesting in essential public services, because we know that that is what the people of New South Wales have elected us to do. Last week, we already knew that—

**The Hon. Damien Tudehope:** Point of order: You might be about to give me an education about the rules relating to anticipation, Mr President. But there is an item of business on the *Notice Paper* relating to the Government Sector Employment and Other Legislation Amendment Bill. My understanding of that bill is that it is going to canvass exactly the material that the Minister is now canvassing.

**The Hon. John Graham:** To the point of order: For the information of the House, the bill being introduced in the House deals narrowly with the role of the Public Service Commissioner. The Minister is dealing with the broader reform program of the Government.

**The Hon. Daniel Mookhey:** To the point of order: As I pointed out, objections to questions relating to anticipation have to be made with respect to the question. The question was will the Minister update the House on how the Government is bolstering the public service and bringing spend on external consultants under control. The Minister was obviously being relevant to that question. Even though there is an overlap in subject matter—as often there is—the actual question that the Minister was being asked to respond to is about how the Government is bolstering the public service.

**The Hon. Sarah Mitchell:** To the point of order: Mr President, I take this opportunity to remind you of your excellent ruling yesterday on a similar matter when the Leader of the Government was asked a question that did not reference debate around Kosciuszko National Park. The substance of the answer then strayed to that area and you ruled that that was anticipating the debate. I argue that exactly the same principle applies here.

**The Hon. Daniel Mookhey:** Further to the point of order: Mr President, in your insightful ruling yesterday, you made the point that it is always a matter of judgement that you have to apply at the time and that there is a balance to be struck. It is quite clear that this question covers a broad subject matter and the Minister has been asked to canvass matters broadly. I ask you to insightfully rule that the matter is indeed not transgressing the rules around anticipation and the Minister is providing a broad answer to a broad question.

**The PRESIDENT:** There is indeed a balance to be struck. The Clerk and I are in furious agreement that the bill that will be introduced in the House today is extremely narrow in scope. It does not in any way force the Minister not to speak about the public service in broad terms, which is what she is doing. The Minister has the call.

**The Hon. COURTNEY HOUSSOS:** We knew when we came to government that more than \$1 billion had been spent by the previous Government, because the Auditor-General's report told us.

**The Hon. Daniel Mookhey:** How much?

**The Hon. COURTNEY HOUSSOS:** More than \$1 billion. In five years more than \$1 billion had been spent on external consultants with little strategic oversight. We revealed last week, through fresh research and fresh analysis, that the previous Government extended a contract to a consultant for every single working hour. It extended more than 10,000 individual contracts to consultants. Not just that—

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

**The Hon. COURTNEY HOUSSOS:** Over the past five years there was an increase to the average contract price of almost 60 per cent, with 15 per cent of those contracts for generalist work. Opposition members had an opportunity to express regret and show that they had changed their ways, but they doubled down and said, "This is an ideological position. It's always a case of working out what's the best value for money." The schoolkids in the gallery can tell us that the best spending of \$1 billion is on their education instead of on consultants. This Government is providing a record spend on education, not a record spend on consultants.

**The PRESIDENT:** There are too many interjections. I understand that it is Thursday and there are 15 minutes left, and members are all very excited about that, but members will restrain themselves for the final 15 minutes.

#### STRATEGIC BENEFIT PAYMENTS SCHEME

**The Hon. JOHN RUDDICK (11:44):** My question is directed to the Minister for Energy. The Strategic Benefit Payments Scheme is compensation for landowners required to host transmission infrastructure on their property. They are compensated \$200,000 per kilometre, in instalments of \$10,000 every year. But this so-called compensation is treated as income by the Commonwealth and taxed as high as 48 per cent. The point of the scheme was for landowners to be compensated for the Government violating their private property rights. Will the Minister lobby her Federal colleagues to review the tax implications of the scheme so that it is treated as tax-free compensation?

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:45):** I am glad that the Hon. John Ruddick asked this question because Opposition members bleating on that side of the Chamber never ask any of these questions. I am happy to give the Hon. John Ruddick an answer.

**The Hon. Wes Fang:** I asked you in budget estimates hearings!

**The PRESIDENT:** Order! The Hon. Wes Fang will stop yelling.

**The Hon. PENNY SHARPE:** I thank the member for his question. I know that he recently wrote to the Treasurer and me on this issue. I am happy to provide the following information.

**The PRESIDENT:** Order! The Leader of the Government will resume her seat. The conduct of the Hon. Wes Fang is getting ridiculous. He will cease yelling.

**The Hon. PENNY SHARPE:** At least he is doing it to me and not to one of his colleagues. As the member said, under the scheme private landholders in New South Wales will receive annual payments for hosting certain infrastructure associated with new major high-voltage transmission projects on their land over a period of 20 years. The payments are a set rate of \$200,000 per kilometre of transmission hosted, paid out in annual instalments over those 20 years. Payments to landholders under the scheme are in addition to the compensation they receive for hosting transmission infrastructure on their land under the just terms Act. The scheme reflects that new major high-voltage transmission projects are critical to the energy transition and the future of the energy grid of New South Wales. We need more transmission lines to transport electricity from our renewable energy zones to power homes and businesses across the State.

I was pleased that my colleague Minister Dib introduced legislation in the other place to enable the scheme. That legislation will be introduced in this House in the coming weeks. I note that the Opposition never got around to doing that when it was in government. Tax treatment is an issue. It is my understanding that payments made to landholders under this scheme, as well as payments made by governments and private developers, are subject to Commonwealth tax settings. That is the case for all similar payments in other jurisdictions, not just in New South Wales. That is why EnergyCo, the agency coordinating the delivery of much of the new transmission infrastructure in New South Wales, encourages all affected landholders to discuss their tax arrangements with independent tax advisors or certified accountants.

People's personal tax circumstances can differ widely. This is particularly the case for primary industries and associated businesses that have specific seasonal and tax circumstances to consider. Many landholders structure their businesses in particular ways, as they are perfectly entitled to do. It is not as simple as saying that every landholder will end up having to pay a large chunk of tax on their compensation or payments under the scheme. Landholders need to seek advice on this. I am happy to seek further advice from my department about how the Commonwealth Government is thinking about these issues, which apply around the country, given that other States have adopted similar schemes. I will provide an update to the member when I respond to his letter with more information. I am also happy to raise this matter at the next Energy Ministers' Meeting. It is worth having a discussion to understand where the Commonwealth stands on these matters. The Government is committed to ensuring that regional communities— *[Time expired.]*

### SPECIALIST DOMESTIC VIOLENCE WORKERS

**The Hon. JACQUI MUNRO (11:48):** My question is directed to the Minister for Housing, representing the Minister for the Prevention of Domestic Violence and Sexual Assault. The Commonwealth has provided funding for 4.6 additional full-time equivalent domestic violence workers specifically to provide support to people with disability, with the workers to be in place by June 2024. Why are none of these workers in place yet, and when will these specialist workers be in place?

**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:49):** I thank the honourable member for the question, which goes to the exciting partnership between the Commonwealth and the New South Wales Government to provide more essential support workers for women and children fleeing domestic violence. It is a fantastic initiative that we are proud to deliver in partnership with the Commonwealth Government. The detail of the question, to some extent, goes to why the Department of Communities and Justice's analysis into the placement of these workers was necessary. I have said repeatedly that we know these workers were needed yesterday. We expect this to be done as expeditiously as possible. These are incredibly important workers. However, there were requirements from the Commonwealth relating to these workers. It was not just, "Here is a big bucket of money. Go and do what you want with it." It was not like that.

Understandably, there was an agreement with the Commonwealth about the expenditure of the money. It included things such as specialist workers for people with disabilities, specialist workers for the LGBTIQ community and specialist workers in rural and regional areas. Those funding requirements meant that the New South Wales Government had to ensure that the contracts that it was putting in place to commission the workers reflected those requirements. It was not the case that the New South Wales Government could make decisions entirely on its own. New South Wales has a partnership with the Commonwealth and, understandably, has to meet its requirements in terms of the provision of these workers.

On the detail of exactly how many workers are within each of the different components—rural and regional areas, the LGBTIQ community or people with a disability—who the Government is partnering with to deliver those workers, when those contracts were finalised and when those NGO partners will be able to employ those workers and get them on the ground, I do not have that level of detail. As I have previously indicated, I am not the Minister responsible for this scheme. I am proud to represent this excellent Minister, who is in the Legislative Assembly, and I am sure she is capable of answering questions.

Nonetheless, I am trying to provide the information that I do not have that level of detail about the individual cohorts, who the partner NGOs are, when those contracts were finalised and when those NGO partners may or may not be able to employ the specialist workers. However, I am happy to provide information. I am advised by Minister Jodie Harrison that we are on track with our commitments under the Commonwealth to provide those workers. I have confirmed with Jodie that we expect them to be in place by September this year, not December.

**The Hon. JACQUI MUNRO (11:52):** I ask a supplementary question. I thank the Minister for the answer. I am curious about this process. The Minister spoke about the process being basically because of the Federal Government. I am curious about how it could have taken 11 months to include 4.6 additional full-time equivalent workers for the disability sector or how those tenders were even issued in the first place.

**The Hon. Daniel Mookhey:** Point of order: Supplementary questions need to have a question, not a reaction. I invite the member to perhaps re-ask the question because it is a good question, or it is a good aspect. However, we cannot ask a Minister by saying, "I'm curious about it." The member should specifically request for an elucidation to be given.

**The Hon. Damien Tudehope:** To the point of order: With all due respect to the Treasurer, "I am curious to learn" is a question.

**The PRESIDENT:** I say two things. The first point is that I have allowed significant latitude in terms of supplementary questions. The second point is that I have significant sympathy with the Treasurer. I do not think the question, on a personal level, is a particularly good one. Nonetheless, it has been asked. It is appropriate that it be asked, and it is entirely up to the Minister to answer. The Minister has the call.

**The Hon. Wes Fang:** Point of order: I accept the ruling. Mr President, you just expressed an opinion relating to the question from the chair. I would say that that is not within the practice of this House.

**The PRESIDENT:** I was not expressing an opinion from the chair. I was saying that I do not think the grammar was as effective as it could have been, which is exactly the point that I have made on numerous occasions, including yesterday. I am not sure that "What were the Minister and the department doing?" is expressing exactly

the intent of what the member was trying to get at. The only point that I was making, as I have mentioned on many occasions, is that members should think about how they construct their questions to make them most effective. The question is in order. The Minister has the call.

**The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:55):** The supplementary question goes to the issue of the time taken for the New South Wales Government to deliver these workers. This is something that I have spoken at length about in this Chamber over the past few weeks. I have often received feedback that the sound of my voice can be a bit screechy and annoying. I apologise if members in this Chamber feel that that is the case.

**The Hon. Penny Sharpe:** No, we love it!

**The Hon. ROSE JACKSON:** I take that feedback in the spirit in which it is given, with much love, always. Fundamentally, yes, as I have acknowledged, these workers were needed yesterday. There is no suggestion from the Government that it is interested in delays or unnecessarily extending the amount of time that it takes to deliver this program. The New South Wales Government gave commitments to the Commonwealth when it signed up as to how the rollout will occur. It gave those commitments up-front, and it is on track with those commitments.

Yes, this needs to be done and it needs to be done urgently, and my advice is that that is what is happening. As I indicated in my previous answer, in a situation where you are required to make sure that the money you are given for these workers covers geography, demography, sexuality, race, ability or disability, you have to make sure that the need of every part of the community is met. In fact, that analysis is important because it would be a shame if the Government provided these workers without doing that work. It has done that work, and it is on track to deliver the workers.

## CULTURAL FESTIVALS

**The Hon. GREG DONNELLY (11:57):** My question without notice is addressed to the Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism. Winter has come, and people naturally want to rug up at home. Will the Minister tell the House how the State's calendar of cultural festivals has been helping get New South Wales residents and visitors out and about?

**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) (11:58):** I thank the member for his question. He is right: The weather has turned colder. Businesses would normally be shutting their doors at this time of year as the city slows down but, in fact, the opposite has been the case as festivals have rolled out across our city.

**The Hon. Damien Tudehope:** I think you are causing the businesses to shut down.

**The Hon. JOHN GRAHAM:** I note the interjection from the Leader of the Opposition. Fashion Week has been on, the first of those festivals, between 13 and 17 May. It is a tough time for our nation's fashion businesses but an important opportunity for them to show their wares. We have had the Sydney Writers' Festival from 20 to 26 May, with an impressive list of 298 authors, including Kate Grenville, Paul Lynch and Celeste Ng. The Young Writers Showcase, in particular, was an outstanding example of our HSC students' work. We are now in the midst of Vivid Sydney, the largest free festival of its kind in the Southern Hemisphere. I am informed that this year we have already crossed the threshold of a million patrons. There is a bumper weekend ahead with two major drone shows. We have also made sure that licensed venues around the festival footprint can stay open an extra two hours on each of the Sundays for Vivid, which is bringing more people into the city.

Not to be outdone, the film and screen industry launched the Sydney Film Festival last night with the documentary *Midnight Oil: The Hardest Line*, directed by Paul Clarke. It was an outstanding film and I encourage members to see it. Now, I am a fan of the Sydney Film Festival, although—I am sorry to confess—I have had a better time at the Melbourne film festival. It was not that the films were any better. In fact, the popcorn was stale and the seats were slightly uncomfortable. However, during the Melbourne film festival the weather was so bad that it was an absolute delight to be indoors, wearing a scarf, rugged up and watching film. I have to concede that Melbourne does winter better. But given our parade of festivals, the evidence shows that Sydney delivers on the festival front. The parade of festivals at this time of year reminds me of the wise words of that great Australian band, Boom Crash Opera:

My longings got much longer than before

I had to walk right out the door

The streets are wet and shiny in the rain

Get out of the house

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

### CONSULTING SERVICES

**The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (12:01):** I got a little excited during question time today and I forgot to seek leave of the House to table a report. I seek leave to table a report entitled *Building up NSW public service capability and driving down use of consultants: Research Summary*, dated June 2024.

**Leave granted.**

**Document tabled.**

### ENERGY TRANSITION

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (12:01):** The Hon. Rod Roberts has left the Chamber, but the following proves why I should not be allowed to talk about whatever I like in relation to energy efficiency and a range of different matters. I wish to correct the record. Earlier in my answer to the Hon. Rod Roberts, I mentioned that new Australian-made solar panels are 25 per cent more efficient than imported alternatives. I should have said that those panels have a 25 per cent efficiency rate, which is higher than imported alternatives. That is awesome. If any member wishes to learn more, they can come to my office. I will be happy to brief them.

### MAITLAND SHOWGROUND

**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) (12:01):** I advise the House that I approved a grant of \$84,000 to the Maitland Showground on 28 January 2024 as part of the Local Small Commitments Allocation program. In doing so, I was advised by the Local Small Commitments Allocation program office. As members know, I have already tabled approval paperwork in relation to a number of approved projects. That process will continue. I indicate that the approval paperwork for that project will also be tabled in the House and will be available for members to inspect.

### *Supplementary Questions for Written Answers*

### DOMESTIC AND FAMILY VIOLENCE

**The Hon. SARAH MITCHELL (12:02):** My supplementary question for written answer is directed to the Minister for Housing, representing the Minister for the Prevention of Domestic Violence and Sexual Assault. In relation to the Cabinet Office investigation that the Minister referred to into Molly Ticehurst's dealings with government and non-government organisations, will the Minister advise on when the Cabinet Office began its investigation, who initiated the investigation, when it is expected to conclude and whether its findings will be made public?

### CATHOLIC SCHOOLS AND RELIGIOUS FREEDOM

**The Hon. TANIA MIHAILUK (12:03):** My supplementary question for written answer is directed to the Treasurer. What will be the cost of transferring 265,000 students from the Catholic system to the public system to the State budget?

### *Questions Without Notice: Take Note*

### TAKE NOTE OF ANSWERS TO QUESTIONS

**The Hon. SARAH MITCHELL:** I move:

That the House take note of answers to questions.

### DOMESTIC AND FAMILY VIOLENCE

**The Hon. SARAH MITCHELL (12:03):** I refer to the answer given by the Hon. Rose Jackson in her capacity representing the Minister for the Prevention of Domestic Violence and Sexual Assault. Family and domestic violence has obviously been a topic that the Opposition has been focusing on during question time. It is very disappointing that, whenever we ask these questions, those opposite say, "Oh, ask something else", and, "It's not even her portfolio." Well, we do not apologise for asking questions about domestic violence, because it matters. Women in our community want to know that the Government is acting on what it is saying rather than just giving people empty words. That is why we asked a series of questions.

I asked my question today after it came to light overnight through media revelations that Molly Ticehurst did ask for help. She went to government. She went to the Staying Home Leaving Violence provider and said, "I need to feel safe and secure in my home." The fact that that did not happen is a tragedy. I do not think any of us could comprehend the after-effects for her family and how her parents and son must be feeling. That is why we are asking questions. Today the Minister indicated that the Cabinet Office is conducting an investigation. We want to know: When did that start? Who initiated that? When will it finish? And, most importantly, when will it be made public?

Because our concern is that other women who are also waiting for help will find themselves in exactly the same situation as Molly Ticehurst. It is important that the Government does more than just offer rhetoric and the right words. It needs to act. We are concerned about the issue. We are concerned about the delayed rollouts of special domestic violence workers, which I am sure my colleagues will speak about in this debate as they asked questions in relation to those matters too. Today Minister Jodie Harrison told the media:

The death of Molly Ticehurst was a tragedy, perhaps most devastatingly so because, it should have been preventable.

That is an admission from the Government that more should have been done. That is certainly something that the whole community would agree with. We want to know: What is happening in terms of that investigation? How long are other women waiting? And when are those domestic violence workers going to be out in the community? We have asked that multiple times in this House. Forbes is a fantastic example. It does not have the domestic violence support that it needs. It is crying out for help. But guess what? So are other regional communities. There are women across the State who do not feel safe and who want the Government to deliver for them. That is why we keep raising issues in relation to the rollout of that workforce. We will keep doing that until the Government delivers on its promise. The Minister is saying that every woman will be protected under the Staying Home Leaving Violence reforms. Those cannot just be words; the Minister has to turn them into actions. If she does not, we will hold her to account and not on our behalf but on behalf— *[Time expired.]*

#### NATIONAL CONSTRUCTION CODE

**Ms ABIGAIL BOYD (12:06):** I take note of a written answer from the Minister for Housing, and Minister for Homelessness in relation to the New South Wales Government's continued failure to sign on to the National Construction Code's minimum accessibility standards. I asked that question in the context of inaccessible homes being a key factor of both homelessness and domestic abuse, particularly for older women who are either forced to remain in abusive households or forced to live on the streets because there are simply no accessible homes available to them.

It is shameful for the Labor Government to say that it cares about older women, who are the fastest growing cohort at risk of homelessness and face violence and abuse at a significant rate, and yet refuse time and again to sign on to those very basic standards. Every time I raise the issue with Labor, I am hit with the same lacklustre response that what is preventing us from signing on is building costs and that we are waiting to see how other States do before we take action ourselves. Other States have committed to that reform because they know that not only will it make a tangible difference for people with mobility issues but it will also only incur a mere 1 per cent increase to the cost of building new homes, if even that—far less than the cost of retrofitting those homes when it inevitably becomes necessary in the future.

A few weeks ago Yumi Lee, the CEO of Older Women's Network, came to speak to Parliament about the unique nuances of domestic and family violence faced by older women in our State, and the intersection between finding accessible housing and domestic abuse. Yumi said that ensuring secure and accessible housing is domestic and family violence prevention. Signing on to those minimum standards is prevention. The violence that older women face is too often wrongly categorised as elder abuse and pushed aside as a horrific and rare tragedy. While such violence is without a doubt horrific, it is not rare. Miscategorising it as elder abuse and not domestic and family violence makes those women invisible and leads to them being further failed by our systems and support services. Out of the 35 women killed so far this year in Australia, 13 of them were women over the age of 55. Of the 64 women killed in 2023, 21 of them were over the age of 55.

The majority of those women were killed by their sons or daughters, with many of them being unconfirmed. We urgently need to expand our definitions and understanding of domestic and family abuse or we will continue to fail to provide that cohort of victims with the prevention and response supports that they need. But expanding our understanding is only one element; we need urgent and targeted action from Government to address the nuanced experiences of older women and women with disability.

Without the infrastructure in place to support their needs, we are failing these women. Instead of pandering to the interests of private property developers and the big end of the construction sector, Labor must finally step up and take the action our community needs. Ensuring secure and accessible housing is domestic and family violence prevention and a vital anti-violence strategy. It is time for the Labor Government to recognise this.

## CONSULTING SERVICES

### HOUSING SUPPLY

**The Hon. CAMERON MURPHY (12:09):** I take note of answers to questions that were given by the Hon. Courtney Houssos and the Hon. Rose Jackson. I found it staggering to hear the Minister for Finance talk about the 10,000 consultant contracts that were issued under the previous Government. It is absolutely staggering that the public sector in this State has been completely decimated and that there is just no in-house capacity for the ordinary course of work that public servants should be engaged in.

The previous Government had a policy of constantly going out to the private sector to get private consultants to do work that ought to be done in house. That has had disastrous results. Look at the PricewaterhouseCoopers scandal and the obvious issue of conflict of interest. It is just appalling. Worse than that was the alarming information from the Minister that these contracts have risen in cost by up to 60 per cent. It is just gouging this State for work that ought to be performed in house by competent public servants. It shows our Government will have an enormous amount of work to do to repair the damage of 12 years of Liberal and National Party decimation of our public service.

I also reflect on the answers given by the Hon. Rose Jackson in relation to housing. It defies belief that we have younger members of the Coalition in the Hon. Chris Rath and the Hon. Jacqui Munro rightly demanding that there are houses for young people in this State. Of course, that requires significant investment in high-density housing in areas where people can get to work through, for example, the provision of transport oriented development, as the Minister spoke about. Yet, during private members' day yesterday, the shadow Minister for Housing put a bill into Parliament that would allow this House to disallow exactly those initiatives.

The Opposition just does not have any commitment at all to solving the housing crisis. Opposition members are happy to have housing all over Western Sydney but, when it comes to Liberal Party electorates on the leafy North Shore or in the shire, they want to be able to cancel development and they think it does not belong there at all. I think it is outrageous. They ought to seriously work out what their policy in this area actually is. [*Time expired.*]

### DOMESTIC AND FAMILY VIOLENCE

**The Hon. NATALIE WARD (12:12):** I take note of answers given by the Hon. Rose Jackson in relation to the questions we have continuously asked on domestic violence. While we commend her and the Government and our commitment to the prevention of domestic violence, we have asked a series of questions. We have followed those up with questions on notice for written answer. We have been pretty clear in our determination to be clear to the sector about this. We are not just doing this for the fun of it. It is really important for the prevention of further deaths that there is certainty in the sector. As my colleague the Hon. Sarah Mitchell said, we will continue to ask these questions because it is important to get to the bottom of where the money is going. If it is available, why is it not being spent? Why are these domestic violence workers not out there assisting and preventing further deaths right now?

It is concerning that we have had different answers at different stages. I appreciate the Hon Rose Jackson is seeking information from the Minister for the Prevention of Domestic Violence and Sexual Assault, and I believe she is diligent in doing that. However, it is concerning to the Opposition that answers are given in this House one week and then different answers are given the following week. I am pleased the Government seems to have continued Staying Home Leaving Violence, a program I was very proud to expand throughout the State as a former Minister, but its implementation is nonetheless severely lacking. We have two different answers about the \$48 million from the Minister. One day, all of that money is going towards Staying Home Leaving Violence. The next day, it is to be split with the Integrated Domestic and Family Violence Services Program.

That seems to be a pretty straightforward budget question. I would have thought that was something they could get pretty clear overnight. As a government, you would want to be absolutely crystal-clear that you have \$48 million going towards Staying Home Leaving Violence and you have separate buckets going to something else, and this is how it is being rolled out. I would have thought that Government members would take the opportunity to ask a Government question to clarify that. If I was the Minister, I would insist that we got that absolutely clear for the record, but it is concerning that it seems the split is yet to be determined following what we have now been told is further analysis.

While women are waiting, risking their lives and seeking this help, it has taken 11 months for this analysis to be undertaken by bureaucrats in an office. It is pretty easy. I can divide it up for members. Pretty much every local government area needs a domestic violence worker. Pretty much every local government area has women at risk. In fact, I can guarantee it is every local government area, because domestic violence does not discriminate by postcode. Given how long this analysis is taking to determine where the 118 workers are to be placed, it raises



serious concerns for the Opposition about unnecessary delays. We have given a fair opportunity for these questions to be answered. Given the very concerning reports about Molly Ticehurst's security, we will continue to ask these questions. [*Time expired.*]

### STRATEGIC BENEFITS PAYMENTS SCHEME

**The Hon. JOHN RUDDICK (12:15):** I take note of the response by the Minister for Energy to my question without notice. The Minister's answer, while disappointing, was not unexpected. The Government taketh away the land. The Government compensates, and then the Government taketh away again. However, I am thankful the Minister has agreed to raise this at the next Energy Ministers' Meeting. I remind the Minister that her duties are to the people of New South Wales and not Canberra. I hope she can advocate hard for these farmers not to pay tax on their compensation. It is true that some landowners have signed voluntary agreements accepting the Strategic Benefits Payments Scheme terms and conditions, but these landowners knew what was before them: They knew they had no choice but to sign.

They signed those agreements with a metaphorical gun to their head. They signed those agreements out of fear that they would get a lesser deal when the Government invoked State significant infrastructure powers to bulldoze its way through the fence and farm. By the way, it is a joint venture on both sides of Parliament. What is it all for? It is for the failing renewable revolution, all in the name of the global boiling fairytale that is not happening. Wind, hydro and solar are not sufficient for today's energy needs. They may never be. But let's test them in the free market. They need all these government subsidies at the moment, which is why I do not have much confidence. We need coal, we need nuclear and, most of all, we need a free market devoid of government intervention. A free market will secure our energy supply at the most competitive price possible. I look forward to the Minister updating me in the House on what comes of the Energy Ministers' Meeting and her advocacy.

### CONSULTING SERVICES

#### PEAK ENGAGEMENT COUNCILS

**The Hon. Dr SARAH KAINE (12:17):** I take note of answers given today by the Minister for Finance and also some answers given on notice. I reiterate some of the comments made by my colleague the Hon. Cameron Murphy. I was a participant in the inquiry into the use of consultants by the New South Wales Government. That is why I am particularly pleased to see further research being done. The report tabled today by the Minister really digs deeper into the disturbing over-reliance on consultants that we heard about during the inquiry, but there was clearly still more digging to do. I reiterate that consultants were engaged by the previous Government over 10,000 times in recent years. That really speaks to what the Auditor-General called out in a number of her reports about the use of consultants: not only was there too much of it, but it was denuding the public sector of the key skills that were required. Again, we saw in the report tabled today that consultants were used in areas that are really core work for government.

I am thinking about that report and also about the announcement today that part of the Premier's Department will be tasked with mapping the skills required in the public service so that we can rebuild the capabilities that were so undermined by the use of external consultants. One thing that is sometimes lost in this debate is that the reason we need to rebuild those skills is that we still need to rely on the free and frank advice given by the public service. You do not get that when you pay external consultants for the type of work that members request.

Finally, I note answers given by the Minister representing the Minister for Industrial Relations about the Peak Engagement Council and the mutual gains bargaining process. The Government is making gains in not only the wages and conditions of workers but also its demonstration of respect for the workers who deliver services in New South Wales. The Government respects them enough to engage with their representatives on peak engagement councils and make sure that everybody involved is skilled-up to have respectful negotiations when they occur.

### HOUSING SUPPLY

**The Hon. JACQUI MUNRO (12:20):** I take note of answers given by the Minister for Housing. I was interested to see her staunch defence of the Government's work in housing supply because the reality is that, as of 30 May 2024, housing approvals were down by 11 per cent. This is the lowest in a decade. When we are talking about delivery, construction, the market and stepping up to the plate to build the houses that are desperately needed in New South Wales, the reality is that this Government is putting a framework in place that is disincentivising construction companies, builders and developers from coming forward and wanting to build those homes. The target of 377,000 homes to be built in five years that was agreed to by the Premier through the National Housing Accord was a number that was given to the Premier, presumably by the Prime Minister. The Premier agreed to

that number without even consulting his planning Minister. It was revealed in a budget estimates hearing that the Premier did not go to his own Ministers to ask if it was possible to achieve this target.

We now know that the Premier has no faith in that target—the target is meaningless. The Premier has said on multiple occasions that the target is not really achievable. This week he spoke about it essentially being a stretch target—something that we might aim to achieve and that it would be nice if we got to it. What is the point of having a target at all? What is the point of agreeing to something that the Premier did not know if he could deliver and could decide that it was better to give up? The Government has policies in place that are not being responded to by the market.

There are additional tariffs, taxes and fees on construction. Construction fees are being implemented at a point in the process that the industry specifically pleaded with the Government to change. The Housing and Productivity Contribution is being included when the construction certificate is first issued instead of being implemented at the completion phase of construction. This means that there are probably five years between the beginning of construction and the completion of the building where the money has just had to be loaned by construction companies. It does not make sense. The housing situation is an absolute mess because of this Government.

### CATHOLIC SCHOOLS AND RELIGIOUS FREEDOM

**The Hon. TANIA MIHAILUK (12:23):** I take note on the question I put to the Treasurer today in response to the article in *The Australian* on the weekend. This was an exclusive article, and it is clear that the reporter spoke directly with Archbishop Anthony Fisher of the Catholic diocese. I will directly quote the Archbishop in the article, if I may. The Archbishop has raised concerns that the current draft legislation being deliberated by Federal Labor has the potential to impact the education services provided by the Catholic diocese. He said the closure of Catholic schools should be considered "if we were told we were not allowed to take religion into account in who we employ or in the ethos of our schools, which is quite a push at the moment."

I acknowledge that the Treasurer suggests that it is a last resort. Of course it is a last resort for the Catholic diocese to stop providing education services, but it is increasingly being left with very little option. The fact is that Federal Labor is pursuing this agenda and pursuing this review, and it is clear that the review is specifically looking at the issue of employment. Members only need to look at the terms of reference. The second main reference clearly states that religious institutions cannot discriminate against a member of staff on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy. It is incredible to ask Catholic schools, and indeed Christian schools, Orthodox and other faith schools, to provide education services and expect those teachers not to espouse the views and values of their particular faith. It is ridiculous to suggest otherwise.

Religious institutions are well within their rights to raise concerns. This is not just an accidental interview; this is an exclusive in *The Australian*. The archbishop is clearly raising concerns that they have with the draft legislation that is being proposed federally. At the same time, many faith groups are now raising concerns as to why the Labor Government in New South Wales is even entertaining the equality bill—which is a direct attack on religion; there is no question of that—and why it is entertaining a review of the Anti-Discrimination Act 1977 for the next 12 months. That is also a very broad review and clearly part of the insidious political agenda that sees both Federal and New South Wales Labor working together to erode the protections that religious institutions, schools, churches and places of worship need in order to be able to provide the necessary services to their parishioners and to their students. [*Time expired.*]

### DOMESTIC AND FAMILY VIOLENCE

**The Hon. STEPHEN LAWRENCE (12:27):** I participate in the take-note debate in relation to the questions asked of the Hon. Rose Jackson representing the Minister for the Prevention of Domestic Violence and Sexual Assault. The Minister was asked questions about the rollout of the important Staying Home Leaving Violence program and also questions relating to the tragic death of Molly Ticehurst in Forbes, which is in my duty electorate of Orange. It was reassuring but not surprising to hear that there is a comprehensive investigation into all of the circumstances of that tragic event. Criminal proceedings are also on foot in relation to the matter. It is entirely appropriate that those questions are looked at that relate to the contact between Ms Ticehurst and the Staying Home Leaving Violence program.

On the broader issue of the Staying Home Leaving Violence program, it is important in the context of some of the questions asked, and also some of the interjections that I heard, to stress the significance of the commitment that the Government has made to expand that program. It is a worthy program that has been scrutinised, analysed and shown to be successful. The brutal reality of its implementation by the previous Government is that huge swathes of the State were not covered by it. I am responsible for five duty electorates: Cootamundra, Bathurst, Barwon, Orange and Dubbo. In the Cootamundra electorate, as a consequence of this significant investment the

Government has made, this life-saving program will be rolled out in local government areas like Bland, Hilltops, Temora, Cootamundra, Gundagai and Coolamon.

Countless women will be assisted by this program, in circumstances where they desperately need it. It will be rolled out in Oberon, in the Bathurst electorate. In the electorate of Barwon it will be funded to be rolled out in Central Darling shire, Bogan, Bourke, Cobar and Warren. Of course, what needs to be stressed is that the funding commitment is there but contractors will need to be sourced to actually roll out the program. Realistically, this is not the sort of program that is rolled out overnight. A lot of work will need to be done. However, I think it will be a signature achievement of this Government.

### TAKE NOTE OF ANSWERS TO QUESTIONS

**The Hon. DANIEL MOOKHEY (Treasurer) (12:30):** I thank all members who asked questions in question time today and/or who participated in the take-note debate. The Government welcomes and takes seriously the scrutiny that is applied to it through the question time process. Members will resume such scrutiny and accountability in over a week's time.

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

**Motion agreed to.**

### *Deferred Answers*

### ROADS INFRASTRUCTURE

In reply to **The Hon. NATALIE WARD** (16 May 2024).

**The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism)**—The Minister provided the following response:

I am advised:

Transport for NSW is currently awaiting the outcomes of the New South Wales State budget. Following this, Transport for NSW will review the available funding for the three projects, including a review of the delivery strategy, to confirm updated timelines for the start of construction.

### STATE BUDGET

In reply to **The Hon. SAM FARRAWAY** (16 May 2024).

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

The Premier speaks to the Prime Minister regularly about a fair share of funding for New South Wales.

The New South Wales Government advocates for New South Wales interests through multiple channels, including National Cabinet and other forums, and will continue to fight for a fair share of Commonwealth funding for New South Wales residents.

The New South Wales Government's advocacy at the December 2023 National Cabinet meeting was central to the Commonwealth decision to extend the GST "no-worse-off" Guarantee until 2029-30. The Premier and New South Wales Government Ministers continue to advocate for the interests of New South Wales in ongoing funding negotiations, including schools, health, disability services and infrastructure.

### *Written Answers to Supplementary Questions*

### DOMESTIC AND FAMILY VIOLENCE WORKERS

In reply to **the Hon. NATALIE WARD** (5 June 2024).

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

I am advised:

Since the submission of the February progress report to the Commonwealth, the department revised its timelines and anticipates that NGOs will be in a position to recruit and deploy workers by the end of September 2024.

*Bills***RESIDENTIAL (LAND LEASE) COMMUNITIES AMENDMENT BILL 2024****First Reading**

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

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

**Statement of public interest tabled.**

**The Hon. DANIEL MOOKHEY:** 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. DANIEL MOOKHEY:** 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.**

*Petitions***RESPONSES TO PETITIONS**

**The Hon. DANIEL MOOKHEY:** On behalf of the Hon. Penny Sharpe: I lodge a response to the following ePetition signed by 10,000 or more persons:

Palliative Care—lodged May 2024—(The Hon. Susan Carter)

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

*Motions***STATE APOLOGY FOR THE CRIMINALISATION OF HOMOSEXUALITY**

**The PRESIDENT:** I take a moment to welcome and acknowledge a number of guests in the gallery today for an historic day, starting with Jill Wran, wife of former Premier of New South Wales Neville Wran, who decriminalised homosexuality in this State; Alex Greenwich, MP, and other members of the Legislative Assembly; former Presidents of the Legislative Council the Hon. Don Harwin and the Hon. Meredith Burgmann; the Hon. Shayne Mallard, a former member of this place; former Senator Chris Puplick; former member for Coogee Bruce Notley-Smith; the Lord Mayor and former member for Sydney, Clover Moore; and the Commissioner of Police, Karen Webb.

I also acknowledge a range of passionate advocates and activists for decades, including Larry Galbraith, Bruce Pollack, Robert French, Terry Goulden, John Greenway, Diane Minnis, Barry Charles, Max Pearce, Garry Wotherspoon, Bing Yu, Robyn Kennedy, Ken Davis, Nicolas Parkhill, David Buchanan, Greg Fisher, George Savoulis, Nick Langley, Gil Beckwith, Michael Sheehy, Adam Wallace, Melanie Schwerdt, Mairi Petersen, Tina Bittou and all other supporters here today. Thank you all for being here. You are very welcome.

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:04):** I move:

That this House, on behalf of the people of New South Wales:

- (a) apologises unreservedly to those convicted under discriminatory laws that criminalised homosexual acts;
- (b) recognises and regrets this Parliament's role in enacting laws and endorsing policies of successive Governments decisions that criminalised, persecuted and harmed people based on their sexuality and gender;
- (c) recognises the trauma people of diverse sexualities, their families and loved ones, have endured and continue to live with; and
- (d) acknowledges that there is still much work to be done to ensure the equal rights for all members of the LGBTQIA+ community.

On 8 June 1984, almost 40 years ago to the day, the somewhat modestly named Crimes (Amendment) Bill became law. In 1984, after four previous attempts, the Wran Government—ably assisted by former Premier Nick Greiner and the New South Wales Parliament—finally decriminalised homosexual acts in New South Wales. As we stand

here today, 40 years later, we recognise the significance of the passing of that bill. We also face the reality of the harm caused to so many through the prejudice that was embedded in the laws of this State, made by those who sat in this place—laws that criminalised men and women for no other reason than they loved people of the same sex.

Today, 40 years later, we say sorry for the laws that were unnecessary and cruel. We acknowledge those laws were wrong. Today we mourn those who lost their lives. We mourn those who lost their families, their jobs, their freedom and their humanity through State-sanctioned discrimination. We say sorry. We say sorry for lives lived in fear, for lives lived in the shadows and for those forced to live a lie. We cannot change the past, but we can step up and make it right in the present and into the future.

We can acknowledge men like David, who in 1961 was entrapped by a New South Wales police officer. He was charged under section 81A of the Crimes Act with an attempt to procure the commission of an act of indecency by a male person. He was sentenced to a year in prison—a year in prison, a lifetime of having a conviction and a life limited by injustice. With the help of Patrick Abboud from the podcast *The Greatest Menace* and the team at Equality Australia, David's conviction was expunged in 2023. Sixty-two years is a long time to wait for justice. For that, we are very sorry.

For men like Peter and his partner, Bon, the conviction shadowed them throughout their lives. At age 19, Bon was arrested and convicted. His criminal record saw him thrown out of the Anglican seminary, estranged from his family and forbidden to work as a public servant. When he applied to be a taxidriver, his record prevented it. It was not until 2017 that his conviction was finally expunged. Sadly, he died not long afterwards. Bon's lifelong partner, Peter, is not able to be here today, but I thank him for letting me share Bon's story and thank them both for a life of activism.

When these laws were in place, public institutions, businesses and the community had permission to treat fellow citizens with suspicion, with violence and with contempt. The police commissioner at the time called homosexuals the greatest menace facing Australia. Lesbians were not immune from the impact of the laws, even though they were not directly targeted by them. Two women loving each other was taboo, and lesbians were always watching over their shoulders. New South Wales became the Australian epicentre of electroshock treatments, aversion therapy treatments and other horrific interventions to try to cure homosexuality. More women than men were forced to endure those cruel practices. Women also lost their jobs and had their children taken away. Transwomen found themselves subject to blackmail, violence and further persecution.

The oppression as the result of anti-gay laws was pervasive and dangerous, but it precipitated a resistance that turned into an unstoppable movement. The injustice lit the fire to organising a campaign to change the laws. It started with the creation of the Campaign Against Moral Persecution—a great name—CAMP. This then spread out across the community organisations to many different splinter groups, many of them here today: unions, clubs, political parties and church groups.

I acknowledge those here today who are part of CAMP and the many other organisations—those who went on to march in the first Mardi Gras, those who were arrested and those who got up and kept going to change the laws that hurt the LGBT community. In the 1970s this group of fierce folks campaigned for anti-discrimination laws, changes to the Summary Offences Act and the decriminalisation of homosexuality. Decriminalisation was not just a symbolic act; it was the prerequisite to fighting the HIV epidemic that was on our doorstep. It was a time of fear, hysteria and enormous controversy. Decriminalisation allowed New South Wales and Australia to put in place a world-leading HIV response that literally saved thousands of lives. You did this under the threat of arrest, being outed, being bashed and losing your jobs.

Your courage and tenacity found support in this Parliament in the Wran Government and with many moderate Liberals. You demanded change. You ran some very creative campaigns and even turned yourself in to police for committing the crime of buggery. Robert is here today. It was a very gutsy call, Robert, handing yourself over to the vice squad, especially when your father was a member of this place. Fifty years later, you are still here, fighting, refusing to take no for an answer, demanding a New South Wales that is fair and decent. I want to place on record my personal thanks to those activists who risked everything to make things easier for people like me—I said I was not going to cry. I am able to do this job, have the family I have—my son is here today—and live the life I want because of your efforts. I stand on your shoulders and I am profoundly grateful.

The solemn apology today cannot wipe away the wrongs of the past. This apology demands that we recognise that the work for equality for the LGBTQ+ community is not finished. The Parliament has already banned dangerous conversion practices. We are being called to do more and we must. For the young people living lives of quiet desperation and distress, I will always have your back. I will work across this place with the many allies you have to ensure that the Parliament does too. It will get better. A life of loud, proud inclusion and acceptance can be yours. I want nothing less than that for you and for the society I know New South Wales can

be. Forty years ago the New South Wales Parliament righted a wrong, but it did not erase the hurt or the harm. Today we say sorry. Today we take responsibility for the lives ruined and the permission for prejudice that our laws created. It was our parliaments who were wrong and we are truly sorry.

**The Hon. DAMIEN TUDEHOPE (14:12):** I acknowledge all those in the gallery, including former members, some of whom have been my friends and colleagues in this place. I am grateful that you are here today. On 31 May 1984 the Crimes (Amendment) Act 1984 received royal assent. This apology, which the Opposition joins, is a fitting way to mark the fortieth anniversary of the decriminalisation of homosexual acts. The key provision of the Act was to remove from section 79 of the Crimes Act 1900 the offence of committing the "abominable crime of buggery ... with mankind". The private member's bill that made this change to the law was introduced by the then Premier Neville Wran and strongly supported by the then Liberal Opposition leader Nick Greiner. In speaking on the bill, Nick Greiner made these observations, which I endorse:

As I see it, the rightness or wrongness of this proposed change in the law is timeless. The proscription on homosexual acts between consenting adults in private is, in my view, a bad law today, just as it was a bad law twenty or thirty years ago. I support the bill because it reflects what I consider to be the proper role of Government in a liberal-democratic society.

Mr Greiner then went on to quote John Stuart Mill:

The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.

It is clear that the laws against homosexual acts between consenting adults cannot possibly meet this test and were therefore never a rightful exercise of power. It is on this basis that an apology is appropriate. The conviction and punishment of men under this bad law should never have occurred. It is therefore appropriate for this Parliament to make an unreserved apology to those men who were affected by this bad law, and their families. The effect on men of conviction and imprisonment for consensual homosexual acts should have been known and never been allowed to have occurred. In 1895 Oscar Wilde, a witty and brilliant writer, was sentenced to two years imprisonment with hard labour for the offence of gross indecency with a male. After his release in 1897, he moved to Paris. French writer André Gide movingly described the impact on Wilde of his conviction and imprisonment:

Society well knows what steps to take when it wants to crush a man, and it has means more subtle than death. Wilde had suffered too grievously for the last two years, and in too submissive a manner, and his will had been broken. For the first few months he might still have entertained illusions, but he soon gave them up. It was as though he had signed his abdication. Nothing remained in his shattered life but a mouldy ruin, painful to contemplate, of his former self.

Wilde died three years later at the age of 46. This apology also builds on the action that this Parliament took 10 years ago in passing the Criminal Records Amendment (Historical Homosexual Offences) Bill 2014, introduced by Liberal MLA Bruce Notley-Smith. I recall at the time my office had a significant input into that bill in the discussions with Mr Notley-Smith. I welcome and thank him for being here today. That Act provides for those convicted under the pre-1984 law to have the record of their conviction expunged. By 2017 the Leader of the Government in this House was the Hon. Don Harwin, MLC, an openly gay man almost as fabulous and as witty as Oscar Wilde in his heyday. Other members of the Opposition with more relevant personal experience will no doubt speak to this motion. For my part and on behalf of the Opposition, I unreservedly express our support for this apology given today.

**Dr AMANDA COHN (14:17):** The Greens welcome the Premier and the Leader of the Government's historic, important and overdue apology to those affected by discriminatory laws that criminalised homosexual acts. We welcome the recognition of the New South Wales Parliament's role in enacting laws that persecuted and harmed people based on their sexuality and gender. In the context of this extraordinary motion, I wish to acknowledge the traditional owners and First Nations people of this State, the Gadigal people upon whose lands the New South Wales Parliament was built and, specifically today, the unimaginable toll the receipt of English law in New South Wales, including laws which criminalised homosexuality, brought to every life. I recognise the pride and fight of LGBTQIASB First Nations peoples and communities past, present and fiercely emerging.

I recognise and thank the many people here at Parliament today or listening online who fought for this historic change and fought for this apology. I also recognise those impacted who deserve to hear this apology but who are no longer with us. It is important we leave space for the complex feelings of survivors listening to this apology today. We share in their joy and acknowledge their pain. Today is an opportunity to commit to change that will ensure that pain is not felt by future generations of this State. Peter de Waal, whose story was also recounted by the Premier and in the media today, reflected on his last moments with his partner, Peter "Bon" Bonsall-Boone, before detailing their decades-long fight for justice against those laws.

Bon was first convicted at 19 years old in 1957 for having consensual sex with a man, a conviction that led to lifelong consequences. He was kicked out from studying to become an Anglican priest and faced limited job options due to these convictions. In 1969 he and his partner would struggle to get a home loan, as did many others in same-sex partnerships, not recognised or actively discriminated against at the time. In 1972 he lost his job

again, after they shared the first kiss between two men broadcast on Australian TV. Peter, now 86 years old, said it was bittersweet that his partner was not alive to attend the apology today. He stated:

It would be wonderful if I could sit in parliament with Bon and hold hands.

Robert French, who I understand is with us in the gallery today, was part of the community campaign to see these laws changed back in 1983. Activists signed legal admissions to having engaged in homosexual acts, putting themselves at risk of arrest in order to draw attention to this absurd law and the need for reform. Following a letter-writing campaign to members of Parliament, decriminalisation was realised in New South Wales in 1984. That Robert French would describe today's apology as something that "closes the circle" on decriminalisation is unbelievably gracious.

It is a timely reminder that our words and decisions in the New South Wales Parliament have a real-world impact on the rights, freedoms and wellbeing of the communities that we represent. Today the Premier acknowledged that there is still much work to be done to ensure equal rights for all members of the LGBTQIA+ community. The Greens are ready to support and work with the New South Wales Government to progress the reforms that are urgently needed. In a statement tabled by the member for Sydney in the Legislative Assembly this morning, Garry Wotherspoon stated:

... we should not presume that all our battles are over. We are still awaiting a police response to the recommendations of the Sackar Report. There is proposed legislation before Parliament that would be a step forward; it is still awaiting meaningful debate. Transphobia is being aired around us; this is one of the new battlegrounds.

That piece of legislation is the elephant in the room today. In his apology the Premier committed to working with the mover of that bill on these issues but stopped short of committing to change any of the laws that continue to discriminate against LGBTQIA+ people in this State today. I remind the Premier that this bill could have been passed last year—and could pass this month, if his Government chose to support it. His words today in delivering the apology are important and valued. Words carry meaning and real impact, but if they are not followed by action we will find ourselves back in this Chamber apologising again for the laws we did not change in 2024.

I was born after the decriminalisation of homosexuality in this State. I am lucky, as a bisexual woman, to never have feared criminal conviction for my sexuality. I am grateful to many of those listening today for this, and I am grateful to members of Parliament who came out when it was much harder for them than it was for me, having been elected in 2023. Many speakers today have reflected on how far our society has progressed and how much more inclusive younger generations are. In 2024 I can be publicly out and proud and elected to public office, but I am offered no protection by the Anti-Discrimination Act as it stands, like all people who are asexual or non-binary, as well as sex workers.

I did not make my sexuality known publicly during my five years as Deputy Mayor of Albury. That speaks volumes to the discrimination that LGBTQIA+ people face every day, particularly those in rural and regional New South Wales. I acknowledge the many younger LGBTQIA+ activists who do not have the privilege of the platform that I do to speak in this place. They continue to fight for change, including protesting outside the New South Wales Parliament.

The equality bill would amend the Anti-Discrimination Act to provide broad protection from discrimination based on sexual orientation or gender identity. It would allow people to alter their birth certificates without the violating need for surgery. It would improve access to gender-affirming care and empower young people to make informed decisions about their own health. It would stop religious schools and organisations from discriminating. It would make spaces safer for trans and gender diverse people that have too long been inaccessible to them, such as sporting communities. The equality bill proposes the minimum that is required to bring New South Wales into line with other Australian jurisdictions and to allow LGBTQIA+ people in this State to participate fully in community life, without the laws that we pass in this place getting in their way. The inquiry into LGBTIQ hate crimes investigated the suspicious deaths or unsolved murders of LGBTQIA+ people between 1970 and 2010. Justice Sackar, who led the inquiry, wrote:

All of the deaths with which the Inquiry is concerned, many of them lonely and terrifying, were of people whose lives were cut tragically short. Many had suffered discrimination, throughout their lives. Institutional and community responses to these deaths was lacking. The lives of every one of these people mattered, and their deaths matter as well.

In many cases, the immediate effect of violence was compounded by responses from the NSWPF, and from some of its members, who were indifferent, negligent, dismissive or hostile. There is no doubt that the response to the deaths of those who were perceived to be members of the LGBTIQ community frequently reflected the shameful homophobia, transphobia and prejudice that existed both in society broadly, and within the NSWPF.

The Government must urgently implement the 19 recommendations of that inquiry. As the final Australian State to formally apologise for the criminalisation of homosexuality, the State with the worst laws for the LGBTQIA+ people in 2024, the new home of the country's Queer Centre of History and Culture, the recent host of WorldPride, and as a State with a difficult and violent history with which it must reconcile, New South Wales

must be brought in line and advance the rights of its diverse and brilliant LGBTQIA+ communities. Today is an important day in that journey. We have a lot more work to do.

**The PRESIDENT:** For the benefit of members and visitors in the gallery, my intention is to call a speaker from the Government, the Opposition and the crossbench in that order until either we run out of time or there are no speakers left.

**The Hon. STEPHEN LAWRENCE (14:25):** I speak in support of this motion and associate myself with the formal apology by the New South Wales Government to people convicted under historic laws that criminalised male homosexuality. These laws criminalised a perfectly normal aspect of humanity, something that has existed at all times and in all places. These laws caused tremendous harm and, of course, people were charged and jailed. These laws sent people to jail, a place of further trauma and violence, including sexual violence. These laws marred whole lives, affecting employment and travel. These laws led to harassment, blackmail and mistreatment, even when people were not charged.

Police and others attended gay beats and bashed people, knowing full well that the people they mistreated would not and could not complain. They blackmailed people, but so did family members and others. These laws reflected but also entrenched societal exclusion and mistreatment of queer people; that is why the apology has been extended to the entire LGBTIQ community. These laws justified the worst of social attitudes and insidiously operated to deprive generations of queer people from living happy and healthy lives and realising their full human potential.

I spoke in my inaugural speech about the spate of murders of gay men in Sydney in decades past. I spoke of gay men being thrown off cliffs and beaten to death in public toilets and parks. Much of that happened after 1984, but the link to these laws is obvious. Occasions like these are rare opportunities for the Parliament to be confronted as an institution with the inherent wrongness and harm caused by laws passed by this place. They are also an opportunity to acknowledge the harm and celebrate the courage of those who at that time resisted and challenged the unfairness.

Imagine living in a time when your very state of being was a crime, when you were regarded by wide parts of the community as an abomination. Imagine running the risk of being charged for a mere act of love. Imagine living in a place where, often, the only place to fulfil normal human desire was in covert places, where police and others would attend to arrest, harass and worse. Imagine all that, and then imagine being a person who, despite all that, has the courage to kiss another man or woman on TV; to parade in the street as a gay person and demand your rights; to attend public events and identify yourself as a gay person who demands the right not to be a criminal; or even to hand yourself in to the vice squad with an admission.

These people are heroes of resistance against outrageous injustice. It is an honour for me, as a gay man and an MP, to acknowledge them. I know that when I came out as gay in the early 1990s they had made it easier for me. I could never have had the life, family and career in politics, including in this place and as the mayor of a major regional city, if those previous generations had not had that fight and courage to stand up for themselves and their community.

When dealing with historical injustice, all too often we dismiss things as reflecting the attitudes of that day. All too often in the current day we justify injustice on the basis of the reality of politics. Many MPs opposed the decriminalisation of homosexuality in 1984; more did not. The *Hansard* is interesting reading indeed. Many people were calling for it for a long time before it occurred. This history, and the heroes who stood up for justice and fairness, invite us as members of Parliament to show moral courage and not pass bad laws that perpetrate injustice and might even warrant an apology in the future. It would be a good thing if we asked ourselves how we would likely have voted if we were MPs in 1984, or five or 10 years earlier. It would be a good thing if we all read the *Hansard* of the debate in 1984, looked at the names and parties of who voted yes or no, and reflected on the choices made.

Of course, homosexuality was not decriminalised in New South Wales until 1984. South Australia did it first in 1975. The Australian Capital Territory did it shortly afterwards, through Federal law; Victoria in 1981; the Northern Territory in 1983; Queensland and Western Australia in 1990; and Tasmania, of course the laggard, in 1997. Homosexuality remains a crime in many places around the world, including in our near neighbourhood. I have lived in some of those places, and for years in one in particular. I can personally attest to the insidious effect of criminalisation and stigmatisation of queer people I have known in those places. They are people who, despite these laws, do their best to be themselves and live as human beings.

Some lucky ones, for a variety of reasons, choose and are able to leave those countries. Others cannot or do not wish to. Many are living in Australia, where such persecution can be but is not always a basis for a protection visa. I think of those people today as well. They are people in our community who carry the scars of



these types of laws. I hope this country can give protection to more and more of these people until these absurd and appalling laws are consigned to the dustbin of history the world over. This is a good motion, and I urge the House to support it in a spirit of acknowledgement and reflection.

**The Hon. CHRIS RATH (14:31):** On behalf of the Opposition, I also offer an unconditional apology to those who suffered under the discriminatory laws enacted by this Parliament that criminalised homosexual acts. I offer this most sincere apology as a proud gay legislator, a completely unremarkable biographical fact in 2024, just as it should be.

Arrested, imprisoned, drugged, castrated, bashed and verbally assaulted—this was the appalling experience and reality that gay men had to live with in New South Wales only 40 years ago. For gen Zs and millennials it is inconceivable today that in this State consensual sex between two men carried a prison sentence of up to 14 years all the way up until 1984. Imagine living in a constant state of fear: fear of being outed, fear of being arrested, fear of being publicly shamed and having your life destroyed, all in retaliation to an unchangeable part of who you are. Even if you were fortunate enough not to get caught, you had to live your life as a lie and with a constant feeling of always looking over your shoulder. People took their own lives. Countless others wanted to because of the social stigma and the laws that enforced it. Many today are still living with the trauma of all those years ago. This Parliament validated those homophobic words and acts. To all those who have suffered, we are truly sorry.

Hopefully, in some small way, today's apology will right the wrongs and heal the wounds of the not too distant past. Hopefully, it vindicates the sense of injustice felt by survivors. But today is also an opportunity to celebrate how far we have come and still have to go. A few years back, I was talking to a 78er and his husband. They remember that truly horrific night at the 1978 Mardi Gras where so many of their friends were assaulted and arrested by the police. He said to me that, amongst the carnage of that night, he never in his wildest dreams would have believed that marriage equality would be law in his lifetime.

We stand on the shoulders of giants. This apology today builds on the apology to the 78ers and the extinguishment of criminal records for homosexual acts, both championed by the former member for Coogee, Bruce Notley Smith, who is here with us today. We love you, Bruce. In the last term of Parliament, it was Alex Greenwich and Shayne Mallard who successfully lobbied the Government for the Special Commission of Inquiry into LGBTIQ hate crimes. Hopefully, this ongoing process will provide some closure to grieving families and loved ones through answers about crimes that have gone unsolved in some cases for more than half a century. Shayne told me today that he was sitting in the gallery as a young political science student 40 years ago when homosexuality was decriminalised by this Parliament. You must be so proud, Shayne, to see how much progress we have made since then.

I am elated that we finally banned harmful gay conversion practices a couple of months ago, because nobody chooses to be gay. You cannot force people to go against their nature. I acknowledge my friend, mentor and predecessor in this place, Don Harwin, who is here today in the gallery. Having a mentor and role model from the same background as you does help, and nobody has done more to help the LGBT community in the Liberal Party than Don. Our Parliament should reflect the diverse make-up of Australian society, and that means having LGBTI legislators. I know that I certainly would not be here today without the assistance of Don.

We indeed have so much to celebrate here today. I look to my life and how far we have come in such a short period. We have much still to do. But how different my life, and the lives of so many others, would be without the immense contribution of the survivors and pioneers that came before us, many of whom are in the gallery today. So as much as we say sorry to you for the terrible wrongs of the past, we also say thank you. Thank you for leading the way and making New South Wales a better place for the next generation and for so many generations still to come.

**The Hon. JEREMY BUCKINGHAM (14:37):** On behalf of the Legalise Cannabis Party, I welcome this apology and motion as a significant step towards healing, though long overdue. It was one of the giants of the Enlightenment, the British politician and philosopher Edmund Burke, who said, "Bad laws are the worst sort of tyranny." Today, we acknowledge that criminalising homosexuality was a bad law that created untold trauma for those of us who were born outside the heteronormative mainstream. This apology acknowledges that a civilised society strives to uphold the rights of minorities, whose actions cause no harm to others, because it is the right thing to do. Not only is it the right thing to do, but it is the smart thing; we all benefit from a society that embraces diversity and inclusiveness.

This apology explicitly acknowledges not only the past suffering of gay people at the hands of the State of New South Wales but also the criminal waste of resources in pursuing people for no good reason. The latest research by the Australian Institute of Health and Welfare finds that one-third of gay, lesbian and bisexual people reported using cannabis in 2023. That is three times the rate of the heterosexual population, so bad laws are still creating tyranny for gay people as they are for First Nations people and working-class people across New South

Wales. It is one thing to acknowledge the bad laws of the past, but an apology is of limited use if it ignores and supports the bad laws that still exist. It does not take much of a leap of the imagination to predict a future apology and an expungement of offences in this place for those who lost opportunities for a productive life because of our unjust drug laws. The fact that those people are three times more likely to be from the LGBTIQ+ community simply underlines past injustices that continue to the present day, notwithstanding today's apology.

If the Government is serious about upholding the rights of minorities, it has more work to do. Today is a day to recognise the courage of activists who fought against these bad and discriminatory laws. It is a day to recognise those legendary 78ers whose names and addresses were appallingly published in the media as a secondary punishment. These days, we celebrate our hard-won freedoms. In the famous words of anthropologist Margaret Mead, "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." I commend the apology to the House.

**The Hon. SARAH MITCHELL (14:40):** I thank the Leader of the Government, the Hon. Penny Sharpe, for her contribution today. I also thank all of my colleagues, particularly those who have made a personal contribution. To have their reflections on the record is very powerful, and we are very grateful that they are fantastic legislators serving with us in the Legislative Council. I also acknowledged the special guests who are here, including some of my former colleagues. I also acknowledge another former colleague who is not here, but it would be remiss of me as the Leader of The Nationals in this place to not acknowledge the Hon. Trevor Khan, who we all know has long been an advocate for equality. He would be very happy to know that we continue to have strong allies, which I consider myself to be, in The Nationals.

I reflect on a comment made by Dr Amanda Cohn in relation to the particular challenges for regional people who are part of the LGBTIQ+ community. There are many painful stories reflecting on the times when homosexual acts were criminalised, particularly for those who lived in regional areas. I agree with Dr Amanda Cohn when she says that we still have more work to do in this space. We need to ensure that equal rights are available for all members of the community, no matter where they live. I was born in 1982. To think that homosexual acts were criminalised in my lifetime is difficult to contemplate. I cannot begin to imagine what that would have felt like for the people who lived through that time.

This is why what we are doing today in the Parliament is the right thing to do, because those laws were not right. As I say to my children, when you do something that is not right, you apologise. That is what we are doing today. It is right for the Parliament to apologise for those who were convicted under those discriminatory laws that criminalised homosexual acts. We need to acknowledge your trauma. To those who were convicted, we apologise. As I said, we cannot begin to understand what you have been through. I make it very clear that, from my perspective, you should never have been persecuted for being who you are, nor should you have ever been punished for loving who you love. It should not have been a criminal act. I hope that the apology today goes some way towards your healing. What we say today cannot erase what happened to so many, but I hope that today's proceedings are seen as a healing moment for you and for those who you love. I am pleased to associate myself with this motion.

**Ms CATE FAEHRMANN (14:43):** I add my voice to the motion as a Greens member who has worked with the LGBTIQ+ community for many years. We apologise for the hurt, the trauma, the silencing, the discrimination and the persecution of people simply because of who they were attracted to, of who they wanted to have sex with and of who they loved. I acknowledge the contribution of our spokesperson, Dr Amanda Cohn, on this incredibly important motion. It is an important day for the community, and a day that should have come a lot sooner. It has taken 40 years since this place stuck out those heinous laws for us to be standing here today. Those laws were in place up until 1984 and made consensual sex between men a criminal act. Today's apology has focused on apologising for the hurt and trauma that gay men endured before 1984, and this is a very important thing to do.

However, it is important to also recognise how much the hurt, trauma, silencing and discrimination of the LGBTIQ+ community continued well past the day when homosexuality was decriminalised in this State. Indeed, it continues to this day. In May 2012 I read out an email in this place from Peter. The email was one of 2,000 that had been sent to MPs in support of my motion calling on the Commonwealth Parliament to amend the Marriage Act to provide for marriage equality. It said:

I am almost 70 and have been in a monogamous loving relationship for half my life. We have experienced many examples of discrimination over that time both commercially and legally. A few years back I was seriously ill in the local Catholic-run public private hospital. My other half told them he had been my partner for 30 years but they tried to deny him access because he was not related. It was not the first time. It is time we were treated equally before the law. We will be together for the rest of our lives. Our greatest wish is to marry before it's too late.

The motion passed, and it made this Chamber the first in the country to support calls for the Commonwealth to progress marriage equality. These calls were finally heeded after a brutal and unnecessary referendum on

7 December 2017. I do not know whether Peter was able to marry the love of his life—I never heard from him again. That day, 7 December 2017, was such a joyous and momentous day. I fondly recall celebrating into the wee hours with friends and colleagues and with the many queer activists who had descended on Canberra from around the country that night.

Let us remember that it was not until 33 years after homosexuality was decriminalised in New South Wales that marriage was finally made equal. In 2018 I was a member of the Legislative Council inquiry into gay and transgender hate crimes between 1970 and 2010. I acknowledge Shayne Mallard, who is in the President's gallery today, for his excellent work in that space. That inquiry has been spoken about many times in this place and was part of the impetus behind the establishment of the Special Commission of Inquiry into LGBTIQ+ hate crimes that occurred between 1970-2010. The police commissioner, Karen Webb, only apologised to the families of gay hate crime victims in February of this year, and yet, as my colleague Dr Amanda Cohn noted, the recommendations have yet to be adopted by the police.

In March of this year, the bill to ban conversion therapy was introduced and was passed. That was another milestone on the long, tiring and frustrating path to full equality for LGBTIQ+ people in this State. However, those members of the community who were here for the debate on that bill, which went right through the night, well know that we still have a long way to go. I am speaking specifically about trans people. Despite the apologies from the Premier and the Leader of the Opposition in the other place today, New South Wales laws still do not allow trans people to change their gender on their birth certificate unless they have, as the law states, a sex affirmation procedure. That is a quite dramatic surgical intervention. Our laws in this State still allow LGBTIQ+ teachers and students to be fired or expelled from private schools. I could go on. In New South Wales, in 2024, we saw a majority of local councillors vote to ban a book on same-sex parenting.

It seems that progress in this Parliament towards full equality for all people, regardless of their sex, sexuality or gender identity, is painfully slow. Unfortunately, today's apology does not move us towards full equality. However, it is very significant and it has come about only because of the tireless, selfless and courageous acts—which members in both places have spoken about—of countless individuals, including people who are watching in the gallery today.

I acknowledge many of the very good contributions that have been made in this place today, especially by the Leader of the Government, the Hon. Penny Sharpe, and the Hon. Stephen Lawrence. As we know, the apology has come about because of a lot of work by organisations that have fought for equality—some very recently, some for a few decades and some for many decades. Of course, it would not have come about without the incredible work of those organisations and individuals. I thank everybody for everything they have done. While I do not want to put a dampener on the importance of this apology, it is very important to recognise the step-by-step nature of the many changes to the law and different forms of apology. Today has not been focused on LGBTQIA+ people; it has been focused largely on the G and a little bit on the L. We have a long way to go before we reach full equality. I commend the motion to the House.

**The Hon. JACQUI MUNRO (14:50):** Firstly, I thank the advocates, supporters, allies and activists in the room who have done so much. I thank the people in the Chamber and the gallery, former members and all people across our State who have persevered with a loud or quiet determination to shape a world that was fairer, more just and truly in line with the principles that emphasise the value of free and individual expression, and to shape a place in Australia that recognised and accommodated diverse sexuality not only in the LGBTQIA+ community but also in wider society—and, of course, in law. As a Parliament, today we are saying sorry, and I say sorry. I say sorry as a proud Liberal, bisexual, relatively young woman in this place. Honestly it is hard for me to imagine that just six years before I was born, homosexual acts were illegal.

History can feel so far away but, in truth, so many people I know, and so many people in this place, lived in a reality where an immutable characteristic was deemed so offensive and so harmful that it was criminalised and persecuted. As a member of the queer community and the New South Wales Liberals' first openly LGBTQIA+ woman in Parliament, I am hopeful that the kind of immutable characteristics that have previously been denigrated, including in this place, will be fully recognised as valuable to the depth of Australian society—or even, most hopefully, that these immutable characteristics are considered so unremarkable that they are naturally a part of Australian society, without exception.

My own public coming out at 17 as a bisexual person was entirely unremarkable, and I am so fortunate for that. But I understand very deeply that that was possible only because of the work of so many people in this Chamber and beyond. From the bottom of my heart, I thank you. Until the time that our sexuality has become unremarkable, members of the LGBTQIA+ community, including those in this place, alongside our allies, have been transformative for our State and its people. I have to reference John Stuart Mill, who wrote about the dangers of a representative democracy, of which there are two kinds. Firstly, there is the danger of a "low-grade

intelligence in the representative body", which I will not address today. The second is the "danger of class legislation on the part of the numerical majority, these being all composed of the same class". He goes on to say:

It is an essential part of democracy that minorities should be adequately represented.

I am so glad that that has become increasingly true, although I feel very confident that there were homosexuals in this Parliament before there were openly homosexual members of this Parliament. We know that law is human. It is made in a place to shift the parameters of a just and fair society as we move through the centuries—and thank goodness for those shifts. Thank goodness that the people not only in this place but also outside in society were able to create a place where those legislators could feel comfortable and confident in coming out and changing the laws that needed to be changed, like the criminalisation of homosexuality.

I will share some history about the treatment of homosexuality in the Parliament. I spoke about it during debate on the Conversion Practices Ban Bill and it bears repeating. On 2 May 1962 in the other place, a matter was debated that included a member raising the legal reality at the time that the defence of homosexual provocation would downgrade murder to manslaughter. Apparently no qualms were raised about the logic that the fragility of a man's sexuality might be so threatened should another gentleman raise any inclination of desire that it was more understandable and less significant if he were to respond by killing him. By the late 1970s, a standard template petition was tabled in Parliament many times, tweaked according to the groups that were petitioning, urging members of Parliament to oppose any changes in our State's law that would legalise or encourage the following activities: the adoption of children by homosexual or lesbian persons, and acts of sodomy in private or public.

The petition was a response to a bill before Parliament at the time, the Anti-Discrimination Bill. Petitioners also sought the deletion of a number of sections that appeared to be in direct conflict with existing State laws, which clearly defined homosexual acts as unlawful conduct and could enforce the acceptance of homosexuality in the army, navy, air force, education system and Police Force et cetera. The petitioners also sought to delete sections from a motion written by the Hon. John Dowd, the Liberal member for Lane Cove—who was to become the future leader of our party—for fear that it would lead to the legalisation of sodomy. I note that this was one of the earliest attempts to decriminalise homosexual acts in New South Wales. The Hon. John Dowd attempted to introduce a private member's bill, but it was never introduced to Parliament as, unfortunately, the Government at the time voted against it being included in the parliamentary *Notice Paper*.

The petitioners 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 the horrific impacts that that has had on so many people, including people who are here today. The petitioners finally, and also rather generously, 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. That is the type of fearmongering that has occurred for decades, perhaps centuries, in Australia against the acceptance and inclusion of non-heterosexual people. 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 that enabled the legislation to pass Parliament. Former Liberal member for Bligh Mr Michael Yabsley, along with Nick Greiner, spoke in support of decriminalising homosexual acts between men. Today's apology marks a time when fearmongering will become less powerful and more unreasonable. It is important for me to name, celebrate and honour the courage of my Liberal Party fellows 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.

This should never be a partisan issue, but I do want to celebrate those contributions. I fear it is too often forgotten or never known. The first openly gay man elected to the other place was a Liberal, Bruce Notley-Smith, who is in the gallery today. He 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. It was thanks to the tireless advocacy of the Hon. Don Harwin, a former Minister and President of this place, that the Liberal Party supported a conscience vote on adoption rights for same-sex couples. I am proud to say that he is also with us today in another leadership role, where I believe he is again the first openly gay person to hold the position, as New South Wales Liberal Party president.

I also acknowledge Geoff Selig for the work that he did with organisations in the community. Unfortunately, very tragically, he passed away recently. He had guests at his memorial as diverse as recipients of the Pinnacle Foundation scholarship that he funded, to the Hon. John Howard. It is important to recognise the value that centre right members of the LGBTQI community have in shifting the Overton window to encourage understanding and tolerance of differences across society. It is part of the reason why inclusivity in the queer community should always be sensitive and open to differences of opinion. These people were on the front line against fear and often hatred towards the queer community. I thank them very much for their courage in persevering.

I want to also pay tribute to Liberal Senator for New South Wales Chris Puplick, AM, who is here today. He has worked tirelessly throughout his life to advance LGBTQI rights. In 2014 the Baird Government changed the law to enable historical homosexual offences to be extinguished. In 2016 Bruce Notley-Smith said sorry and thank you during the apology to the 78ers. In 2022 with the Hon. Shayne Mallard, who is here today, and Alex Greenwich, the special commission of inquiry into historical gay hate crimes began. I am so proud to say that we are here today where we can say sorry. Again I say thank you. Thank you for persevering and for continuing to hope for a better world for our community and for Australia.

**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) (15:01):** I speak in support of this apology. The reflections of members to date show just how important the support of all sides of politics has been to get to where we are today. I endorse those sentiments. In particular I add my thanks to each of those people who the Hon. Jacqui Munro has singled out for thanks and to all those who have been named. I will add two specific thanks to that long list of people who have been involved in this important change over time.

I thank the Leader of the Government for her role in articulating this apology today. Having seen her work over the decades, I think it is appropriate to thank her for her role today and in the past, so I want to single her out. I also thank Neville Wran. It is appropriate to reflect on the leadership that it took to bring this law through all those decades ago. As a small indication of the pressure of that, this came through as a private member's bill. I recognise his role. It underscores his role as a reforming Premier of the time, crystalising that movement that had been built up, as so many people have talked about.

Second, I reflect as the arts Minister that I have had the great pleasure of being able to offer some small support to the Qtopia project, which is the first queer history museum in Australia. I see that as such an important project, because communities need places to meet, to gather and tell their history. That project has been, already, in its short time, one of those places. It is some small recognition of how important the gay, lesbian and queer communities have been to New South Wales. Sydney and New South Wales simply would not be the city or the society that we are without those communities and the role they have played over time.

Third, I simply add that, as other members have already said, it is never too late to say sorry, but that cannot take away the hurt or the harm that has been caused. I accept that there is more to do for the LGBTIA community and more change is required. Those are issues which all members should reflect on. However, it is important to pause and reflect today as the Parliament apologises. It is an appropriate moment to reflect on how changes happened in the past. This apology assists us to do so, and I am happy to support the motion.

**The Hon. AILEEN MacDONALD (15:04):** I acknowledge and support the formal State apology to those people who were convicted under historic laws that made homosexuality a crime until 1984. It is hard to imagine that this great State and country criminalised, persecuted and harmed people based on their sexuality and gender. The gesture may be late, but it is worthy. The apology comes, as we have heard today, on the fortieth anniversary of the passing of the Crimes (Amendment) Bill 1984 that finally decriminalised homosexual acts. I also acknowledge that Sydney's first Mardi Gras was on 24 June 1978, which resulted in violent arrests and jailings of several protesters who would later come to be known as the 78ers.

I say thank you to those prominent Sydney gay activists who are here today to witness this apology. I hope that for them the apology has brought some comfort and closure. I thank all those in the gallery for their patience and perseverance. To my friends, Bruce Notley-Smith, Shayne Mallard and Don Harwin, I thank them for what they did in the past. I also thank my current parliamentary colleagues. I will not name them, because they are here today. I am not a flag-bearer for the gay community, but I have always been a strong advocate for equality. No-one should be denied basic human rights based on their gender or sexuality.

It is with a great deal of respect that I pay tribute to the Hon. Penny Sharpe, who sits on the Government side of this House. Minister Sharpe is the Leader of the Government in the Legislative Council and is a pioneer as one of the first openly gay Ministers in New South Wales. There is a certain irony that it was she who moved the motion for the apology. By her own admission she would not be here today if it were not for the struggles of

those in 1978 and the decriminalisation in 1984 under Labor Premier Neville Wran. I did not know Neville Wran, but I know that he changed the law for the betterment of the people of this great State of New South Wales.

I do not care what side of politics you are on; we were all created equal and should be treated that way. As I said in my inaugural speech, I believe in the freedom of speech and the freedom of liberties. Equality and freedom from discrimination are fundamental human rights that belong to all people regardless of their sexual orientation or gender identity. Sadly, we have yet to eradicate homophobic abuse, but it is my sincere wish that gestures like the apology help in its elimination. It will not fix the wrongs of the past, but it is a step in the right direction.

**The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:07):** In reply: I thank everyone who has contributed today. I acknowledge a few people that were here, particularly those who have stood in this place: former President Meredith Burgmann, former President Don Harwin, the Hon. Shayne Mallard—who got in a bit of trouble when he was here—the Hon. Bruce Notley-Smith, former Senator Chris Puplick. I also acknowledge someone who I am not sure has been acknowledged today, and that is Mairi Petersen. George Petersen made the first attempt to decriminalise sexuality—it took us four goes—and he was extremely important. I want to recognise him. I am so pleased that Mairi is able to be here today.

I also want to acknowledge that Jill Wran was here and to acknowledge the work of Neville Wran. When I met with people yesterday who, yet again, continued to share their wisdom with me—they are very patient—they told the story of law reform as not just one piece of legislation but as many different pieces. There were laws that harmed people—particularly if they were poor, young or Aboriginal—and all of those impacted on all of us. It is profound to remember the reforms, as the Hon. John Graham mentioned, in terms of Neville Wran, who was a genuine civil libertarian and someone who fought courageously for equality for all. He was one of our greatest Premiers. I thank Jill for being able to be here today.

I acknowledge the contributions of Leader of the Opposition the Hon. Damien Tudehope, Dr Amanda Cohn, the Hon. Stephen Lawrence—a fantastic speech—the Hon. Chris Rath, the Hon. Jeremy Buckingham, Ms Cate Faehrmann, the Hon. Jacqui Munro, the Hon. John Graham and the Hon. Aileen MacDonald. I also acknowledge the Hon. Sarah Mitchell and her contribution. The National Party has come a long way. In 1984 it voted en bloc against these laws. National Party members in this place have profoundly changed the way in which the party now supports equality. I particularly thank the Hon. Sarah Mitchell for acknowledging my dear friend, Trevor Khan, now Magistrate Khan—a troublemaker if ever you met one. I do not know what will come before his court. I also acknowledge the President, the Hon. Ben Franklin.

Diverse parliaments make better laws. The laws that were talked about today were made by a very narrow range of people. One of the great things about today is that we have seen how diversity fundamentally changes that so that we make better laws. That is important. I thank everyone for their support of the motion. We are truly sorry and we need to make sure we do not do it again.

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

**Motion agreed to.**

### *Bills*

## **LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AND OTHER LEGISLATION AMENDMENT (KNIFE CRIME) BILL 2024**

### **In Committee**

#### **Consideration resumed from an earlier hour.**

**Ms SUE HIGGINSON (15:13):** I continue with my remarks on The Greens amendments Nos 1 to 9 on sheet c2024-080A to the Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill. I speak to amendment No. 4. While the intention of the proposed powers may be to detect metal knives and other metal weapons, it is likely that the handheld scanners will also detect other metal objects that individuals ordinarily carry, including keys, shoes, belt buckles, and technological and medical devices. Clause 45N of the bill makes it unlawful for a person to refuse, without reasonable excuse, to submit to a handheld scanner search. As such, it can be reasonably expected that a handheld scanner search is likely to positively indicate that metal is, or is likely to be, present in many circumstances where a person is not carrying a knife or other weapon.

At a minimum, these people will likely be asked to produce those personal items that may be causing the positive reading, and subsequently be asked to resubmit to the use of a handheld scanner. In order to limit the risk of "false finds" and to preserve, as far as possible, the right of an individual to privacy and bodily integrity, the

bill should be amended to provide individuals, prior to being scanned by police, with the opportunity to declare possession of any metal object and leave the designated area.

I now turn to amendments Nos 5 and 6. The power to detain a person for as long as is reasonably necessary to exercise the handheld scanner search power should be further limited to being "a measure of last resort" in relation to children, again consistent with article 37 of the Convention on the Rights of the Child. New South Wales police officers should be required to undertake training that addresses the manner in which these powers are to be exercised when dealing with persons under the age of 18 to minimise the risk of unnecessary escalation. The bill should be amended to make clear that a police officer may only stop and detain a person who has been selected for a handheld scanner search for the minimum amount of time necessary to conduct the search. Once the handheld scanner search has been completed, in accordance with the powers conferred in new part 4A of the Law Enforcement (Powers and Responsibilities) Act, a police officer must not exercise any further power absent lawful authority.

I now turn to amendment No. 7. In its current form, the bill's record-keeping and reporting requirements are unclear and unsatisfactory in a number of respects. A lack of mandatory, minimum record-keeping and reporting obligations will hinder monitoring and the evaluation of the impact and effectiveness of the police powers. The bill does not prescribe criteria as to how individuals are to be selected and required to submit to a handheld scanner search. In the absence of criteria, there is a significant risk that the proposed powers will be utilised inconsistently and based upon inappropriate stereotyping or unconscious bias. Given the significant impact on civil liberties, criteria to be considered by police officers when determining whether to subject a person to a search should be publicly available. We oppose such matters being addressed solely in internal NSW Police Force Standard Operating Procedures.

New section 45P of the bill requires the commissioner to keep records about the use of the powers under division 3, including the information prescribed by the regulations. New section 45P also requires the information prescribed by the regulations to be included in the NSW Police Force's annual reporting information under the Government Sector Finance Act 2018, division 7.3. The bill contains no further detail about what records are required to be kept. The second reading speech in the New South Wales Legislative Assembly indicates that records may include the number of people who were scanned, the number of weapons found, data about locations and any other outcome. The Computerised Operational Policing System of the NSW Police Force should be updated to enable event descriptions to be marked as being related to the exercise of a handheld scanner search power. As is the case in Queensland, the bill should be amended to specify particular matters that must be included in the NSW Police Force's annual reporting information.

I now turn to amendments Nos 8 and 9. New section 45Q of the bill requires the Minister for Police and Counter-terrorism to conduct a review to determine whether the policy objectives of new part 4A remain valid and whether its terms remain appropriate for securing the objectives. The review is to be undertaken as soon as possible after two years from the date of commencement, with a report on the outcome of the review to be tabled within three years from the date of commencement. The bill does not contemplate any other review or evaluation during the three-year period, after which the amendments will expire. By contrast, there was an independent evaluation, conducted by the Griffith Criminology Institute, of the first 12 months of the Queensland police wandering trial, which took place in two safe night precincts at the Gold Coast from 1 May 2021 to 30 April 2022.

The Queensland Government committed to an independent review from the outset. That review resulted in important, early findings about the success of the pilot, unintended impacts, inconsistent use of the powers and the adequacy of the existing legislative safeguards. There is precedent for the Law Enforcement Conduct Commission having statutory, monitoring and evaluation responsibilities for the exercise of police powers: See, for example, section 870 of the Law Enforcement (Powers and Responsibilities) Act relating to emergency powers in the event of public disorder, riot or other civil disturbance that gives rise to a serious risk to public safety; section 26ZO of the Terrorism (Police Powers) Act 2002 relating to preventative detention; and Operation Tepito, conducted pursuant to section 51 (1) of the Law Enforcement Conduct Commission Act 2016 relating to the Suspect Target Management Plan.

Independence is necessary for the public to have confidence that the trial is being monitored and evaluated effectively. A proper independent evaluation is also critical to measure the success of the pilot and to measure the unintended consequences in relation to the above. On the basis of those observations about the proposed sensible amendments, I recommend them all to the House and I hope that every member in this place supports them.

**The Hon. DANIEL MOOKHEY (Treasurer) (15:19):** I thank the honourable member for moving amendments in globo. I inform her that the Government supports the bill as is. I will go through each of the amendments. With respect to amendment No. 1, proposed sections 45F and 45I already require the location of the designated area and the time the declaration is in force to be included in the instrument declaring the area. Also, proposed section 45H already requires the declaration to be published on the NSW Police Force website. It is not

necessary for an instrument to also be published in the Gazette. Amendment No. 2 would require ministerial approval to declare a place as a designated area if that place has previously been a designated area on more than three occasions in 12 months. The Government does not consider the amendment necessary because there is already a strict statutory framework in proposed section 45G that a senior police officer must adhere to in order to make a declaration over a place that has previously been declared.

With respect to amendment No. 3, it is not novel for police to have powers to search minors in New South Wales, with appropriate safeguards in place. Existing warrantless search powers under section 21 of the Law Enforcement (Powers and Responsibilities) Act 2002 [LEPRA] already apply to minors. Police may also already seek search warrants in relation to such persons under LEPRA. The Government's bill does not give police additional powers to conduct physical searches on minors; it only allows police to utilise metal detection powers against both majors and minors with appropriate safeguards, including that a police officer must exercise the power in the least invasive way possible. With respect to amendment No. 4, proposed section 45O already provides the key safeguards to protect the rights of individuals and to ensure that there are appropriate limits on these new police powers. The section also provides that safeguards relating to police powers that currently exist under LEPRA apply to the issuing of a direction by police to submit to a scan using a handheld scanner.

The Government does not see amendment No. 5 as necessary because proposed section 45O (4) provides that a police officer may detain a person for as long as is reasonably necessary to exercise a power under proposed part 4A. With respect to amendment No. 6, proposed part 4A does not authorise police to exercise powers other than powers relating to the use of handheld metal scanners. Amendment No. 7 relates to records and reporting. The bill provides for transparency through the requirement in proposed section 45P for the Commissioner of Police to keep records about the use of the powers under division 3, including information prescribed by the regulations. This information is required to be included in the NSW Police Force annual report.

With respect to amendment No. 8, again, the Government supports the bill as is because it already embeds a range of mechanisms to ensure proper oversight and scrutiny of the proposed powers and transparency in relation to their use. A statutory review will be undertaken in relation to the metal detection powers. The review will commence two years after the commencement of part 4A, with a report on the outcome of the review to be tabled in both Houses of Parliament within three years after the date part 4A commences. With respect to amendment No. 9, proposed section 45Q provides that a statutory review of proposed part 4A must be undertaken as soon as possible after two years from commencement. The report from this review must then be tabled within three years from commencement. Therefore, it would be inappropriate to reduce the sunset period for proposed part 4A to 18 months.

**The CHAIR (The Hon. Rod Roberts):** The Hon. Susan Carter has moved Opposition amendments Nos 1 to 13 on sheet c2024-085A. The question is that the amendments be agreed to.

**The Committee divided.**

Ayes .....14  
Noes .....21  
Majority.....7

**AYES**

Carter  
Fang (teller)  
Farlow  
Farraway  
Franklin

Latham  
MacDonald  
Martin  
Merton  
Mitchell

Munro  
Rath (teller)  
Tudehope  
Ward

**NOES**

Banasiak  
Borsak  
Boyd  
Buckingham  
Cohn  
Donnelly  
Faehrmann

Graham  
Houssos  
Hurst  
Jackson  
Kaine  
Lawrence  
Mookhey

Moriarty  
Murphy (teller)  
Nanva (teller)  
Primrose  
Ruddick  
Sharpe  
Suvaal



## PAIRS

Maclaren-Jones  
Taylor

Buttigieg  
D'Adam

**Amendments negated.**

**The CHAIR (The Hon. Rod Roberts):** Ms Sue Higginson has moved The Greens amendments Nos 1 to 9 on sheet c2024-080A. The question is that the amendments be agreed to.

**Amendments negated.**

**The Hon. JOHN RUDDICK (15:33):** I move Libertarian Party amendment No. 1 on sheet c2024-083A:

No. 1      **Review of part**

Page 6, Schedule 1, proposed section 45Q(2) and (3), lines 34–37. Omit all words on the lines. Insert instead—

- (2) The review must be undertaken as soon as possible after the period of 12 months from the assent date.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 2 years after the assent date.
- (4) In this section—

*assent date* means the date of assent of the *Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Act 2024*.

The amendment brings forward and shortens the statutory review period from 24 months to 12 months. I am concerned that communities with a track record of tension with the police will be adversely impacted by this law and exacerbate that tension. This law is a close variant of the Queensland legislation, where there are allegations that the police are harassing youth to fulfil their key performance indicators. It is important that we have a review as quickly as possible because I think it is likely that there will be unforeseen negative consequences. Two years to wait for a review is too long. I commend the amendment to the Committee.

**The Hon. DANIEL MOOKHEY (Treasurer) (15:34):** The Government supports the bill as is for the very simple reason that, in order to establish an evidence base that allows the effectiveness of the policy to be developed and tested, it requires the period that the bill proposes, which is two years.

**Ms SUE HIGGINSON (15:34):** I indicate that The Greens will support the amendment. We think that 12 months is ample time. It is fast reporting. We are in an age and a period where we can see the impacts of policing, particularly if we look at increased policing. It is important that we start reporting early and that we report regularly. We need transparency. There will be, in no uncertain terms, unintended consequences. People who should not be brought into the criminal justice system will be brought into the criminal justice system in response to these laws. It is important that we look at what we are doing and that we look as early as we can. The Greens will support the Libertarian Party's amendment.

**The Hon. SUSAN CARTER (15:35):** On behalf of the Coalition, I indicate that we also are in support of an earlier review. We think it is important to get data about this as early as possible so that policy can be revised and sharpened.

**The Hon. JEREMY BUCKINGHAM (15:35):** I indicate that the Legalise Cannabis Party will support the Libertarian Party's amendment for the reasons that have already been outlined. We think that 24 months is too long for what are extraordinary powers. We have already seen these types of powers being misused, in our opinion, in Queensland. We think 12 months is plenty of time to get the feedback for a statutory review and inform the Parliament and the people on whether or not these laws are working and whether or not they need to be amended.

**The CHAIR (The Hon. Rod Roberts):** The Hon. John Ruddick has moved Libertarian Party amendment No. 1 on sheet c2024-083A. The question is that the amendment be agreed to.

**Amendment agreed to.**

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

**Motion agreed to.**

**The Hon. DANIEL MOOKHEY:** I move:

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

**Motion agreed to.**

### Adoption of Report

**The Hon. DANIEL MOOKHEY:** I move:

That the report be adopted.

**Motion agreed to.**

### Third Reading

**The Hon. DANIEL MOOKHEY (Treasurer) (15:38):** I move:

That this bill be now read a third time.

In moving that the Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024 be now read a third time, I firstly pay tribute to the Beasleys, who have had the opportunity to bear witness to New South Wales enacting the State's version of Jack's law. On behalf of all members of the House, we again express our admiration for their grace, their advocacy and their leadership on this issue. I equally acknowledge members of both Houses who had the opportunity to participate in and make a contribution to this debate. I also acknowledge the leadership of the Attorney General, who has led the State through these issues, and his office. The bill has been amended. Nevertheless, it is an excellent bill. I commend the bill to the House.

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

**Motion agreed to.**

### RICE MARKETING AMENDMENT BILL 2024

#### First Reading

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

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

**Statement of public interest tabled.**

**The Hon. TARA MORIARTY:** According to standing order, I declare the bill to be an urgent bill.

**The DEPUTY PRESIDENT (The Hon. Dr Sarah Kaine):** The question is that the bill be considered an urgent bill.

**Declaration of urgency agreed to.**

#### Second Reading Speech

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (15:41):** I move:

That this bill be now read a second time.

Today the Government introduces the Rice Marketing Amendment Bill 2024, which will make historic changes to rice marketing in New South Wales. Those changes to the legislation are needed to reflect the contemporary footprint of rice growing and to encourage a competitive, modern and progressive rice industry in New South Wales. The bill reflects the Government's commitment to supporting the continued development of the industry and ensuring that the marketing arrangements are fit for purpose to meet the current and future needs of rice growers across all the rice growing regions of New South Wales.

The rice industry is one of the State's agricultural success stories, and is largely unique to New South Wales. Our State grows about 99 per cent of Australia's rice. It is an industry with a long and celebrated history. The rice industry contributes considerably to the broader New South Wales primary industries sector, worth an estimated \$219 million at the farm gate in 2022-23. That farm output underpins further value-adding capability, which supports businesses and jobs in regional New South Wales, and is a significant contributor to our world-class agricultural output and trade reputation.

Traditionally, the industry has been located almost entirely in the Riverina and Murray valleys of southern New South Wales. More recently a smaller northern rice region has developed, located in the Northern Rivers area. The New South Wales rice industry, like the agricultural sector more broadly, faces ongoing change. The challenge for government is to ensure that the legislative framework under which the industry functions enables farmers and businesses to react and respond to those changes. We must also ensure that industry can capitalise on emerging opportunities in the most effective way.

Before I deal with the content of the Rice Marketing Amendment Bill, I give members an overview of the circumstances that have led to the Government introducing this bill. The Rice Marketing Act 1983 requires all rice grown in the State of New South Wales to be vested in the Rice Marketing Board, a statutory authority. The rice vesting arrangements in various forms have been in place in New South Wales since 1928. The Rice Marketing Board has sole responsibility for marketing the rice vested in it. The board appoints authorised buyers to buy and sell rice on its behalf and may issue a single export licence to one authorised buyer, giving that authorised buyer the exclusive right to export rice grown in New South Wales.

The Rice Marketing Board has issued a Sole and Exclusive Export License, commonly called the SEEL, to Ricegrowers Limited, which is better known under its trading name, SunRice. Under the current legislative arrangements, so long as SunRice holds the SEEL, all other persons or companies are prohibited from exporting rice grown in New South Wales. The marketing arrangements in the Act are restrictive trade practices and require special authorisation for the purposes of the Commonwealth Competition and Consumer Act 2010. Whilst regulated agriculture marketing structures have been common in the past, such structures are now rare. In fact, the Rice Marketing Board was the first, and is currently the only remaining, statutory commodity marketing authority in Australia. All other agricultural markets have been gradually deregulated since the 1970s, and most were fully deregulated by 2000.

Rice vesting has been subject to regular statutory reviews, which include assessment of whether the vesting and exclusive export marketing arrangements are in the community's best interest. To that end, the former Government undertook a review of rice vesting in 2021 before the previous rice vesting term expired on 30 June 2022. That review highlighted several issues and made findings that warranted further investigation. As such, the Australian Bureau of Agricultural and Resource Economics and Sciences, known as ABARES, was commissioned to prepare an independent report to consider the findings of the 2021 vesting review, conduct further consultation with stakeholders and provide recommendations to the Government on the most appropriate response to the 2021 review.

The ABARES independent report largely reaffirmed the key findings of the 2021 review and provided eight recommendations for industry reform, including recommendations relating to the immediate removal of the Northern Rivers region and subsequent removal of the vesting arrangements entirely, governance and transparency, and research and development. The Government carefully considered those recommendations and in April this year published a copy of the ABARES independent report and the Government's response. Rice vesting has historically enjoyed almost unanimous support in the south but is opposed by the growers in the north. However, over the past few weeks, industry has had time to consider the ABARES independent report, its recommendations and the Government's response to those recommendations.

Since the publication of the Government's response, I have met with a range of stakeholders from both the northern and southern rice regions in the State. During this time it has become evident that support for vesting within the southern growing region is fading and key stakeholders—including SunRice and the Ricegrowers' Association, which represents the views of the majority of rice growers in southern New South Wales—now support a swift end to the legislative marketing arrangement despite their long-held and publicly stated position of support in the past. Whilst the southern rice region is dominated by the SunRice supply chain, there are some rice growers who supply smaller supply chains and who historically have been, and continue to be, opposed to vesting. Those smaller supply chains and their growers will welcome the proposed changes to the Act and the cessation of the regulated marketing arrangements.

Those views are shared by growers in the Northern Rivers region, who have consistently requested an exclusion from or removal of the rice vesting arrangements for many years. Vesting is a nuanced topic. Whilst the marketing arrangements have served the rice growing community well over a long period, the nature and structure of the industry is changing and stakeholder views on vesting are evolving. It is reasonable that, as the nature and structure of industries change, the Government looks at the regulatory frameworks surrounding them to make sure that they deliver the best outcomes for the State. The recent stakeholder feedback following the release of the ABARES independent report has been central to informing the content of this bill.

The bill also recognises the existent needs of the two distinct rice-growing regions. The proposed changes are responsible, appropriate and will support the continued development of the rice industry in New South Wales. The bill I introduce today amends the Rice Marketing Act 1983 to deregulate the New South Wales rice industry in line with recommendation 1 of the ABARES independent report and commensurate with the findings of the 2021 New South Wales Government review.

I will now discuss the details of the bill. Firstly, the bill will exclude rice grown in the Northern Rivers region from the operations of the Act, including vesting and the exclusive export arrangements. The Northern Rivers is a relatively new rice-growing region, with the first commercial crops grown in the area during the millennium drought. The industry is championed by a group of rice growers and is supported by several

developing supply chains, the owners of which have invested in milling and storage infrastructure. Compared to other crops, rice is particularly suited to the Northern Rivers' seasonal weather conditions, which are typified by periods of high summer rainfall. Whilst the region is a small contributor to total State rice production, it is unique in its management practices, as rice is grown under dryland conditions and mostly dependent on in-season summer rainfall. This feature also creates a point of differentiation from the southern rice-growing region, which depends on irrigation for production.

Rice growers, service providers and processors in the Northern Rivers region have long expressed a clear desire to grow and further develop their industry. The distance from the Northern Rivers to SunRice's export receival facilities in southern New South Wales means these growers cannot currently viably sell rice into international markets through the exclusive export arrangements. The consistently clear message from Northern Rivers growers is that vesting, which unnecessarily restricts rice grown in this region from being viably exported, is a key barrier to further industry investment, denying the industry the economies of scale it needs to compete effectively in both the domestic and export markets.

Northern Rivers growers assert that without access to export opportunities to diversify their customer base, the industry will be unable to reach its full potential. Therefore, to address the main barrier to industry growth and innovation in the Northern Rivers region, the Rice Marketing Amendment Bill 2024 will immediately establish an exclusion area. This excluded area will consist of the local government areas of Ballina, Byron, Clarence Valley, Kyogle, City of Lismore, Richmond Valley and Tweed, capturing the areas in which rice is grown in the Northern Rivers.

To allow a clean separation between the current rice crop and rice to which the new provisions will apply, rice harvested and grown in the excluded area before 1 September 2024 will be vested rice. The vesting arrangements and the export restrictions imposed on vested rice under the Act will not apply to rice cultivated and harvested in the area after 1 September 2024. Rice is typically sown between October and December and harvested between March and May. A September start date allows a clean separation between growing seasons. In short, this bill gives Northern Rivers rice growers the immediate ability to establish an export supply chain for their next season's rice crop, something they have not previously been able to do in practice simply because of their location.

In response to the recent feedback from key stakeholders within the southern rice region, the bill will end the vesting arrangements for rice grown in the rest of New South Wales on 1 July 2025, bringing to an end almost a century of regulation. Practically, this means that producers will no longer be restricted to a single export entity nor required to sell their rice to an authorised buyer, and any person will be able to sell New South Wales-grown rice overseas. This change is consistent with recent feedback from stakeholders. It is also consistent with the key recommendation of the ABARES independent report that vesting should cease and the findings of the 2021 New South Wales Government review, which estimated that there would be economic benefits to ending vesting.

The 2021 review found that there was no conclusive evidence of net benefits to rice growers or the community from the current vesting arrangements, and that vesting was restricting the growth and development of domestic supply chains and prospective new export supply chains and inhibiting innovation in some farm businesses. Removing rice vesting in its entirety was estimated to increase the value of New South Wales rice production by \$80 million to \$133 million over six years, creating the opportunity for greater competition and innovation and enhancing the long-term viability of the rice industry.

The ABARES independent report found that there is no strong evidence that vesting is required to achieve premium prices for Australian rice and there is the possibility that vesting is holding back the industry from achieving higher returns for growers. The ABARES independent report also found that vesting arrangements inhibit the development of alternative supply chains, both in southern and northern New South Wales, limiting the options for growers to market their crops and potentially hindering the growth of rice production in the north.

The New South Wales rice industry is facing several significant challenges, including the impacts of lower water availability through declining water allocations and a more variable climate. Deregulating the rice industry will not only afford growers greater choice and flexibility to pursue a greater range of markets, including export markets, but will also benefit the long-term sustainability of the industry. This decision also comes at a time when growers are well placed to take advantage of the new marketing opportunities. It is clear that the New South Wales rice industry has built a unique, world-class, vertically integrated business that makes a significant contribution to the Australian economy. However, vesting and the SEEL are no longer required to support the industry.

The bill will also require the Rice Marketing Board to commence winding up its affairs from 1 July 2025 and take reasonable steps to finalise its affairs before 1 July 2026. Once the winding-up is completed, the board may be dissolved. When the board is dissolved, assets, rights and liabilities of the board may be transferred to an appropriate New South Wales public authority. The Rice Marketing Board was the first commodity marketing

board established in New South Wales and was officially constituted by proclamation in November 1928, with the responsibility to "obtain the best possible monetary return to rice growers consistent with the maintenance of orderly marketing".

Over the past 96 years the board has been dedicated to administering the regulated marketing arrangements and ensuring that growers achieve the best possible price for their rice. On behalf of the New South Wales Government, I express sincere gratitude to board members past and present for their service and active industry leadership. They have all done much to support the rice community of New South Wales. I thank them and their staff for their wonderful commitment to the purposes of the board and for being staunch advocates for the New South Wales rice industry.

In summary, the bill will deregulate the rice industry in three key steps. Upon assent, the excluded area will be created for the Northern Rivers region, and the savings and transitional provisions will exclude rice grown in the Northern Rivers region from the application of the Act from 1 September 2024. Ten months later, from 1 July 2025 onwards, rice vesting will end for the rest of New South Wales and the Act will no longer apply to rice. In the year following, the Rice Marketing Board must take reasonable steps to wind up its affairs before 1 July 2026: collecting its receivables, disposing of any other assets, paying its debts and distributing any surplus funds to the determined New South Wales public authority. Once these activities are complete, the Rice Marketing Board will be dissolved and the Act repealed by Governor's proclamation.

This bill is historically significant to the rice industry. While the amendments in this bill will be welcomed by most stakeholders, they also reflect a change to the marketing arrangements under which the industry has operated for nearly a century. I appreciate that these changes may cause concern for some rice growers and stakeholders in terms of how the changes may impact the industry. Let me be clear: I expect all rice industry participants—particularly the exclusive export licence holder, SunRice—to continue to meet their obligations under SEEL and the legislation until vesting is ceased in line with the amendments I have just outlined.

These obligations include ensuring that all rice growers have access to seed on a non-discriminatory and equitable basis as required under the SEEL. Beyond the end of vesting and the SEEL, SunRice has provided me an assurance that it will continue to provide access to all New South Wales rice growers for varieties in which it has exclusive licence agreements in place, in line with the terms of its contracts with the New South Wales Government. In this regard, I acknowledge the efforts of the industry in working with the Government since the deregulation was announced, to ensure an orderly transition to a deregulated environment. The New South Wales Government recognises that there will be a period of transition for the industry as it adjusts to these new arrangements.

The Government is committed to working with industry as it navigates and manages the transition, and I have instructed the Department of Primary Industries to lead a Rice Transition Group comprising members of DPI and the Rice Marketing Board for the purpose of assisting the Rice Marketing Board with the winding up of its affairs. The Rice Transition Group will also consult regularly with a stakeholder reference group as the industry moves to a deregulated marketing structure. This group will be important to represent the views of industry on transitional requirements related to research and development opportunities to support new markets and address emerging crop disease issues, ensuring seed supply is maintained for all rice growers, and investigating regional development opportunities to support the industry during the transition.

From my discussions, I understand that access to planting seed is front of mind for some growers in this transitional period. The New South Wales Government is committed to ensuring that the industry is supported and will work with the present sole and exclusive export licence holder, SunRice, to resolve the access to rice seed aspect of the present arrangements. This work has already begun, and the Government will keep working with the industry to ensure all rice growers have access to the seed inputs they need. The Rice Transition Group will also seek views on the research and development needs of industry to open up new markets, manage emerging disease risks such as rice blast, and look for opportunities to partner in the delivery of this work. Fundamentally, the bill is about ensuring that the regulatory framework for our rice industry remains fit for purpose, as the rice industry in New South Wales has changed and evolved.

The bill will provide the mechanism to transition to a contemporary marketing structure that will benefit the New South Wales rice industry. The rice vesting arrangements were established based on the industry's preference for the marketing of rice in the 1920s and have contributed to the development of the world-class industry of today—one that makes a significant contribution to the Australian agricultural landscape and economy. It is those same industry preferences that now inform the Government's position and the content of the bill. I thank all industry stakeholders, especially rice growers, for their time and valuable contributions to this process over the past few years. It is on that basis that I commend the bill to the House.

**Debate adjourned.**

**PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (TRANSPARENCY AND FIT AND PROPER PERSONS) BILL 2024**

**First Reading**

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

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

**Statement of public interest tabled.**

**Second Reading Speech**

**The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (16:04):** I move:

That this bill be now read a second time.

The Prevention of Cruelty to Animals Amendment (Transparency and Fit and Proper Persons) Bill 2024 will increase the transparency of the animal welfare enforcement activities of approved charitable organisations [ACOs] and will strengthen animal welfare protections by expanding the fit and proper person regime under the legislation. The New South Wales Government is committed to safeguarding animal welfare and providing the strongest possible regulatory framework to prevent cruelty and promote responsible animal ownership and care in New South Wales. We know there are strong community views and public interest in ensuring New South Wales has strong and appropriate animal welfare laws. There has also been substantial parliamentary interest in animal welfare, with numerous inquiries in recent years.

Before I explain the bill before the House, I will talk about the animal welfare framework in New South Wales and the vital role that ACOs play in the enforcement of that framework. The animal welfare framework in New South Wales is underpinned by the Prevention of Cruelty to Animals Act 1979, or POCTAA. This framework not only provides legal protections to animals against cruelty and neglect but also sets the standards for their care and wellbeing across various settings, including farms, households and businesses. This framework is fundamental for upholding public trust in the management and care of animals, particularly as it pertains to the enforcement actions conducted by ACOs.

Two charities are approved to undertake compliance and enforcement action under POCTAA: RSPCA NSW and the Animal Welfare League NSW, or AWL. These ACOs operate under their own constitutions and governance structures and are independent of government. They are entrusted with the significant responsibility of protecting animals from cruelty and neglect, making their work central to maintaining high standards of animal welfare across the State. We acknowledge the critical work of the RSPCA and AWL in undertaking enforcement functions under POCTAA and their long history of supporting and protecting animal welfare in New South Wales. At the same time, we also recognise the importance of appropriate transparency requirements for enforcement agencies, particularly those that are independent of government.

We are committed to the highest standards of accountability and transparency, and that is why the bill includes proposals to subject the ACOs to the oversight of the NSW Ombudsman, clarify applicable Government Information (Public Access) Act requirements, table the ACO annual legislated reports, and include terms of appointment and identification requirements for ACO officers and inspectors. These amendments respond to calls for greater transparency into ACO operations made by stakeholders via feedback and at previous parliamentary inquiries into animal welfare, including at the recent 26 April and 26 May 2024 hearings for the current inquiry into ACO operations. The ACO transparency proposals in the bill have been informed by a review of animal welfare reform work and stakeholder consultation undertaken between 2019 to 2022, which included around 6,000 responses from the New South Wales community, received over two rounds of public consultation.

The proposed amendments have also been informed by stakeholder evidence provided to multiple animal welfare parliamentary inquiries in recent years. The specific proposals in the bill have also been subject to recent targeted consultation conducted with key stakeholders. There is strong stakeholder support for increased ACO transparency, and the bill delivers that. These changes also bring the transparency arrangements for ACOs into line with other regulatory bodies and jurisdictions across Australia. For example, in Victoria, Western Australia and South Australia, equivalent ACO inspectors are subject to their respective State's Ombudsman and freedom of information laws. We are also delivering the Government's fit and proper person regime commitment through the bill. The Government committed to introducing a fit and proper person regime that will prevent people convicted of certain offences from being involved in the keeping and breeding of companion animals.

The legislation currently provides for certain prohibitions and disqualifications, but there are improvements that can be made to strengthen the regime. The bill achieves this by extending the circumstances where a court must make a disqualification order to include where persons have been convicted of repeat animal cruelty offences

or multiple animal cruelty offences arising from separate events, unless the court is satisfied that special circumstances apply. Under POCTAA, there is currently a requirement that a court must make a disqualification order for persons convicted of specified serious animal cruelty offences, being offences for aggravated cruelty, poisoning, animal baiting/fighting or live baiting, as well as the serious animal cruelty offences under the Crimes Act.

The only exemption to the requirement to make this order is when the court is satisfied that special circumstances apply. However, there is currently no requirement that a court must make a disqualification order if the person has been convicted of multiple or repeat animal cruelty offences where an offence does not meet the threshold of certain serious animal cruelty offences such as aggravated cruelty. The bill closes this gap and by doing so the Government is setting a clear and unambiguous standard that repeat cruelty is unequivocally unacceptable and should disqualify an individual from having the privilege of animal ownership or care. We are also amending the definition of a disqualification order to create consistency in how these orders apply. We acknowledge that the community expects strong and appropriate animal welfare protections, and that is why we are strengthening the current requirements.

Alongside the delivery of our fit and proper person regime, the bill will introduce improvements to the administration and enforcement of POCTAA through new information sharing provisions between relevant agencies and new delegation powers for the Minister administering the Act. Currently POCTAA does not contain information sharing provisions—in other words, it provides no guidance amongst enforcement agencies regarding the sharing of convicted person information and of POCTAA administration generally. During previous animal welfare reform work, stakeholders raised that enforcement agencies and relevant New South Wales Government agencies need to be better equipped to share information related to investigations and the administration of POCTAA.

The bill allows relevant agencies to collect, use and disclose information where it is reasonably necessary for the purposes of administering and enforcing POCTAA. It addresses the current gap by providing for the sharing of information between relevant agencies to deliver stronger compliance and enforcement outcomes that meet the community expectations for animal welfare across New South Wales. Similar to the current lack of provisions regarding information sharing, POCTAA does not currently allow the functions of the Minister to be delegated, limiting the ability of the Department of Regional NSW to obtain information from the enforcement agencies relevant to the administration of the Act. To improve this and to streamline the administration of POCTAA, the bill includes new delegation provisions for the Minister.

With that in mind, I will now turn to the details of the bill. I will first address the provisions that deliver increased transparency of ACO enforcement operations. The bill before the House subjects the ACOs to an external complaints mechanism via the NSW Ombudsman. Through amendments to the Ombudsman Regulation 2016, ACOs will fall within the remit of the NSW Ombudsman, which means that members of the public will be able to make a complaint to the NSW Ombudsman about the conduct of an ACO as an organisation, as well as about an individual ACO Inspector. Importantly, the scope of this complaints mechanism is only in relation to conduct that relates to the exercise of an ACO's functions under POCTAA. Complaints made relating to the conduct of an ACO that does not fall within the scope of the exercise of their functions under POCTAA will remain subject to the remit of the Australian Charities and Not-for-profits Commission, or the ACNC, as the national regulator of charities.

The bill further clarifies that ACOs are subject to the requirements of the Government Information (Public Access) Act, or GIPA Act, with respect to their functions under POCTAA. The bill amends the Government Information (Public Access) Regulation 2018 to declare the ACOs as a public authority so that they are subject to the GIPA Act. This will mean that members of the public are provided with clarity and a framework for accessing information from the ACOs related to the enforcement of POCTAA. I note that the bill provides that the ACOs will not be required to comply with the GIPA Act provisions relating to the proactive release of information, referred to as "open access information", as these provisions are heavily related to government operations. As such, subjecting ACOs to the same proactive release of information requirements as government departments would impose an unnecessary duplicative administrative burden on the ACOs.

The bill will also require the Minister administering POCTAA to table the ACO annual legislated reports received under section 34B of the Act in each House of Parliament. To ensure the privacy of any sensitive personal information, the Minister will be able to redact any information in the report that the Minister considers should not be made public. The important transparency measures in relation to the GIPA Act and the tabling of the annual reports are also consistent with recommendations of the Select Committee on Animal Cruelty Laws in New South Wales, at recommendation 11, and the 2021 inquiry into the ACOs under POCTAA, at recommendation 4.

The bill also updates the content of the ACO annual reports as prescribed in clause 34 of the Prevention of Cruelty to Animals Regulation 2012 to include the number of requests under the GIPA Act, including a breakdown

of what the requests related to; NSW Ombudsman activity in relation to ACO activities, in addition to the existing provision which requires the ACOs to provide details of complaints they have received directly; and a list of current memorandums of understanding, or equivalent, for example service level agreements currently active between the ACO and other enforcement or Government agencies.

I now turn to the provisions in the bill regarding terms of appointment and identification requirements for ACO officers and inspectors. The bill establishes provisions under POCTAA relating to the appointment by the Minister of ACO employees and public service employees as officers and inspectors, which will create appropriate controls and oversight of appointments. This includes providing that a specified period may apply to the appointment, including that conditions may apply to the appointment, providing for the revocation or amendment of an appointment at any time by written instrument.

The bill also establishes standard identification requirements for persons who have been appointed by the Minister as an officer or inspector under POCTAA, including ACO officers and inspectors. These officers and inspectors will be given evidence of their authority that they must show if asked to do so while carrying out their enforcement functions. These officers and inspectors can be directed by the Minister to return the identity card once they cease to be an officer or inspector. Failing to comply with this direction will be an offence under POCTAA, with a maximum penalty of 25 penalty units. It will also be a penalty notice offence with a maximum \$500 penalty for an individual.

I note that these appointment and identification requirement provisions that I have just identified will only apply to a person who has been appointed by the Minister as an officer or inspector under POCTAA, including ACO officers and inspectors. The requirement for ACO officers and inspectors to show evidence of appointment represents a standard, commonsense accountability measure that brings POCTAA into line with other New South Wales regulatory authorities such as authorised officers under the Food Act 2003 and fisheries officers under the Fisheries Management Act 1994.

Having detailed the portions of the bill that relate to ACO transparency, I will now address the provisions that deliver on the fit and proper person regime. I will turn firstly to the expansion of the current requirements for a court to make a disqualification order to include repeat animal cruelty offenders. These amendments deliver the Government's fit and proper persons commitment to prevent certain convicted persons from being involved with animals. Under the current legislation, disqualification orders can be made by a court following a conviction, which prevent the convicted person from owning or caring for animals. There is currently a requirement in section 31 (1AA) of POCTAA that a court must make a disqualification order—unless satisfied that special circumstances exist—for persons convicted of certain serious animal cruelty offences.

These offences are aggravated cruelty, poisoning, animal baiting or fighting, or live baiting under POCTAA, and specific animal welfare offences under the Crimes Act 1900. However, this automatic requirement does not currently apply to a person who has been convicted of multiple or repeat animal cruelty offences. This is a critical gap, because it means that there is currently no presumption that a court will apply a disqualification order to people who have demonstrated a pattern of animal cruelty.

The bill addresses this gap by requiring a court to make a disqualification order when it has found a person guilty of a section 5 cruelty offence if the person has previously been convicted of an offence against the same section. The court will also be required to make a disqualification order when it convicts someone of multiple section 5 offences arising from separate events. I note that it is not intended that the requirement to make a disqualification order will apply in situations where a single event has given rise to multiple section 5 convictions. For example, it will apply where a person has been convicted of more than one section 5 offence and the offences arise out of different actions over a period of time. It will not apply, for example, when a single event has given rise to multiple charges under section 5. It is important to note that the court will maintain appropriate discretion not to make the disqualification order if it is satisfied that special circumstances exist that justify not making the order. This currently exists for other offences with presumed disqualification orders. These provisions provide the court with guidance as to the expected application of a disqualification order without removing the discretion of the court entirely.

In addition to broadening the circumstances in relation to disqualification orders, the bill also clarifies the definition of disqualification order to include all the activities under section 26 of POCTAA. Currently, under the existing definition, a disqualification order made by a court may mean that the convicted person must not do one or more of a series of activities listed in section 26 (a) to 26 (d) of the Act. For example, such activities include but are not limited to purchasing, acquiring or taking possession of an animal; keeping or participating in keeping an animal; or caring for an animal owned by another person. The current definition leads to variation and inconsistency regarding the scope of these orders. The bill amends the definition of disqualification order, which in effect would mean that those orders will provide that a person must not do any of the specified activities set out in section 26 (a) to 26 (d), instead of just one or more. This is an important clarification that further strengthens



the existing fit and proper person regime and will ensure the disqualification orders apply in a consistent way to convicted persons.

To support the enforcement of the fit and proper person regime under the legislation, the bill will also include provisions which allow for relevant agencies to collect, use or disclose information, including personal information, where it is reasonably necessary for the purposes of administering and enforcing the Act or the regulations. The bill outlines that information may be shared between relevant agencies for the purposes of issuing a direction notice or order under POCTAA; exercising enforcement and compliance functions under the Act; and conducting legal proceedings for offences under the Act, if in the relevant agency's opinion it is appropriate to give the information to another relevant agency for significant safety reasons.

For clarity, the bill defines relevant agencies to cover New South Wales Government sector agencies, ACOs, other persons exercising POCTAA functions and other entities that may be prescribed by the regulations. Importantly, relevant agencies will be able to collect, use and disclose information so long as it is reasonably necessary for the purposes of administration and enforcement of the legislation. This limitation represents an appropriate privacy measure and these commonsense amendments will improve information sharing and collaboration.

Finally, to further streamline and improve the administration of POCTAA, the bill adds provisions to allow the Minister administering POCTAA to delegate to a person employed in the Department of Regional NSW or a person or class of persons prescribed by the regulations. The bill before the House today demonstrates how this Government is focused on delivering improved animal welfare outcomes within New South Wales. We understand that animal welfare is a highly emotive and complex space. This will not be all I have to say on the animal welfare framework and there is still more work to be done. We are delivering real change in a staged approach that will modernise and improve the framework that safeguards animal welfare in New South Wales. I commend the bill to the House.

**Debate adjourned.**

## **GOVERNMENT SECTOR EMPLOYMENT AND OTHER LEGISLATION AMENDMENT BILL 2024**

### **First Reading**

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

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

**Statement of public interest tabled.**

**The Hon. JOHN GRAHAM:** According to standing order, I declare the bill to be an urgent bill.

**The PRESIDENT:** The question is that the bill be considered an urgent bill.

**Declaration of urgency agreed to.**

### **Second Reading Speech**

**The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (16:26):** I move:

That this bill be now read a second time.

The Government Sector Employment Act 2013 sets out four core values for the government sector in New South Wales: integrity, trust, service and accountability. Those values guide the work of our dedicated public servants throughout the State every day. The reforms that the bill proposes are deeply consistent with those values. Those reforms will deliver direct improvements to the employment framework in which our public servants operate but, of course, just as importantly, these improvements will, in turn, enable them to better support the people of New South Wales. Before we came to government, the Premier made a commitment to review the Government Sector Employment Act 2013. Delivering on that commitment, the Government tasked the Cabinet Office with a review of the Government Sector Employment Act 2013 to examine, among other matters, whether amendments to the Government Sector Employment Act 2013 should be made to refocus the Public Service Commissioner on merit and integrity functions; and/or support workplace reform and planning, recruitment, learning and development, and mobility.

While the review is ongoing, the Cabinet Office's key interim findings regarding the Public Service Commissioner's functions are that the Public Service Commissioner's integrity functions are appropriately exercised by the commissioner as an independent statutory officer, at arm's length from the Executive. These include functions relating to promoting and maintaining the government sector core values; adopting a government sector-wide code of ethics and conduct; conducting inquiries into government sector agencies; and

ensuring compliance with requirements to ensure officials are recruited and promoted based on merit. Other functions relating to workplace reform and planning, mobility and other functions may, however, be more effectively and efficiently performed by a central agency, enabling existing knowledge and expertise, including in relation to industrial relations issues and trends, to be leveraged, and whole-of-government perspective to be brought to the fore.

The interim review concluded that the commissioner's integrity functions should continue to be exercised by the commissioner as an independent statutory officer, at arm's length, and that the Government may wish to consider amending the Government Sector Employment Act 2013 so that the commissioner is not required to exercise functions unrelated to the commissioner's integrity functions, with functions relating to workforce reform and planning, mobility, data collection, talent pool management and website management to be undertaken by a central agency. I will deal with some of the details of the bill and then refer to some of the broader reforms that this bill sits within.

First, the bill proposes amendments to give effect to the interim findings by amending the Government Sector Employment Act 2013 to provide that certain functions are no longer to be exercised by the Public Service Commissioner. Second, the bill also amends the NSW Reconstruction Authority Act 2022 in relation to the appointment of the CEO of the NSW Reconstruction Authority. Third, the bill also makes other minor miscellaneous amendments. Schedule 1 to the bill omits the commissioner's objectives and functions that do not require statutory independence.

The following general functions of the commissioner currently at section 11 (1) of the Government Sector Employment Act 2013 are omitted. First, to identify reform opportunities for the Government sector workforce and to advise the Government on policy innovations and strategy in those areas of reform. Second, to lead the strategic development and management of the government sector workforce in relation to workforce planning, including identifying risks and strategies to minimise risks; performance management and recognition; succession planning; redeployment, including excess employees; and staff mobility. Third, to advise the Government on leadership structure for the government sector.

Fourth, to advise the Government on appropriate strategies, policies and practices in relation to the structure of the government sector workforce. Fifth, to advise the Government on appropriate strategies, policies and practices in relation to such other government sector matters as the Minister may determine from time to time, and to monitor, coordinate and assist the implementation of government strategies, policies and practices in such other areas as the Minister may determine from time to time. Sixth, to develop and advise the Government on service delivery strategies and models for the government sector through collaboration with the private business sector, the not-for-profit sector and the wider community. Finally, to set standards, subject to any legislative requirements, for the selection of persons for appointment as members of boards or committees of public authorities, including government business enterprises.

These functions as listed will instead be performed by the secretary of the Premier's Department. Exercise of these functions by a central government agency will enable existing knowledge and expertise, including in relation to industrial relations issues and trends, to be leveraged. It will promote a coordinated, whole-of-government approach. In many instances, the delivery of those functions may also benefit from the strategic direction and guidance of the responsible Minister.

The commissioner will continue to exercise integrity functions as an independent statutory officer. These include promoting and maintaining the government sector core values, adopting a government sector wide code of ethics and conduct, conducting inquiries into government sector agencies, and ensuring compliance with requirements to ensure officials are recruited and promoted based on merit. Those are functions that should be performed in that independent way.

Schedule 1 also provides for the continued preparation of the annual State of the NSW Public Sector Report, which the Premier will table in both Houses of Parliament. Preparation of the report will instead be undertaken by the secretary of the Premier's Department rather than being a function of the commissioner. This will ensure that the data that underpins this report is available to support the development of policy with respect to the planning and management of the public sector workforce, including industrial relations policy.

Reflecting the varied functions of the commissioner, the bill makes a consequential amendment to the principal objectives of the commissioner so that they are as follows: to promote and maintain the highest levels of integrity, impartiality, accountability and leadership across the government sector; to ensure that government sector recruitment and selection processes comply with the merit principle and adhere to professional standards; to foster a public service culture in which integrity, trust, service and accountability are strongly valued; and to build public confidence in the government sector.

Schedule 2 to the bill amends the NSW Reconstruction Authority Act 2022 to remove the requirement that the CEO "be employed in a band 4 secretary-level role". This will ensure that employment arrangements for the CEO of the NSW Reconstruction Authority are consistent with the Government Sector Employment Act 2013 framework and employment arrangements for other executive agency heads. Schedule 3 to the bill makes minor, consequential amendments to other legislation. The bill commences on proclamation and will deliver necessary reform to the employment framework in which our public servants operate and ensure that those government sector values that I referred to initially continue to guide the work of our public servants as they support the people of New South Wales.

It is the view of the Government that the structural changes contained in the bill are required to strengthen the public service in New South Wales. These changes will enable the Government to better plan for the future of the public sector workforce and will ensure that this important work takes place hand in glove with broader policy development and some of the other policy changes that the Government may wish to introduce. It will ensure that planning and policy development is informed by data on the public sector workforce. Crucially, it will also ensure this is fully integrated with the Government's industrial relations strategy.

It is the view of the Government that the amendments improve the way it plans for the future of the workforce. It allows the Government a greater ability to identify and address skills shortages before they arise, rather than seeing classes cancelled because there are not enough teachers or patients waiting longer in hospital because there are not enough nurses. It will mean the Government can develop the skills it needs in house, which may help reduce over-reliance on consultants and bring some of those costs under control.

As part of that broader agenda, the integration of these functions into the heart of government will allow for a new unit in the Premier's Department that will have centralised oversight over the use of consultants across the public sector. The use of consultants will be reduced by redirecting agencies to in-house resources where they are available. It will also identify and monitor trends in the type of work that agencies outsource with a view to building in-house capabilities. We are grateful for the work done by the Public Accountability and Works Committee of this House on the inquiry into the New South Wales Government's use and management of consulting services, which was reported on 29 May.

**The Hon. Courtney Houssos:** Hear, hear!

**The Hon. JOHN GRAHAM:** I acknowledge the interjection from the Minister for Finance, and I recognise her work in this area. That report rightly identifies core definitional issues. It reads:

When is a consultant not a consultant? When they have so successfully embedded themselves within our government agencies that they are no longer considered to be consulting, but rather have been contracted to provide core government functions. The creeping privatisation of core government functions is a serious concern both for the efficient use of public money and for the integrity and capability of government decision-making.

These reforms will assist to deliver core government business back to the public service where it should be concentrated as part of a broader reform program to invest and strengthen public sector capacity in New South Wales. Analysis by the New South Wales Auditor-General showed that, in its last five years of office, the previous Government spent more than \$1 billion on external consultants. There were concerns raised about inadequate procurement procedures being in place and about the management policies that were in place at the time. New research by the New South Wales Government has revealed that consultants were engaged more than 10,000 times over those same five years, or a rate of one per working hour.

This is a bill that is fiscally responsible, making sure expenditure is good value for the people of New South Wales and that the Government deals with that consultant problem. This is also a bill that will return transparency and accountability for the public sector. Finally, this bill will enable the Public Service Commissioner to have a sharp focus on upholding ethics, integrity and the principles of merit appointment in the public service. The remade mandate will mean that the merit and integrity functions will be the core focus of the commissioner, with the intention that this clarifies their role as an impartial and independent umpire in recruitment and employment matters across the public service. I commend the bill to the House.

**Debate adjourned.**

## **STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2024**

### **First Reading**

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

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

**Statement of public interest tabled.**

## Second Reading Speech

**The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (16:40):** I move:

That this bill be now read a second time.

The Statute Law (Miscellaneous Provisions) Bill 2024 continues the Statute Law Revision Program. I am sure members will be familiar with the program, which has been in place for 40 years. The program produces statute law revision bills, like this bill, which have featured in most sessions of Parliament since 1984. Statute law revision bills are an effective method for making minor policy changes. They also serve as an important mechanism to maintain the quality of the New South Wales statute book. This bill does so by updating references arising from machinery of government changes, removing typographical errors, updating cross-references and repealing redundant provisions.

Schedule 1 to the bill contains policy changes of a minor and non-controversial nature. The schedule gives effect to proposals that are of such minor consequence that they do not warrant the introduction of a separate amending bill. The schedule contains amendments to 27 Acts and regulations. I will outline some of these amendments for the House. Schedule 1 includes an amendment to the Climate Change (Net Zero Future) Act 2023 to clarify that the Net Zero Commission's annual reports must be tabled in both Houses of Parliament within 28 days from the day the relevant Minister receives the report from the commission. Schedule 1 also amends the Food Act 2003 to clarify that authorised officers may make audio, audiovisual or other electronic recordings when making inquiries, investigating offences or requiring a person to provide information or answer questions for the purposes of that Act.

Amendments to the Geographical Names Act 1966 are included in schedule 1. One of these amendments relates to the requirement imposed on the Geographical Names Board to publish notice of a proposal to assign or alter a geographical name to a place in a newspaper circulating in, or in the neighbourhood of, the relevant place. This amendment will allow the board to waive this requirement where there is no such newspaper, or the board otherwise considers it impracticable. This reflects the fact that in many areas of New South Wales there is no longer a local newspaper, or it otherwise may be impracticable to publish a newspaper notice. The board is still required to publish notice of any proposal to assign or alter a geographical name in the *NSW Government Gazette*.

Schedule 1 also amends the Marine Estate Management Act 2014 to clarify that the relevant Ministers' administering the Act may, by order in the *NSW Government Gazette*, revoke a marine estate management strategy made under that Act. The revocation would take effect on the day the order is published, or a later date specified in the order. The schedule makes minor and non-controversial amendments to the Interpretation Act 1987 proposed by the Parliamentary Counsel. Among these amendments are new definitions for the terms "business day" and "public holiday". This will remove the need for these to be separately defined in individual Acts and instruments while also ensuring consistency across the New South Wales statute book. An amendment is also included to clarify that when a legislative Act, instrument or provision is repealed on a day, that Act, instrument or provision is repealed at the beginning of that day.

The schedule also contains amendments that account for evolving technology and a consistent approach to the publication of information by departments and other public sector agencies. For example, the Births, Deaths and Marriages Registration Act 1995 and the regulations made under that Act are amended to provide that certificates and other documents issued under the Act or regulations may include a copy of the registrar's signature and seal rather than requiring the registrar's actual signature and seal. Other Acts, including the Biosecurity Act 2015 and the Fisheries Management Act 1994, are being amended to allow certain documents to be made available on a New South Wales Government website used by the relevant departments.

The schedule includes amendments to replace references to departments, and holders of offices within departments, which are outdated as a result of machinery of government changes affecting the operation of relevant Acts. For example, both the Gas Supply Act 1996 and the Heritage Act 1977 are amended so that a reference to the "Department of Planning and Environment" is replaced with a reference to the "Department of Climate Change, Energy, the Environment and Water". Similarly, the Environmental Trust Act 1998 is amended so that a reference to the "Chief Executive of the Office of Environment and Heritage" is updated to be a reference to the "Secretary of the Department of Climate Change, Energy, the Environment and Water".

I turn now to the amendments to the Subordinate Legislation Act 1989. The bill postpones the automatic repeal of a number of regulations, including the Boarding Houses Regulation 2013 and the Crimes (Administration of Sentences) Regulation 2014, which would otherwise occur on 1 September 2024. These regulations have already been postponed on five or more previous occasions and cannot be further postponed by order. The amendments extend the repeal of the regulations to 1 September 2025 to ensure that further work can be undertaken in reviewing these important regulations. An amendment is also included to exempt the Road Rules

2014 made under the Road Transport Act 2013 from automatic repeal. This is because the Road Rules 2014 are part of a national scheme of road rules that are regularly reviewed by road safety experts and updated as necessary. It is therefore not appropriate that they be subject to the automatic repeal process.

Schedule 2 to the bill deals with matters of pure statute law revision, consisting of minor technical changes to legislation that the Parliamentary Counsel considers are appropriate for inclusion in the bill. This includes amendments to 13 Acts and instruments to fix typographical errors, correct provision numbering and omit redundant provisions. Schedule 3 to the bill contains general savings, transitional and other provisions that are standard to statute law revision bills. This includes a provision allowing for regulations to be made that are of a savings or transitional nature. I hope that these examples of provisions contained in the bill, which are representative of provisions contained in the broader bill, demonstrate to members the uncontroversial nature of the bill.

The bill is nonetheless important to give effect to minor policy changes that do not warrant bringing a separate bill before the House and to otherwise make small amendments to a variety of Acts, which will maintain the high quality of the New South Wales statute book—a quality which is known around the nation. If an amendment contained in the bill causes concern to any member, or requires clarification, members should bring these matters to the attention of the Government. We can arrange for government staff to provide clarification or additional information in relation to any provision contained in the bill if required. If any particular concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill, as has often been done in previous sessions. I reiterate that I encourage members to bring any of their concerns to the Government, and we will deal with them in the ordinary way. I commend the bill to the House.

**Debate adjourned.**

## **BAIL AND OTHER LEGISLATION AMENDMENT (DOMESTIC VIOLENCE) BILL 2024**

### **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) (16:49):** On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

Our Government is committed to taking urgent action to address the unacceptable and persistently high rates of domestic violence in this State. Recent horrific events have understandably shocked our New South Wales community and have highlighted just how critical it is that we have the right measures in place to respond to high-risk domestic violence offending. Our Government has heard the community's concerns about domestic violence. We have heard them say that we need to do more, and we know that we need to do more. Nearly one in four women and one in eight men in Australia have experienced violence by an intimate partner or family member since the age of 15. Those figures are completely unacceptable.

I take a moment today to recognise and express my deep sympathy to the victims who have lost their lives as a result of domestic violence, and their friends and families. I cannot imagine their pain. To those in our community who have experienced, or are experiencing, domestic and family violence, that never should have happened to you. There is no excuse for domestic abuse and our Government is taking urgent action to improve outcomes and to hold perpetrators accountable for their actions.

We know that addressing domestic and family violence is challenging and requires a multifaceted response. On 6 May our Government announced that we will provide \$230 million over four years as part of an emergency package to enhance support for domestic, family and sexual violence victim-survivors, and expand programs that reduce the rate of violence against women and children. The package includes funding for crisis response, improving the justice system for victims, early intervention, primary prevention, strengthening the domestic and family violence service sector, and research.

The bill is an important part of the Government's response and demonstrates our commitment to take urgent and serious action to combat domestic and family violence. The bill includes measures that target high-risk domestic violence offenders and will ensure that red flags in domestic violence matters are considered by courts in bail applications. These are measures that we hope will keep victim-survivors safer. The bill will expand the offences to which the show cause requirement under section 16B of the Bail Act 2013 applies to include "serious domestic violence offences" and the new coercive control offence.

The bill requires a bail authority, when applying the unacceptable risk test, to consider two additional matters. First, it introduces a new provision that explicitly requires the bail authority to consider behaviour

engaged in by the accused that may constitute domestic abuse, including but not limited to strangulation, sexual assault, animal abuse and stalking. Second, in the case of domestic violence offences against a current or former intimate partner, the bail authority must also consider any views put by the victim or their family members concerning their safety and the safety of others in the community. All members will agree that these are extremely reasonable provisions for the court to consider in these matters.

In the case of serious domestic violence offences, if bail is granted despite the strengthened show cause and unacceptable risk provisions, the bill also provides that an electronic monitoring condition be imposed. This means that the likely outcome of a bail application for a person charged with a serious domestic violence offence will be that either the person is remanded in custody or is subject to electronic monitoring. It will also provide that the decision of a bail authority to grant bail is stayed, pending the making of a detention application to the Supreme Court by the prosecution for a serious domestic violence offence, the coercive control offence and sexual assault offences under part 3 of the Crimes Act 1900. A Government amendment in the other place means that registrars will no longer make bail decisions in the Local Court. The Department of Communities and Justice and the Local Court are working to make operational and resourcing changes to implement this.

The bill also streamlines the procedures for prosecutions of offences relating to the use of tracking devices under the Surveillance Devices Act 2007 in a domestic abuse context. I reiterate that the bill is just one part of an ongoing package of reforms that seeks to prevent domestic, sexual and family violence in New South Wales. Across Government, work will continue on this important issue. There is more to come. In my portfolio area of housing, I absolutely accept that housing and homelessness is a major barrier for the prevention of violence against women and keeping women and children safe, and that there is more to do in that space. We will continue to consult with our valued domestic and family violence sector stakeholders to bring forward further reforms to improve our justice system for victim-survivors of domestic, family and sexual violence.

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

### **Leave granted.**

#### **The Bill**

I now turn to the detail of the bill. **Schedule 1** introduces several new requirements into the Bail Act 2013 to strengthen the legislative framework governing bail for domestic violence offenders.

**Schedule 1, item [1]** inserts three new definitions into section 4 of the Bail Act 2013, all relating to family and domestic violence.

Domestic violence offence has the same meaning as provided for in section 11 of the Crimes (Domestic and Personal Violence) Act 2007.

The bill also introduces two definitions tailored to this legislation. The first definition is for an "intimate partner". An intimate partner of a person is someone who is or has been:

- married to them
- their de facto partner, within the meaning of section 21C of the Interpretation Act 1987
- in an intimate personal relationship with them, whether or not that relationship involves or involved a relationship of a sexual nature. This limb is intended to capture other romantic relationships, including relationships where two people may be waiting until marriage to commence a sexual relationship.

The definition of intimate partner incorporates current and former intimate partners and mirrors the definition in section 54C of the Crimes Act 1900, which is part of the coercive control reforms that will commence on 1 July this year. The definition is also aligned to the existing provisions in section 5 (1) (a), (b) and (c) of the Crimes (Domestic and Personal Violence) Act 2007 which defines "domestic relationship". The scope of this definition should be interpreted in the context of those provisions and the general understanding of the term "intimate partner".

The second new definition is for "serious domestic violence offence", which means an offence under part 3 of the Crimes Act 1900 which carries a maximum penalty of 14 years imprisonment or more when committed against an intimate partner, or a corresponding offence committed in another jurisdiction. Examples of offences that would fall within the scope of this definition, when committed against an intimate partner, include causing grievous bodily harm with intent, or strangulation to render a person unconscious, insensible or incapable of resistance with the intention of enabling the commission of an indictable offence.

**Schedule 1, item [2]** to the bill expands the show cause requirement in division 1A, part 3 of the Bail Act 2013 to include two new categories of offences.

In New South Wales, a bail decision must be made following a two-step process. First, where applicable, a bail authority must refuse bail for a show cause offence unless the accused can show why their detention is not justified. This is a high threshold and the onus rests on the accused. The show cause test does not apply to young people under the age of 18.

The bill will add two new categories of offences to the list of show cause offences in section 16B (1) of the Bail Act 2013.

Proposed section 16B (1) (cl) will add offences that fall within the new definition of "serious domestic violence offence" to show cause.

Proposed section 166 (1) (c2) will add the new coercive control offence in section 54D of the Crimes Act 1900 as an offence to which the show cause requirement applies.

The new coercive control offence is yet to commence, and comes into force on 1 July 2024. The offence will make it a crime to for an adult to engage in a course of conduct consisting of abusive behaviour against a current or former intimate partner. The coercive control offence will apply if the adult intends the course of conduct to coerce or control the other person.

This offence will directly criminalise patterns of abusive behaviour which have the cumulative effect of denying victim-survivors their autonomy and independence. This abuse can include physical, sexual, psychological or financial abuse. Coercive control has often been said to go to the heart of domestic abuse. It is for this reason that such an offence should be treated with the kind of seriousness that comes from being a show cause offence.

Expanding the show cause requirement to include coercive control and "serious domestic violence offences" will keep victims and survivors safer. It will mean that people charged with these serious offences will not be granted bail unless they can meet the high threshold of showing that their detention is not justified.

The second step for all bail decisions (including show cause offences, where the show cause threshold has been met) is the application of the "unacceptable risk" test in division 2, part 3 of the Bail Act 2013.

The unacceptable risk test requires a bail authority to determine if there is an unacceptable risk that an accused person will:

- fail to appear at any proceedings for the offence;
- commit a serious offence;
- endanger the safety of victims, individuals or the community; or
- interfere with witnesses or evidence.

If the bail authority determines there is an unacceptable risk, on an assessment of bail concerns, bail must be refused.

Section 18 of the Bail Act 2013 sets out an exhaustive list of matters that the court must consider as part of the assessment of bail concerns.

**Schedule 1, item [3]** to the bill amends section 18 (1) of the Bail Act 2013 to require explicit consideration of key factors related to domestic violence offending. This will apply in all domestic violence matters—not just those involving intimate partners.

Proposed section 18 (1) (d1) will require a bail authority to consider any behaviour of the accused that may constitute "domestic abuse" under section 6A (2) of the Crimes (Domestic and Personal Violence) Act 2007. A range of behaviour may constitute "domestic abuse" under this subsection, including involving both physical and non-physical abuse. In particular, behaviours that may constitute domestic abuse include behaviour that is physically or sexually abusive, behaviour that is economically or financially abusive, behaviour that is stalking or that causes an animal injury or death, and behaviour that keeps someone away from their family. This reflects that the behaviours which make up domestic abuse can vary depending on the circumstances and are not just limited to conventional notions of physical violence.

Proposed section 18 (1) (d1) also contains a non-exhaustive list of examples of conduct that may constitute domestic abuse, including strangulation, sexual assault, animal abuse and stalking. The proposed new section 18 (1) (d1) will ensure that "red flag" behaviour, as identified by the domestic and family violence service sector, is considered as part of the mandatory assessment of bail concerns.

Existing section 18 (1) (o) presently requires a bail authority to take into account, for serious offences only, any available views of the victim or family members relevant to a concern that the accused person could endanger the safety of victims, individuals or the community. **Schedule 1, item [4]** extends this provision to all domestic violence offences against an intimate partner, meaning that in all of these matters, the views of the victim and victim's family can be taken into account, even where they do not fall into the definition of "serious offence". This will ensure that any available victim views about their safety will be a mandatory matter the court must consider when assessing bail concerns.

**Schedule 1, item [5]** inserts proposed new section 288, requiring a court to impose an electronic monitoring condition on any accused person charged with a "serious domestic violence offence", to whom the new show cause requirement will apply, if they show cause and are ultimately granted bail. The electronic monitoring condition must be imposed unless the bail authority considers that there are sufficient reasons, in the interests of justice, to justify not imposing this condition. I note that this requirement will only come into effect if the accused has both met the show cause threshold, and the unacceptable risk test, as a further and final safeguard aimed at improving victim-survivor safety and reducing the risk of further offending.

New section 28B (3) (a) clarifies that while electronic monitoring must be imposed in matters to which new section 28B applies, the provision does not interfere with or alter the existing powers of bail authorities, in other cases to which the provision does not apply, to make orders for electronic monitoring to address bail concerns as may occur during the imposition of conditions in accordance with section 20A.

New section 28B (3) (b) makes clear that the new electronic monitoring provision that will be provided for in section 286 (2) will not be a reason why an accused person is either able to show cause, or is able to satisfy a court that there is no unacceptable risk. The purpose of the electronic monitoring provision is to capture those people who are granted bail after satisfying the show cause and unacceptable risk tests without regard to electronic monitoring. It does not to provide for a further way that those tests may be satisfied.

I note that the requirements in section 20A for bail conditions to be imposed only if the bail authority is satisfied that they are reasonably necessary, proportionate, appropriate, practicable, likely to be complied with and reasonably practicable will not apply to the new provision. New section 28B is not subject to this limitation. It requires rather than empowers the bail authority to impose the electronic monitoring condition and sits outside the unacceptable risk test.

**Schedule 1, item [6]** will provide that the electronic monitoring provision can be imposed as a pre-release condition, so that an accused can be held in custody until it is met.

Because implementing programs for electronic monitoring is complex and requires the necessary infrastructure and processes to be established, the bill provides that the new electronic monitoring requirement will commence on proclamation, once necessary arrangements have been made.

Proposed new section 28B (4) and, in schedule 1, item [7], proposed section 29 (5A) insert regulation making powers to provide for the making of regulations to matters relating to the supervision, monitoring and enforcement of electronic monitoring imposed under these amendments to support the implementation of the electronic monitoring provisions.

Turning now to the amendments relating to the stay of bail decisions where the prosecution seeks to make a detention application to the Supreme Court, following a decision to grant or dispense with bail.

Section 40 of the Bail Act 2013 currently allows a decision to grant or dispense with bail to be stayed for certain "serious offences", pending a detention application being determined by the Supreme Court. A "serious offence" is currently defined under section 40 (5) of the Bail Act 2013 as an offence of murder, any other offence punishable by life imprisonment, or an offence (or attempted offence) involving sexual intercourse with a person under the age of 16. Where a stay operates, the accused remains in custody for up to three business days to allow the detention application by the prosecution to be heard.

**Schedule 1, item [8]** amends the definition of "serious offence" at section 40 (5) of the Bail Act 2013 to include "serious domestic violence offences", the new coercive control offence pursuant to section 54D of the Crimes Act 1900, and offences under part 3, division 10, subdivision 2 of the Crimes Act 1900. Subdivision 2 includes very serious adult sexual assault offences, including the offences of sexual assault and aggravated sexual assault.

This amendment will ensure that, where the prosecution in a serious domestic violence matter, coercive control matter, or a sexual assault matter, disagrees with a bail decision made in the Local Court and wishes to make a further detention application to the Supreme Court, an accused charged with these offences will remain in custody while awaiting the further Supreme Court detention application. Expanding the category of offences that stays apply to aims to help to mitigate immediate risks posed to the community and victims by providing an avenue for a detention application to be heard by the Supreme Court while the accused person remains in custody.

**Schedule 1, item [9]** arises from a Government amendment in the other place and provides that registrars cannot make bail decisions. This means bail decisions in the Local Court must be made by a magistrate. I echo the Attorney General's comments in the other place acknowledging the hard work of registrars in New South Wales. This amendment enshrines, and builds on, the Government's public commitment to ensure that weekend bail decisions are made by magistrates. Consultation continues to occur with legal stakeholders on the implementation and resourcing of this measure.

**Schedule 1, item [10]** was inserted by an amendment in the other place and provides that a statutory review be commenced after the provisions have been in place for three years. This will supplement an administrative review by the Department of Communities and Justice after 12 months and consideration of the provisions in the bill by the Coercive Control Implementation and Evaluation Taskforce in its first annual report.

Finally, I note the transitional provisions in **Schedule 1, item [11]**, which provide that the new bail provisions will apply to bail determinations from the date they commence, and will apply to accused persons already charged with offences now captured by the provisions if they come before the Court again for a bail determination.

#### **Schedule 2 - Surveillance Devices Act 2007**

I now turn to **Schedule 2** of the bill, which amends the Surveillance Devices Act 2007 (Surveillance Devices Act). This is a small, but important change in relation to the use of tracking devices.

It has been recognised in this place and in the broader community that one way in which perpetrators of domestic abuse maintain their domination and control over their victims is through tracking them and knowing where they are.

This might be, in some cases, physically stalking their victim, but we also know that technology often is a critical component of this.

Now, the use of a tracking device without a person's consent is already a criminal offence. Section 9 of the Surveillance Devices Act makes it an offence to knowingly install, use or maintain a tracking device to determine the geographical location of a person (without their consent) or an object (without the consent of the person in lawful possession or control of the object). This offence carries a maximum penalty of five years imprisonment and/or a fine of 100 penalty units (\$11,000).

However, under section 56 of the Surveillance Devices Act, the Attorney General's written consent is required to institute proceedings for any of the offences under the Act.

This power has been delegated to the Director of Public Prosecutions, by order published in the Government Gazette No. 86 on 31 August 2012, pursuant to section 11 (2) of the Director of Public Prosecutions Act 1986.

In practice, the Director of Public Prosecutions provides the relevant consent, but this must be done personally as the power cannot be delegated further. This process is restrictive and may present a barrier to greater use of the offence in circumstances of domestic violence.

The actual amendments themselves are simple. **Item [2] of schedule 2** provides an exception to the consent requirement for prosecution of offences under section 9 of the Act, where such an offence is charged as a domestic violence offence.

The definition of "domestic violence offence" in the bill takes its meaning from section 11 of the Crimes (Domestic and Personal Violence) Act 2007, which ensures consistency across the statute book. Importantly, as per section 11 (1) (c), any offence can be considered a domestic violence offence where the conduct which constitutes the offence is 'domestic abuse' as defined under section 6A of that Act.

In removing the requirement for Attorney General consent for prosecutions where the tracking device offence is charged as a domestic violence offence, this will facilitate its greater use as one way the criminal justice system can respond to this kind of domestic abuse.

#### **Commencement**

The bill will commence on proclamation.

As I said earlier, in relation to the electronic monitoring provisions, the implementation of electronic monitoring programs is not straight -forward and we will need to take some time to establish the necessary infrastructure and processes for that to occur—these provisions will commence once that has taken place.



In relation to the remainder of the measures in the bill, the NSW Police Force have requested time to ensure that all of their systems and officers are ready to implement these changes across the State, which is a significant task. Other agencies, including the Courts, will also need to undertake necessary implementation work. To facilitate that, the remainder of the bill also commences on proclamation.

### Conclusion

This bill is the first part of the Government's legislative reform in this space. We think it is a strong start with, in particular, critical improvements to our bail framework.

I want to take this moment to thank the domestic and family violence sector for their constructive discussions and advice—particularly over recent weeks. Thank you for your engagement, for your recommendations, and for your expertise. We look forward to continuing to work with you on further important reforms in this space.

To ensure that the bill is meeting its intended objectives, the Attorney General will ask the Department of Communities and Justice to conduct an administrative review of these provisions 12 months after their commencement.

I understand that the Bureau of Crime Statistics and Research will be monitoring and publicly reporting on the operation of bail when a person is charged with coercive control. This monitoring will be overseen by the Coercive Control Implementation and Evaluation Taskforce. The Attorney General will also request the Chairperson of the Coercive Control Implementation and Evaluation Taskforce to include consideration of the provisions in the bill relevant to the coercive control offence in its first annual report, which will be delivered 12 months after the commencement of the relevant provisions later this year.

This bill is a starting point, not the end. In the days, weeks and months ahead, there will be much ongoing work done by the Government to continue to improve our responses to domestic, family and sexual violence. We look forward to working with all members constructively as we continue to move further towards eradicating domestic abuse.

I commend the bill to the House.

### Second Reading Debate

**The Hon. SUSAN CARTER (16:55):** I contribute to debate on the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. We acknowledge that hard cases make bad laws, but if we do not reflect on tragic cases, and learn from them, then we are unlikely to craft good laws. The death of Molly Ticehurst in Forbes a few weeks ago is tragic. She was a young mother and a childcare worker. She was murdered where she was entitled to feel safe—in her own home, allegedly by a former partner. He was a man on bail, whose bail conditions were meant to prevent him from being in the same town as her but whose bail conditions, allegedly, could not stop this tragedy.

The death of Molly Ticehurst is a tragedy, but the greater tragedy is that it is not an isolated incident. According to Domestic Violence NSW, our police officers attend a domestic and family violence call approximately every two minutes, and 64 women were killed in 2023 by violence. Those are not just figures. They are mothers, daughters, sisters and aunts. Their tragedies call us to action. The murder of Molly Ticehurst should galvanise this Parliament to act on domestic violence in a way that is proven and capable of effecting real reform. That is exactly why we urgently prepared legislation introducing the additional requirement for electronic monitoring for some persons on bail. We built on our successful work with respect to electronic monitoring on parole, drafted this legislation in a timely fashion and introduced it in the Legislative Assembly last month. We sought to deal with the matter urgently.

With the Government's co-operation, we could already have had laws in place requiring electronic monitoring for certain persons on bail. The Government, however, needed more time to consider how it was to respond to this urgent issue of women's safety. We are now considering the Government's legislation, which we are happy to support. We are committed to working cooperatively and constructively for the safety of women and children. We are happy to support a bill in which the Government has clearly copied our homework. The bill is functionally the same as the bill introduced by the shadow Assistant Attorney General in the other place over a month ago. I confess that I am perplexed as to why the Government voted down the motion of urgency moved by my colleague at that time, only to introduce its own version of the bill now. Whatever the reason and whatever the delay, we now want to focus on results and practical safety protections.

The bail system is an integral part of the justice system and an important practical recognition of the doctrine of innocent until proven guilty. It also balances the rights of the accused with the need to protect alleged victims. This bill, as did our bill, rebalances the scales of justice and, importantly and necessarily, recalibrates the balance between rights and protections in favour of protections. I had intended to move an amendment to the bill, but very happily the Government has accepted the spirit of the amendment that we were going to move. We feel very strongly that it should be magistrates, not registrars, who make bail decisions. I was delighted to see that in the other place the Government was prepared to move in this way, despite its earlier objections. I am also delighted to see that the Government's press release today puts some real resources behind this important move, because without these measures being resourced, they are only words on paper. However, one issue still remains with the bill, which I flag as a matter of concern. The provision of clause 2 of the bill provides that:

This Act commences on a day or days to be appointed by proclamation.

In other words, there is no definite time frame for the introduction of these reforms. The phrasing "day or days" makes it clear that some reforms—for example, the bail law changes—can be introduced without the complementary reforms of electronic monitoring. Clause 2 effectively provides that changes to our bail system, which we all realise are critically important for public safety, could begin a thousand Christmases from now. I fear that this is confirmation of this Government's track record of being a talking government rather than a doing government. We do not want the introduction of these reforms to be put off by this Government. We want action for community safety now. Having said all of this, this is a necessary and important bill. The Opposition is happy to support what is a good bill. We want to see the bill resourced and proclaimed so that it is actually working for the safety of women and their children.

**Ms ABIGAIL BOYD (17:01):** As The Greens' gendered abuse spokesperson, I speak in debate on the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. I thank my colleague the member for Ballina, Tamara Smith, for shepherding the bill through the Legislative Assembly on behalf of The Greens and securing one of our amendments in the process. Over the past month I have spoken a lot—even more than usual—in this Chamber about the events that have led to this current renewed focus on the domestic abuse crisis across our State; the views of victim-survivors, frontline workers, advocates and other experts on what steps we should take now to address the crisis; and whether the New South Wales Labor Government's response is helpful or sufficient. I am grateful that we have had this period of renewed focus. I think that, if nothing else, it has led to some increased awareness of the complexities of domestic abuse and a corresponding increase in respect for the views of victim-survivors, frontline workers, advocates and other experts.

Throughout my contributions on this topic I have been at pains to point out that, although there has been a renewed focus on the issues, domestic and family violence is not a new problem for our State to grapple with and that, fortunately, the solutions and paths forward are not new either—they have been consistently and diligently set out and explained by the experts to governments, year after year. Inquiry after inquiry, review after review, we already have a mountain of recommendations to get on with and implement in order to turn things around. We know what is not in those hundreds of recommendations: kneejerk bail law reform. These are carefully costed recommendations from the sector, which recognise that we cannot just do one or two things and expect a positive result but that we have to actually work to cover up every hole through which women and children are falling every day. Not one of them says the answer, or even part of the answer, is to deny bail to even more people in our State.

It is with sadness that yet another failing in our systems in New South Wales was revealed this morning, in an article in *The Guardian*, exposing that the Staying Home Leaving Violence program had also let Molly Ticehurst down—yet another program that has suffered from being part of a piecemeal and poorly funded approach to domestic violence in our State. Unable to ensure Molly's safety through the timely upgrade of security measures at her home, unable to ensure her safety through temporary refuge at crisis accommodation, left exposed in an unsafe property—that is the system of so-called supports for domestic violence victims in this State, failing with devastatingly tragic results. In the context of all the pressing services and programs requiring significant funding from the Government, it is important to remember that this bail law reform does not come without cost. It comes as a diversion of precious funding away from where it is needed most and towards a measure that lacks evidence to suggest that it will actually make any positive difference or would actually have kept Molly and other women like her safe.

The last major review of our bail laws by the NSW Law Reform Commission [LRC] was conducted in 2012. At that time, the legislation included a number of exceptions to the general presumption in favour of bail, including in respect of a domestic violence offence or in respect of an offence of contravening an apprehended domestic violence order [ADVO] by any act involving violence or by intimidation where the bail authority is satisfied that there is a history of violence. The NSW Law Reform Commission stated the following in its April 2012 report No. 133 entitled *Bail*:

We recognise the special need to protect people under threat of harm from a partner or family member. The current legislation deals with this topic in a cumbersome way by removing the presumption in favour of bail in relation to some domestic violence offences and by requiring exceptional circumstances to be established in the case of repeated serious personal violence offences. We recommend a clearer and more direct approach in two ways. First, we make specific reference to the likelihood that the accused person will harm or threaten a person with whom the accused person is in a domestic relationship. ... Secondly, we recommend an additional provision ... specifying matters to be taken into account when a threat of domestic violence is involved, including any history of violence and any failure to comply with a prior conduct direction of relevance.

These recommendations, which would have required bail authorities to look directly at the likelihood of harm to a particular person or persons based on certain specified risk factors, did not make their way into the new Bail Act when it was passed in Parliament in 2014. That is something The Greens hope to correct with the amendments that we will seek to move in the Committee of the Whole. However, the new Bail Act no longer contained the problematic exceptions to the presumption in favour of bail, as had been recommended by the Law Reform

Commission. In its 2012 report the LRC noted that while these exceptions had increased remand numbers, there was no evidence that they had led to any reduction in crime generally or in offending while on bail. Further, the LRC noted that the exemptions were:

... an unwarranted imposition on the discretion of police and the courts. It throws the emphasis onto the offence with which the person is charged or onto prescribed elements in the person's criminal history, instead of allowing a balanced assessment of all the considerations which bear rationally on the question of detention or release. It is voluminous, unwieldy, hugely complex and involves too blunt an approach. The results are frequently anomalous and unjust. The present scheme has contributed to the large increase in the number of people detained pending proceedings.

Unfortunately, however, it was not long after the new streamlined and thoroughly considered Bail Act years in the making came into effect that the Coalition and Labor took a sledgehammer to it at the behest of a right-wing shock jock—no prize for guessing who; I am looking at you, Ray Hadley. Within just five weeks of its enactment, the Act's structured presumption in favour of bail with a set of matters to be considered to justify the refusal of bail had been interfered with, and a new show cause provision had been inserted.

A show cause offence goes one step further than the pre-2014 exception to the presumption in favour of bail. It is an offence for which there is a presumption against bail unless the accused person can show cause why their detention is not justified. The show causes offences inserted in the first round of amendments to the Bail Act in 2014 were offences with a maximum penalty of imprisonment for life, those involving child sexual assault, certain serious personal violence offences and serious indictable offences, and other drug and firearm offences. The Greens of course opposed the insertion of the show cause provision in 2014, alongside all of the prominent legal, human rights and civil liberties organisations in our State.

Here we are again. The bill before us seeks to extend the list of show cause offences to now include a "serious domestic violence offence" and "an offence under the Crimes Act 1900, section 54D". Again The Greens are opposed to this amendment, and again we are joined in that opposition by the likes of the New South Wales Bar Association and the NSW Council for Civil Liberties. As the President of the New South Wales Bar Association said on 17 May 2024 in a media release, these changes "will inevitably result in the lengthy incarceration of many accused persons who will be acquitted or have their matters withdrawn or not proven".

I will turn first to new section 16B (1) (c1). A "serious domestic violence offence" is defined as an offence under part 3 of the Crimes Act 1900 with a maximum penalty of 14 years imprisonment or more if the offence is committed by a person against an intimate partner or a similar offence under a law of another Australian jurisdiction. Part 3 offences are "offences against the person" and those offences with a maximum penalty of 14 years imprisonment or more include murder, manslaughter, attempted murder, wounding or grievous bodily harm with intent, sexual assault and kidnapping. It does not include choking, suffocation and strangulation, assault occasioning actual bodily harm, common assault, sexual touching, child abduction, recording an intimate image without consent, threatening to record or distribute an intimate image, or threatening murder or harm.

New section 16B (1) (c2) refers to the offence under section 54D of the Crimes Act, which is, of course, the new coercive control offence. I have spoken at length both in Parliament and in other places about how deeply flawed the new coercive control offence is and how unlikely it is to ever result in a successful prosecution or to actually prevent incidents of harm in its current form. However, the threshold for charging a person with coercive control will be lower than the threshold for prosecuting that person for coercive control, let alone having them then found guilty of it. In the context of a bail decision, the danger of that new coercive control offence being used to charge someone in circumstances where they have been misidentified as the primary aggressor or where the victim does not wish for the perpetrator to be remanded cannot be minimised by reference to how poorly the offence is drafted.

A defence lawyer may well be able to drive a truck through those provisions, and a victim may well never be found who is willing to be cross-examined in court as to the degree of harm they have suffered at the hands of their abuser, but that does not prevent the charge being laid in the first place. That is where show cause provisions have the potential to cause particular injustice. Unless you can show cause as to why the accused should not be remanded, the considerations as to whether or not the person presents a risk to individuals or the community at large under section 18 (1) in the Bail Act do not come into play. With the amendments proposed in the bill, we could end up with people being remanded against the wishes of the victim, where they pose no realistic threat or in circumstances where the accused is very unlikely to receive a jail sentence.

That is the point. We do not need a show cause provision to stop dangerous people being released on bail; we need bail authorities to follow the provisions of the Bail Act and consider each of the matters under section 18 (1). If the matters in section 18 (1) lead a bail authority to be concerned that the accused will endanger the safety of any person, commit a serious offence or not turn up at court when required, they are to be denied bail. And if the accused does not cause that concern, they are to be bailed. By introducing a show cause offence, we will end up denying bail to those who would not be considered a risk while not catching additional people who

would in any event be considered a risk under section 18 (1). In other words, the show cause provision is a red herring; it gives the appearance of being tough on crime while achieving no net effect other than remanding more people who are in all likelihood not needing to be remanded.

The March 2024 Bureau of Crime Statistics and Research [BOCSAR] statistics show that the number of adults on remand in New South Wales is the highest it has ever been. The cost of remanding all those people is huge—an amount that could be much more effectively spent to support frontline domestic and family violence prevention, response and recovery programs and initiatives. That said, it is clear that bail authorities have made decisions that, at least in hindsight, were not necessarily the right ones. And it is clear that the judiciary does not uniformly understand the complexities of domestic abuse cases, particularly when it comes to coercive control.

That brings us back to the NSW Law Reform Commission's 2012 bail report and its recommendation—which was never taken up—that we be more specific when it comes to the matters that need to be considered when deciding whether or not bail should be granted to someone accused of domestic violence offences. The amendments that The Greens will move in the Committee of the Whole will remove the show cause offence and insert instead the matters recommended by the LRC to ensure that the bail authority closely considers the risk of harm to a particular person or people by reference to a list of factors.

The Greens are not wholly comfortable with limiting the discretion of the bail authority by introducing a presumption of electronic monitoring in cases where a person has been granted bail; however, we are willing to support those provisions on the basis that they be properly reviewed three years after they first take effect to assess not only whether they can play a positive role in keeping victim-survivors safe but also whether they can reduce victim-survivor anxiety, and in order to inform next steps on their usage in the context of domestic abuse cases. Unlike bail law reform, the sector has been interested for some time in the use of electronic monitoring in domestic violence cases, and there is perhaps some benefit in using this legislation as an opportunity for a trial of sorts, the results of which may be useful in helping us work out how to make its use effective in reducing harm.

However, let us look at how that provision is supposed to work in practice. First, the provision only applies to those who have not only shown cause against the presumption of no bail but also then passed consideration of the criteria in section 18 (1) to show that they are not an unacceptable risk. They are then released on bail and there is a presumption that they are then required to wear an ankle monitor. We are talking about a person not considered to be a significant risk to victims or the community but still considered risky enough to be required to wear an electronic monitoring device. The drafting in relation to this is not great. Really, we should at least be only talking about bail where a conduct requirement has been imposed requiring the accused to be located in particular places at particular times, and we will move an amendment to that effect.

But the effect of the entirety of those new provisions is that we are going to be putting ankle monitors on people who have reason to be out of prison, perhaps for work or family responsibilities, who are not considered an unacceptable risk and where the victim is unlikely to have expressed any strong views against the bail. They could, under the current drafting, even end up being permitted to continue living with the victim-survivor, which makes the electronic monitoring seem like very poor value for money indeed. We know from electronic monitoring that very minor breaches—for example, the accused catching the wrong bus but still getting on and off the bus at prescribed places—could be a technical breach resulting in the accused ending up in prison. It is a whole lot of palaver and messing around at great cost for no real expected benefit in terms of victim safety at this stage.

The end result of all of that—the taking away of discretion from the judiciary in cases that are by their nature incredibly complicated and requiring of far greater understanding by the community at large if we are to ever reduce domestic violence incidents—will be a far higher number of people on remand. As I have said, the cost of that remand is huge. As mentioned, the latest statistics from the New South Wales Bureau of Crime Statistics and Research indicate that in March 2024, the number of adults on remand was the highest on record. The number of First Nations people on remand is 28.5 per cent of those incarcerated, despite them making up only 3.4 per cent of the New South Wales population. There are also hundreds of children on remand.

New South Wales has the highest rate of adult imprisonment in Australia at a cost per person of \$298 per day, or \$108,890 per adult per year, according to the Justice Reform Initiative. Of those, 39 per cent are on remand. Over half a billion dollars is spent every year keeping adults behind bars before they have had a fair trial. The BOCSAR March statistics indicate that more adults were in custody in New South Wales for domestic violence offences in March 2024 than at any other time. Those adults made up around one-quarter of the total numbers. More than half of them were on remand. The bill before us will of course increase the number of those accused with domestic and family violence offences being denied bail, and will increase the cost of remand for domestic and family violence offenders significantly. For those not remanded, there will be a cost for electronic monitoring. All up, that is a huge amount of money going to something that no actual evidence suggests will reduce the numbers of domestic homicides or domestic and family violence incidents.

Unlike the multitude of programs and services that that same money could go towards funding that are evidence based, that have a proven record of reducing harm and that the Government has been consistently asked to fund year after year by a domestic violence sector that knows what it will take to turn the crisis around, the bail reform is a costly measure with very high chances of having no significant positive impacts. That is the decision we will make today when we pass this bill. On the whole, perhaps it is better than nothing. It certainly looks like it is all we are going to get. I can understand why a sector so worn down by its disappointment with successive governments is giving the bill its lukewarm support. But, given the choice, no-one would be directing that amount of funding to the bail reform in this bill. It is a heartbreaking waste of money in the context of such systemic underfunding of our domestic abuse response as a whole.

As always, I am grateful for the advice and wisdom shared with me by the domestic and family violence sector in New South Wales and across Australia. I also thank the Attorney General's staff, particularly Larisa Michalko, for making themselves available and spending time to discuss our concerns with this bill and the reasons for the amendments that we will be moving during the Committee of the Whole. I put on record my thanks to my incredibly hardworking team for its support over the past couple of months. Particularly, I mention my senior policy adviser, Angus Hoy, who has done an enormous amount of work on this bill and never ceases to impress with his conscientious, creative and compassionate approach to all of the work we do together in this place. We do not oppose the bill.

**The Hon. ROD ROBERTS (17:19):** I contribute to debate on the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. I too support this bill, but that support comes with a caveat that I will get to shortly. It is good for a change to see something come out of the Attorney General's office that I can put my support behind. I am particularly persuaded by the changes to the presumption and show cause provisions for serious domestic violence offences. My colleague Mark Latham and I have argued for bail law changes for domestic violence offences since the time we first came to this Chamber. To that point, I remember Mark Speakman once saying somewhere—I cannot recall exactly where—that there is a 30 per cent reduction in reoffending when people wear ankle bracelets, for example. I say to members that if we lock somebody up in jail, there is a 100 per cent reduction in reoffending in the domestic violence space. We should consider that, and this bill is going towards it.

I also support the change to provide that magistrates, and not registrars, make decisions relating to bail. My concerns come from the ankle monitoring provisions of the bill. On 9 May I spoke in the media about this. To the shock and horror of members of The Greens, I was on shock jock radio 2GB with Ben Fordham, talking about this particular issue and my concerns about ankle bracelet monitoring. I want victims of domestic violence to be well protected and well looked after by our society. I spoke about those concerns on Fordham's program at 7.15 a.m. At 12.31 p.m. that day *The Daily Telegraph* reported:

While the Premier said the government was looking into changing the way AVOs were monitored, the new reform is unlikely to include provisions for electronic ankle monitoring bracelets.

He said that not only was ankle monitoring expensive but it also required a large number of policing resources to monitor should an offender breach their AVO.

The report went on, quoting the Premier:

"We are looking at that (electronic monitoring) closely, but I have to tell you that the challenges with ankle monitoring are this – firstly trials of ankle monitoring across the country have been very small and quite limited," he said.

I agree. The Premier went on:

"It's not just the upfront capital costs, you also need to make sure that you've got policing in place that can monitor and respond to a potential offender breaching their apprehended domestic violence order."

He had heard me. He was right in his concerns, yet the Government continued to pursue it. Let us go back to reality, which is the world in which I live. Members already know that we do not have enough police officers in New South Wales as it is. For the benefit of members, I will rattle off a list of the populations of a number of major regional locations: Cooma, 6,447; Deniliquin, 6,431; Narrandera, 3,700; Tumut, 6,500; Cootamundra, over 5,500; Ulladulla, 14,500; Merimbula, 8,200; Bega, 4,500; Young, 7,000; Yass, over 5,500; Singleton, 25,000—the Hon. Emily Suvaal would know that; Casino, 10,000; Nambucca Heads, 6,500; Wingham, 5,000; and the list goes on. Forbes, where poor Molly Ticehurst was tragically killed, has 9,300 people. Other towns on the list are Cowra, with a population of 12,500; Glen Innes, 6,500; and Narrabri, 12,700. Those towns, with large populations, do not have 24-hour police stations. Do members believe, in this day and age, that towns of that size with such dense populations do not have 24-hour police stations?

That might be well and good here in the Sydney metropolitan area, where a police station can be closed because the next adjoining one is only five minutes down the road. But as members saw with the tragic police tasering of Clare Nowland in Cooma, the situation is different in regional areas. I note that I believe police should

never have been called out to respond to that incident in the first place, but we will pass over that in this debate. Those officers were woken up at 4.00 a.m., drove into the police station, put their uniform on, got their appointments on, waited for their colleague to turn up, unlocked the gun safe, got the guns out, locked the gun safe, locked the police station up, got in the car and drove to where the job was. That took in excess of 30 minutes.

Let us now look at the example of a domestic violence offender in a regional town. I will again use Cooma as the example, where the population is 6,500. A fellow—and it is predominantly a fellow, unfortunately, although members must acknowledge there are women who are domestic violence offenders—gets released under this scheme and is wearing an ankle monitoring bracelet. Let us say the bracelet is monitored here in Sydney. Those monitoring it will see he is in breach of his conditions and is heading in the direction of the victim's house. What is going to happen? First of all, they tell me the monitoring centre will ring the offender and say, "By the way, you're in breach of your conditions. You're heading too close to the no-go zone." As if some violent domestic violence offender cares about a phone call!

Those monitoring the bracelet will then call the police. Who is going to respond in Cooma? The cops are in bed. The nearest 24-hour police station is in Queanbeyan, 100 kilometres and an hour away. That is on the pretence that the Queanbeyan police are not busy doing something else already. Who is going to respond to this poor woman when old mate's there knocking on the door? They usually do not knock; they kick it in. Who is going to come to her help? There is no-one. It will take at least half an hour to ring the cops and get them out of bed. Some wag—a member of the Liberal Party whom I will not name—said to me, "But hang on a second. They'll also ring the victim and tell them, 'Listen, old mate's on his way. Enact your safety plan.'" What is the safety plan for a female domestic violence victim in the country?

The first thing would be to go to the police station, but it is locked—it is no good going there. She will probably go either to her parents' place or her best friend's place. You don't think old mate, who also lives in the country town, does not know where her parents or her girlfriend live? Just two weeks ago we saw a similar tragic circumstance in Western Australia. What good is the safety plan? This comes from people in the Attorney General's office, who have never lived in the bush. What happens if this woman does not have a car? I can tell members that where I live in Goulburn, with a population of 25,500, there are no taxis after the club closes at midnight. We have never heard of Uber in the country. How is she going to get anywhere to enact this safety plan?

It is a fallacy. We are setting these women up with a false sense of security. The bill will not protect them to the extent that people make out it will. Even if she does have her own motor vehicle, how many cars do members think are on the road in Cooma at 3.00 a.m.? There are not too many. It will be the offender's car and hers. He will say, "There she goes, driving down the road." Unfortunately, we know of tragic events where men have driven a car into their spouse's car and run them off the road. Saying ankle bracelets will protect our victims is false. It may well work in the city, but it will not work in these major country towns where there is no 24-hour policing. That is what I want to get on record.

I understand the Attorney General's intentions. I think the bill is an honest attempt. But, as I have said many times before in this place—and been proven right every time—this will not work in every single set of circumstances. Members need to acknowledge that—and we need to tell the victims that. This is not the panacea. This is not the bee's knees of domestic violence protection for some of these people in country areas. I hope it works, but I do not believe it will. But I will certainly not stand in the way of this bill in its attempts to make it safer for women.

**Ms SUE HIGGINSON (17:29):** I contribute to debate on the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. On Tuesday morning the Attorney General told us that the Government had formed the view that the community expects action, which is absolutely true. The community expects action because domestic and family violence is a scourge and we witness its lethal worst almost weekly. The community expects action because there is good evidence to suggest that domestic and family violence is preventable. The community expects action because experts and women's groups have been calling for action for decades. I support the bill but with serious reservations. Given the extraordinary goodwill in this place, the clear community appetite, the amount of thought that has gone into solutions over decades and decades, I must ask if this is really the best the Government can do.

The addition of the new show cause offence will force people who are often unlikely to offend—and who are sometimes entirely innocent—into a punitive, criminogenic and overcrowded prison system, all at extraordinary cost to the public and to the detriment of the long-term safety of our communities. That is the concern of the Bar Association, which has warned that the Attorney General's legislation "appears to have been introduced without proper consideration of its impact upon the remand population, which is already at a historically high level". It predicts that these changes will "inevitably result in the lengthy incarceration of many accused persons who will be acquitted or have their matters withdrawn or not proven".

We know all too well who will be hardest hit by those laws. As with so much of the legislation that is championed in this place through gritted teeth by the Minns Labor Government, it will be First Nations people and, increasingly and as the evidence suggests, young people and people who cannot afford a good lawyer who are thrown into prison because of those changes. When asked why the reforms were limited to intimate partner violence, which makes up just one-third of cases of fatal domestic and family violence, the Attorney General expressed concern that, at a time of record remand populations, our prison system simply could not handle the influx of hundreds of thousands of people who were unlikely to offend. Of course, he is absolutely correct. That is why the introduction of a show cause provision for serious domestic violence is so misguided and dangerous in the circumstances.

Earlier this week Rosie Batty observed that a focus on the police and the judiciary leaves us "always at the bottom of the cliff, dealing with catastrophe". She implored the people in this place to look at prevention and primary prevention. That is not a new demand. It has already been noted in this place that the recommendations of no less than a dozen independent reports into domestic and family violence and its prevention are yet to be adopted or fully funded by the Government. The recommendations are consistent and will surprise nobody who has paid attention to the issue beyond the most recent media cycle. They reflect an understanding that poverty, unwellness and trauma drive violent crime.

True prevention would involve the trauma-informed overhaul of the handling of cases of domestic and family violence; thorough and consistent investment in frontline prevention and legal services; the education and training of police to take the warning signs in abusive relationships seriously; and the promise of accessible and affordable housing that ensures nobody is forced to remain in a dangerous relationship. I support these laws only with the understanding that the real work of prevention is just starting to get the support it so desperately needs. The legislation before the House may hopefully save women's lives, but it is reckless and it may affect or impact upon a broader number of people than was intended. Other reforms—reforms that are more seriously considered and include more consultation—would avoid the needless harm that is at risk with the reversal of the presumption of bail, the imposition of mandatory electronic monitoring, and expanded responsibilities for police without the appropriate education and training.

There is no mention of how to improve the application of the current laws. I have said in this place that police prosecutors keep getting it wrong. They need guidance, training and support to get it right and get better. The community expects action. It has expected action for years but, ultimately, these laws are too little, too late. It is a shame that the Government was unwilling to listen to the experts, including those with lived experience and the frontline domestic and family violence support workers, and do what was asked of it. But in the absence of any other substantive vision for the long-term prevention of domestic violence, The Greens are nonetheless compelled to support the bill.

**The Hon. EMMA HURST (17:35):** On behalf of the Animal Justice Party, I contribute to debate on the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. There is an epidemic of violence against women in this country. During the May sitting I reported to the House that, as of August, 28 women had been killed by violence in 2024. It is the beginning of June and that number has already increased to 35. Women in New South Wales are not safe, and they continue to die at the hands of their current or former partners. This legislation will go a small way to addressing the gaps in the criminal justice system that are putting victim-survivors at risk, and I thank the New South Wales Government for introducing this legislation. However, I do not think it goes far enough.

I will start with what I believe is an extremely important aspect of the bill. The bill will require a bail authority, when conducting a bail assessment, to consider behaviour engaged in by the accused that may constitute domestic abuse as defined in the Crimes (Domestic and Personal Violence) Act 2007. That will require consideration of a broad range of red flag behaviour from the accused, including behaviour that causes death or injury to an animal or otherwise makes use of an animal to threaten a person. Members know that I have strongly advocated for better recognition of the link between domestic violence and animal abuse for many years. It is vital that we take violence against animals seriously.

We must recognise that animals can be victims of domestic violence in their own right, and are frequently used as tools to intimidate, coerce or control human victim-survivors. Research shows that violence against animals is one of the strongest risk factors for domestic and family violence lethality. We saw that play out in the tragic case of Molly Ticehurst. Her former partner allegedly killed her 12-week-old dachshund puppy named Wallace on a road near a truck stop just weeks before her alleged murder. He had already been charged with aggravated animal abuse at the time of her death. Those red flags cannot continue to be downplayed or ignored. We know that people who are violent are violent to all species, and our courts must respond accordingly.

I also support the amendment that requires the bail authority to take into account the views of the victim and their family in relation to safety concerns when making a bail decision for a domestic violence offence. That

sensible, straightforward amendment will ensure the perspective of victims are heard. However, I have had feedback from the sector that the amendment does not go far enough. There are concerns that the provision is limited to domestic violence offences committed against an intimate partner, and it does not extend to other relevant offences such as sexual violence, which creates a very narrow scope. There are also concerns that, under the proposed amendment, the views of the victim and their family will only be sought if they are available. That is vague and does not impose any obligation to seek out the views of the victim and their family.

The sector also has concerns around the show cause test reforms in the bill. The bill seeks to extend the application of the show cause test so that it also applies to dangerous domestic violence offences and coercive control. The effect of this change is that it reverses the onus. Anyone who has been charged with one of these serious domestic violence offences will bear the onus of showing cause as to why bail should be granted. The bill also provides that a person granted bail for one of these serious domestic violence offences will be subject to mandatory electronic monitoring.

The feedback I have received from experts in the sector is that they do not really want the expansion of show cause offences; they prefer the more targeted approach of requiring bail authorities to consider red flags, which is already in the bill. The Bar Association has also expressed serious concerns that this reform risks increasing the already large remand population, without meaningfully addressing the risks of domestic violence. This will only increase costs to the State, costs that are likely better spent on domestic violence prevention and support. It is not clear why the New South Wales Government has chosen to take this approach regarding show cause, which does not seem to have come from the experts in this sector at all.

Electronic monitoring holds great promise in terms of addressing safety and the monitoring of compliance with bail conditions, but the sector is eager to understand exactly how it will work. We must ensure electronic monitoring is deployed in a way that is safe and effective. We need to understand how this electronic monitoring technology will work, including in regional and rural areas, and those areas with poor internet connectivity; how the Government will ensure a victim can be contacted quickly when there is a breach; what the law enforcement response will be; and how to ensure the victim has a robust emergency safety plan for themselves and their family. I note that, when we get to the Committee stage, my colleague Ms Abigail Boyd will be moving a number of amendments to address the concerns and feedback raised by the sector. I thank her and indicate that the Animal Justice Party will be supporting all of those amendments.

On their own, the reforms in the bill are simply not enough. There is also more that needs to be done to address the insidious problem of domestic violence in our society. This week Domestic Violence NSW wrote to the Premier outlining a comprehensive list of changes it would like to see occur within the criminal justice system around bail to protect victim-survivors. This is on top of the countless other submissions that it and so many other peak bodies have made to this Government and the former Government. I cannot believe that we have to keep saying this, but those in government must start listening to the sector that has the expertise in this space, and we need to start funding them properly, too.

While I appreciate that the bill has been prioritised in recognition of the need for urgent action, there are other urgent actions in this space that the Government has not prioritised when it should have. We must make housing a priority for people leaving domestic violence, including ensuring that rental properties are companion animal friendly. The number of people who stay in dangerous situations because they cannot access safe or suitable accommodation with their animals is staggering. According to a report published in 2020 by Domestic Violence NSW, 93 per cent of their frontline workers said that the biggest barrier for their clients with animals was the lack of animal-friendly rental accommodation.

Research suggests that up to 70 per cent of people in violent situations delay leaving violence because they have no place to go with their animals. Knowing that animals are often victims of violence and that they could be harmed or killed as part of coercive control, victim-survivors often stay to protect them. Other survivors are becoming houseless as they leave violence because they cannot find a rental with their animals. Finding any rental property right now is hard, but finding one that is animal friendly is nearly impossible. This is because New South Wales's outdated rental laws allow landlords to simply refuse animals in their properties. Other States have long since fixed their laws, but New South Wales—as always—continues to lag behind. It is simply not good enough.

As part of its domestic violence response, the Government must prioritise legislation to end no-grounds evictions and allow animals in rentals. There is no excuse that it has taken this long. At the same time, we also need to increase funding for crisis and transitional housing to make it more readily available and animal friendly. We also need funding for more temporary housing for animals in animal shelters. This year alone, the RSPCA has reported a 108 per cent increase in domestic violence victims seeking their help to temporarily house animals while they leave violence, and I have heard similar reports from other animal rescues. These charitable organisations simply cannot meet the demand, and it is resulting in victims remaining in dangerous, harmful situations in order to protect their animals.



We also need to ensure we are properly funding the enforcement of animal cruelty laws. As I have outlined, violence against animals is often a precursor and dangerous warning sign of violence against humans, but it can only be identified and prosecuted early, before it becomes violence against humans, if the enforcement of animal cruelty laws is properly funded. Otherwise, animal cruelty and opportunities to help families experiencing violence will fall through the cracks. I call on the New South Wales Government to confirm that it will be fully funding animal cruelty enforcement ahead of the upcoming budget.

Finally, I strongly believe we need to examine the apprehended domestic violence order system surrounding animals and ensure that courts can impose "animal custody orders" rather than allowing animals to be left behind in dangerous situations or subjected to lengthy civil court disputes, simply because there is a dispute about who legally so-called "owns" the animal. We need to give courts powers to make animal custody orders, similar to those that already exist in the United States, to ensure that animals can stay with the victim-survivor. This is something that I put up in the previous Parliament and will continue to advocate for with the Attorney General. Overall, the bill is a good step forward, but it could be better. We need to see this followed up with a lot more policy work and funding from this Government if we are really going to do better on domestic violence.

**The Hon. STEPHEN LAWRENCE (17:45):** I speak in support of the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. The main aspects of the bill will operate to expand the offences to which the existing show cause requirement under section 16B of the Bail Act applies so that the requirement includes a serious domestic violence offence and the new coercive control offence. Another effect of the bill is to require the person considering bail, when applying the unacceptable risk test in part 3, division 2 of the Bail Act, to consider two additional matters. First, they will have to consider whether behaviour engaged in by the accused person may constitute domestic abuse, including but not limited to strangulation, sexual assault, animal abuse and stalking. Second, in the case of domestic violence offences against a current or former intimate partner, the bail authority must also consider any views put by the victim or their family members concerning their safety and the safety of others.

In the case of serious domestic violence offences, if bail is granted despite the strengthened show cause and unacceptable risk provisions, the bill also provides that an electronic monitoring condition be imposed unless the bail authority is satisfied sufficient reasons exist, in the interests of justice, to justify not imposing the condition. The bill will provide that the decision of a bail authority to grant bail is stayed pending the making of a detention application to the Supreme Court by the prosecution for a serious domestic violence offence, the coercive control offence and sexual assault offences under part 3, division 10, subdivision 2 of the Crimes Act 1900. There is also the amendment passed in the other place in respect of the power of the registrar in matters of bail.

These proposed legislative reforms come in a particular context. First are the tragic events involving the death of Molly Ticehurst, which is a matter before the courts. I recently attended an event in Forbes in relation to that matter. It was moving to be a part of that and see how the community of Forbes has mobilised around this terrible tragic incident. On 6 May, the New South Wales Government announced \$230 million over four years as part of an emergency package to enhance support for domestic, family and sexual violence victim-survivors and expand programs that reduce the rate of violence against women and children. As part of that package, \$45 million has been set aside to improve bail laws and justice system responses to domestic abuse. That, as I understand it, will be used to implement the orders that courts make to provide for electronic monitoring of persons granted bail. These government commitments align with the agreement at National Cabinet for all jurisdictions to strengthen system responses, with a focus on high-risk perpetrators and serial offenders to prevent homicides.

I will deal now with some of the key aspects of the bill. Firstly, on the implementation of the expanded list of show causes offences, the question of where to set the threshold of when a person can be released to liberty after being charged with a criminal offence is a quintessentially political policy decision that arises on a regular basis. There is no one standard that should apply, and it is an area of the law that changes on a regular basis, perhaps more so than other area of the criminal law. The Labor caucus has determined that political question, and I fully support the bill.

Section 16A (1) provides that, with regard to a show cause offence, a bail authority must refuse bail unless the accused shows cause why his or her detention is not justified. This does not mean a defendant cannot be bailed. In making this determination, the bail authority must consider all the evidence or information the bail authority considers credible or trustworthy in the circumstances. The Act does not specify what show cause means and provides little guidance of what will satisfy the show cause test, but case law has developed it. If the accused can show cause, then the bail authority must apply the unacceptable risk test: section 16A (2). Section 16B exhaustively lists what the show cause offences are. As I said, I fully support the bill for the reasons indicated, but in all areas of criminal law I think it is important to identify what a reform will or will not do. One reason for

that is that there are many views in the community, held in good faith, as to the capacity of the criminal law to reduce or prevent harmful conduct in the community.

Those views find expression in views as to the existence and scope of criminal offences, the penalties available, the operation and content of bail laws and, indeed, the powers for the investigation of offences. Such views are naturally often expressed vehemently in the wake of certain shocking events. Sometimes, but not always, those views are wrong, or wrong in part, because often the criminal law and related powers actually cannot realistically reduce offending and reduce harm, certainly to the degree that is sometimes believed. And, of course, it is not a good thing when the focus of community expectations around reform to address a social problem is wrongly directed, not least because it takes the focus off real solutions. Sometimes the reality is that only addressing social problems can truly protect the community. Sometimes the reality is that only population-wide factors will meaningfully impact certain types of offending.

This perspective is especially important in the criminal law, where there are adverse consequences from many reforms. The more people you lock up, the more crime you create down the track; the more people you refuse bail to, the more innocent people are exposed to the traumatic and criminogenic experience of jail, and the more vulnerable and young people are exposed to the criminal justice system. The impacts will be disproportionate, of course, on certain communities, some already enduring mass incarceration. In Australia that includes Aboriginal people. There is no doubt about one thing the bill will do. The introduction of show cause for these offences will mean more alleged perpetrators of serious domestic violence offences will spend initial time at least in custody. There is no doubt this will protect some women in that period. That is the essence of the political and policy choice that lies behind the bill. It is a decision to prioritise the safety of complainants in that period between arrest, charge and the determination of the matter. That is entirely legitimate, and I fully support it.

The extent of this will, in one sense, be a matter for courts, and two points should be made. Firstly, many of the people charged with offences that will now be show cause would not have received bail anyway. A serious domestic violence offence involving a former or current partner carrying 14 years or more is likely almost always to be a serious matter. Secondly, some people charged with these offences that will be show cause will be granted bail under the new regime. Fortunately, in those cases, many will now be subjected to electronic monitoring and complainants will be protected in that way, and that is an important part of the bill. I suspect overall the rise in the jailed population numbers will be relatively modest.

The question of what this short-term protection for complainants will mean for broader domestic violence and sexual crime rates is a much more complex matter. It should be noted that much of the discussion on the bill has been related to the tragic death of Molly Ticehurst and the scourge of intimate partner homicide. But the bill will provide that additional level of protection to complainants generally in respect of the offences that it covers, and hopefully will prevent in the relevant period the incidence of violent crime generally. Its likely impact on intimate partner homicide, though, is a key issue. Recently I spoke in the House about the scourge of intimate partner homicide, its prevalence over time and what actually reduces the incidence of these crimes.

The research shows intimate partner homicide rates across Australia have dropped by more than half since 1989. In raw terms this translates to 82 occurring in 1989-90 to 38 in 2022-23. When separated for gender, the figures also show a similarly consistent and extremely significant drop. The rate of women killed by partners has dropped by 66 per cent over the past 34 years. The improvement in these figures are cold comfort of course to anyone impacted by such a crime, but reform needs to build on what works, as much as on what is proved not to work. Unfortunately, there is not a large amount of readily available research analysing this drop. Some research attributes it in part to a contraction in the young male population, the number of people living in rural areas and the unemployment rate, a reminder perhaps that fluctuations in crimes can be driven by broad factors actually unrelated to particular interventions.

An obvious question is what might the bill do to rates of intimate partner homicide. The first point to be made is that in the context of 38 deaths a year nationwide—and the figure certainly does go up and down—and the very large number of domestic violence cases, even for the more serious offences, it can be immediately observed that attempting to craft laws to catch those cases before they happen is a hard task indeed. There is a wealth of research around intimate partner homicide and its precursors. This research does not support the proposition that people on bail for serious personal violence offences are a large part of the cohort of people who commit intimate partner homicide, though a significant amount had interaction with the criminal justice system prior to a lethal event and there is a significant cohort who had contact with the criminal justice system and were subject to orders at the time of the event.

A recent 2022 Australian Institute of Criminology study entitled *The "Pathways to Intimate Partner Homicide" project: Key stages and events in male-perpetrated intimate partner homicide in Australia*—which I thoroughly commend to the House—analysed 181 cases of intimate partner homicide. The study overall

identified three key trajectories or cohorts where persons were identified within the intimate partner homicide group. The first is the fixated threat category of offender, the FT category; the second is the persistent and disorderly, PD offender; and the third is the deterioration, acute stressor, or DAS offender. One in three cases fit the cohort of FT offender. The cohort was characterised by often successful and seemingly respectable men who killed their partners after losing control of them. The preceding relationships were generally characterised by highly controlling behaviour. The study states that the evidence suggests:

... FT offenders overall, and the risk they posed to their partners in particular, was not visible to criminal justice and other statutory agencies. This is likely to have been influenced by their perceived middle-class status, their consistent employment, and their limited levels of contact with the criminal justice system.

Again from the study, overall, only 12 FT offenders had any contact with the police prior to the lethal event taking place. I note that information was missing for some cases, and only 12 per cent had been arrested for intimate partner violence—again, a not insignificant minority, but a minority nonetheless. The PD offender—that is, the persistent and disorderly type offender—is the most common cohort identified within the sample. Overall, four in 10 offenders were classified as PD. A key characteristic of the PD cohort is that, unlike the DAS and FT pathways, there was not a clear set of stages that led to the offender killing the victim. Instead, the trajectory involved the presence of persistent and ongoing violence and abuse within the relationship perpetrated by the offender that started during the early stages of the relationship and continued until the victim's death. Many of these offenders prior to the lethal event have lengthy ongoing interaction with the criminal justice system.

The report states that 40 per cent of PD offenders were reported to have been abusive towards former partners and 33 per cent had been charged with an offence against a former partner, including assault, sexual assault, stalking and breach of a protection order. The report further noted that 38 per cent of PD offenders had been charged for abusing their partner prior to the lethal event, and in some cases the offender had been charged on multiple occasions. Further, four out of 10 PD offenders had been the subject of a protection order because of their behaviours towards the victim during their relationship. This cohort is obviously one where higher rates of remand will offer some protection in the short term. Counter to that is the reality that very often these relationships continue after release and are characterised by ongoing violence. Much of the violence occurring leads to charges less serious than the ones that will be show cause under the bill.

The real question is perhaps how often a show cause refusal of bail in New South Wales under the bill will intercept a lethal event that would have occurred during the window of the relationship. That question is obviously primarily informed by how statistically unlikely an intimate partner homicide event is in the context of all the domestic violence matters that will be the subject of the laws. I now deal with the third category of offender identified in the Australian Institute of Criminology study, the DAS offender. The study states:

Approximately one in 10 offenders (11%,  $n=19$ ) included in the sample were classified as following the deterioration/acute stressor (DAS) pathway. The trajectory underpinning these cases is described in Figure 10 and in detail below.

DAS cases typically involved a male offender who was described as historically having very low levels of aggressive and violent behaviours (and tendencies), including towards former intimate partners. These men were also unlikely to have been in contact with the criminal justice system for other forms of offending. However, the majority of offenders in this cohort had significant and co-occurring mental and physical health conditions at time of starting their relationship with the victim.

The study further notes that, in general, relationships between DAS offenders and victims were described as being happy and positive overall, obviously prior to the lethal event. The study further states:

The offender's mental and physical health begins to decline significantly.

During the period preceding the lethal incident, DAS offenders' physical and mental health appeared to decline significantly. This was primarily attributed to the symptoms associated with offenders' pre-existing physical and mental health conditions getting worse.

...

Despite the increased conflict within the relationship, separation between the victim and offender was relatively rare. At time of the lethal incident, only two cases involved a DAS offender who was no longer in a relationship with the victim.

In summary, of that cohort it states:

DAS offenders were typically non-Indigenous and older than FT and PD offenders, experienced significant (often co-occurring) physical and mental health issues, demonstrated low levels of aggressive and violent behaviours (including towards former intimate partners), and were unlikely to have been in contact with the criminal justice system for other offending.

I certainly recognise each of those categories of offending from my time working in the criminal justice system, including as a prosecutor of domestic violence. That study shows that it should by no means be assumed that the people we are trying to catch here will present seeking bail and that this bill will ensure that they do not get it and thereby avoid intimate partner homicide. I certainly hope I am wrong about that. Other aspects of the bill include the specific requirement to consider certain aspects of domestic abuse, the stay on appeals which will enlarge the

category of offences to which the stay provisions apply and also the restriction of registrar's powers to ensure that magistrates determine these matters. All of those matters are entirely appropriate and I fully support them.

Consideration of the reduction of harm to be occasioned by the bill cannot be really considered without considering the effect of the extra incarceration it will bring about, including of innocent people and Aboriginal people. That should not be a controversial statement or be seen as a criticism of the bill. It is just a reality of the way bail law works. We need to own these things when we change the criminal law, every time. Incarceration is a massive cause of crime. Nowhere is this pattern more tragically demonstrated than in the fact that one of the key risk factors addressed in Australian Government research on intimate partner homicide is that the perpetrator has suffered significant trauma, with imprisonment being singled out in that research as exactly such a trauma. If we consider the extremely high rate of intimate partner homicide in the Indigenous population, it is a frightening reality.

Another important issue to be considered is the general impact of show cause requirements on crime rates—that is, will making these offences show cause reduce the incidence over time of these offences? I obtained from the Parliamentary Research Service and the Bureau of Crime Statistics and Research the crime rates for a more than 10-year period of all the offences made show cause in 2014. None showed a relevant drop in crime as a consequence of the show cause being introduced. There are a variety of obvious circumstances that might explain that. Some people who are innocent will be refused bail. They may not have offended during a grant of bail. Some guilty people will be refused bail who, despite being guilty, would not have offended on bail. Some people will get bail after a time on remand and then offend anyway. Some who may have offended during bail will commit these offences later in time than they would otherwise.

To the extent the impact of incarceration deters some future offences, this will, at least in part and perhaps more so, be offset by the criminogenic impact of incarceration. There is a myriad of factors that explain why bail laws are not an effective way to reduce overall crime rates. That is in no way to reduce from what the bill will do, which is afford immediate protection to complainants. As I said, the bill will, in the short term, lead to more men in particular accused of domestic violence spending a period in custody upon charge, and that will protect some complainants in the short term. This represents a political decision about the balance between the right to be presumed innocent and to have liberty and the societal interest in achieving complainant and community protection.

In conclusion, it must be remembered that the bill is part of a package. Other aspects of that package are on the resource side and offer more than the short-term protection to some complainants the bill offers. The New South Wales Government will provide \$230 million over four years as part of an emergency package to enhance support for domestic, family and sexual violence victim-survivors and expand programs that reduce the rate of violence against women and children. The package includes money to roll out the Staying Home Leaving Violence program statewide and to expand the Integrated Domestic and Family Violence Service. The Staying Home Leaving Violence program helps women and their children to remain safe in their homes after leaving a violent relationship.

In 2022 a formal evaluation from the Gendered Violence Research Network at the University of New South Wales found that this program effectively contributes to the long-term safety and housing stability of women and children who have left a violent and abusive relationship. The Integrated Domestic and Family Violence Service provides important case management helping people to navigate the services of government agencies and non-government organisations. This can include coordinating across police, courts, health care, child protection workers, housing providers and refuges. The program works with both victim-survivors who have left a relationship and those who remain, focusing on maximising safety for this group of women and their children. There is a range of other aspects to that important package announced by the Government. These are incredibly welcome commitments. I have spoken in the House before about other things we can do to improve complainant experiences in the criminal justice system, and these are important too.

The bill is a welcome attempt to protect complainants, but it should not be taken to mean that bail laws are the substantial way to achieve community protection and to overall reduce crime. Such a message would be counterproductive. The blunt reactive tools of the criminal law, whether bail or sentencing, are not the significant way to achieve community safety. It would be good if they were. The reality is that the sad sorry show of criminal offending across the community rolls on while these kinds of moments occur and Parliaments and courts make, and sometimes unmake, these kinds of laws. With those words, I commend the bill to the House.

**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) (18:05):** On behalf of the Hon. Daniel Mookhey: In reply: I thank honourable members for their contributions to debate, including the Hon. Susan Carter, Ms Abigail Boyd, the Hon. Emma Hurst, the Hon. Rod Roberts, Ms Sue Higginson and my colleague the Hon. Stephen Lawrence. The people of New South Wales are all too aware of the urgent crisis of

domestic violence that is giving rise to the reforms in the bill. They see its devastating impacts not only in the media but also in their own lives and the lives of people they love.

The Government knows that this is a complex and multifaceted issue that demands a complex and multifaceted response. This bill is neither the beginning nor the end of our efforts to combat domestic and family violence in New South Wales. It is a critical component of our ongoing response. At its core, the bill is about protecting domestic violence victim-survivors and the community in that crucial period between when a person is charged with a serious domestic violence offence and when an outcome is reached in their criminal matter. In making it more difficult for an accused to be released on bail, and providing for electronic monitoring if they are, this bill offers additional safety for the community in that critical period.

I take this opportunity to address some of the comments made by members in this debate. The Hon. Susan Carter questioned why the bill was not introduced earlier and why it must commence on proclamation. The bill contains complex changes, including provisions on electronic monitoring, that will strengthen the bail framework in relation to serious domestic violence offending in New South Wales. Time was required to consult with the domestic violence sector and to ensure that all issues were properly considered in order to avoid unintended consequences that could have resulted from a rushed approach.

In relation to implementation, the bill will create a new regime of electronic monitoring in New South Wales, and there are number of complex steps required to set up an effective framework. The Government has established an implementation taskforce, led by the Cabinet Office, to oversee the development of this framework. The work of this taskforce, in conjunction with relevant agencies and stakeholders, will include developing the necessary infrastructure and establishing appropriate and effective processes, including how compliance and alerts will be monitored. I am sure the issues raised by the Hon. Rod Roberts in his thoughtful contribution will be included as part of that consideration. The bill provides that the new electronic monitoring requirement will commence on proclamation, once the necessary arrangements have been resolved.

In relation to the remainder of the provisions, as was indicated in the second reading speech for the bill in the Legislative Assembly, the Police Force has requested time to ensure that all of its systems and officers are ready to implement the changes in New South Wales, which is a significant task. Other agencies, including the courts, also need time to undertake implementation work. To facilitate that, the remainder of the bill will also commence on proclamation.

Ms Abigail Boyd raised concerns that the requirement for electronic monitoring would remove judicial discretion. Judicial discretion is a critical feature of the criminal justice system. Courts are best placed to assess the individual circumstances of each case to make an appropriate decision, including bail decisions. This bill does not inappropriately fetter judicial discretion. A bail authority is not required to impose an electronic monitoring condition on a person accused of a serious domestic violence offence if it is satisfied that reasons exist in the interests of justice not to do so. This ensures that bail authorities retain appropriate discretion, while also making it clear that the expectation is that these serious alleged offenders are subject to electronic monitoring if granted bail, unless there is a good reason for them not to be.

Ms Abigail Boyd also raised concerns that these reforms will increase the remand population. It is acknowledged that this reform will make it more difficult for those accused of serious domestic violence offences to get bail. That is, in fact, one of the primary purposes of the bill. While it is likely to have an impact on the remand population, these reforms are necessary to keep victims safe. Ms Abigail Boyd noted that The Greens will move an amendment to limit the relevant cohort of people charged with serious domestic violence offences to only those who are subject to a conduct requirement preventing them from being at a specified place or within a specified distance of a specified place. I will address that in the Committee of the Whole.

Ms Sue Higginson raised concerns that these amendments will likely disproportionately affect Aboriginal people. The people captured by these reforms—in particular, the show cause, electronic monitoring and stay reforms—are some of the most serious alleged offenders in the community, and their victims are at the highest risk of continued domestic violence. Although there is a risk that the reforms will increase the number of Aboriginal people on remand, it is worth remembering that the Government is committed to Closing the Gap Target 13:

By 2031, the rate of all forms of family violence and abuse against Aboriginal ... women and children is reduced at least by 50%, as progress towards zero.

The Government will continue to work with peak Aboriginal and Torres Strait Islander organisations to reduce the overall incarceration of First Nations people. That also means progress on Closing the Gap Target 13, which is reducing the incidence of crime towards Aboriginal women and children. Ms Abigail Boyd said the show cause offences should not be expanded. She raised the NSW Law Reform Commission's 2012 *Bail* report, which said, amongst other things, that there is no evidence that presumptions against bail lead to a reduction in offending.

Determining whether show cause offences should be expanded requires balancing the potential risk to the community against the presumption of innocence and the right to be at liberty. The Hatzistergos review noted that show cause offences are, by their nature and circumstances, so serious that the onus shifts to the accused to explain why bail should be granted. The Government considers that offences captured by the definition of the serious domestic violence offence and the new coercive control offence are so serious as to warrant inclusion as show cause offences. This will ensure that people accused of those offences will not be granted bail unless they can meet the high threshold of proving that their detention is not justified. Again, this is necessary to keep victims and survivors safe, and aligns with community expectations.

The NSW Law Reform Commission's report is 12 years old. At that time, in 2012, the commission considered the scheme of presumptions for and against bail for particular offences that existed under the Bail Act 1978. The NSW Law Reform Commission noted that there was no evidence that having presumptions against bail for some offences had led to a reduction in crime. Those comments were made on the entirety of the former scheme under the former Bail Act and were not specific to family and domestic violence offences.

New South Wales's approach to bail has changed significantly since 2012. When the Bail Act 2013 was introduced, it did not adopt the Law Reform Commission's key recommendation to have a presumption in favour of bail. Instead, it adopted a neutral approach to presumptions, with a risk assessment framework. However, the Hatzistergos review of the Bail Act 2013 recommended the introduction of the show cause test to apply to certain serious offences, as it found that "show cause in conjunction with risk-based assessment would provide a useful level of reassurance to the community in relation to serious offenders whilst also providing greater consistency". The Hatzistergos review noted that its recommended approach differed from that of the 1978 Act, with some former presumptions against bail offences being addressed through the risk assessment model, and others being addressed through the show cause offence model.

The show cause test was introduced in 2014, and it has existed in the Bail Act 2013 since then. It is also relevant to note that in the 2010 joint report of the NSW Law Reform Commission and Australian Law Reform Commission entitled *Family Violence—A National Legal Response*, the commissions jointly found that while it was not appropriate that there be presumptions against bail for all domestic and family violence, they were not opposed to presumptions against bail for some family violence offences that constituted very serious offending. The Government's bill is broadly consistent with the recommendations of that important report.

Ms Sue Higginson raised the issue that the bill does not extend to domestic relationships. The reforms to show cause and electronic monitoring target offences committed within intimate partner relationships ensure the safety of victims, especially in light of the known tragic outcomes that eventuate when situations escalate. On average, in 2022-23 one woman was killed every 11 days by an intimate partner in Australia. Intimate partner homicide is the most common form of domestic and family homicide, with the majority involving a female victim. As of December 2023, intimate partner domestic violence assaults were the most common form of domestic violence assault in New South Wales. This has been trending upwards by an average of 2.6 per cent over the past five years. In the financial year 2021-22, some 23 per cent of Australian women reported having experienced violence from an intimate partner since the age of 15. Targeting intimate partner violence in show cause provisions is the most appropriate way to achieve a balance.

The definition of domestic relationship is much wider. In addition to intimate partners, it captures anyone who has lived in the same household with another person, such as flatmates; people who have lived in the same residential facility, such as medical or other facilities; those who have a relationship if they are carers or dependent on another person, whether paid or unpaid; any relative at all; and, in the case of Aboriginal and Torres Strait Islander people, anyone who is known to be part of an extended family or kinship network. It is clear from this long list that it covers a wide range of relationships that would not be appropriately covered by this targeted and very strong reform that seeks to address the particular and well-known risks that arise in the case of intimate partner relationships. Other types of domestic relationships are appropriately addressed in the expansion of the unacceptable risk considerations.

The reforms expand the considerations that must be taken into account under the unacceptable risk test in section 18 of the Bail Act to require explicit consideration of domestic abuse red flags, including strangulation, sexual assault, animal abuse and stalking. The Government's changes to the stay provisions in the Bail Act also extend beyond domestic partner relationships to coercive control and all serious sexual offending under subdivision 2 of division 10 of the Crimes Act, regardless of whether the relationship between the accused and the victim was an intimate partner one.

I conclude my remarks by saying that a couple of the speakers in this debate have mentioned that the genesis of the bill was in part the recent tragic death of Molly Ticehurst. Molly's family and friends have asked whether this law could be called Molly's law. In New South Wales, as a matter of practice, we do not name laws after individuals. In addition to that, unfortunately, dozens of other women have been failed by our previous legal

system, and their families and friends should feel acknowledged and validated by this change as well. I understand that Molly's family are understanding of this.

As I close my comments on behalf of the Attorney General, I specifically acknowledge the advocacy and the voice of Molly's family and friends, who have demanded change. It is their determination that we change our laws so that her life is honoured, that her death is not forgotten and that we do our best to limit the number of other women who will be harmed by offenders who should not have been released on bail. In this way and in my heart, this bill is Molly's law, and we honour her by passing it.

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

**Motion agreed to.**

### **In Committee**

**The CHAIR (The Hon. Rod Roberts):** There being no objection, the Committee will deal with the bill as a whole. There are three sets of amendments: The Greens amendments Nos 1 to 10 on sheet c2024-065I, Libertarian Party amendment No. 1 on sheet c2024-079B and Libertarian Party amendment No. 1 on sheet c2024-088. In a moment I will call the Hon. John Ruddick to move Libertarian Party amendment No. 1 on sheet c2024-079B. I understand there has been some discussion between various members in the Chamber. I note that if the Hon. John Ruddick's amendment is agreed to, The Greens amendments Nos 9 and 10 on sheet c2024-065I would lapse. I understand there has been an agreement for the Hon. John Ruddick move his amendment first. I am looking at Ms Abigail Boyd for an acknowledgement. Is everyone comfortable with this? That is fine. I invite the Hon. John Ruddick to move Libertarian Party amendment No. 1 on sheet c2024-079B.

**The Hon. JOHN RUDDICK (18:22):** I move Libertarian Party amendment No. 1 on sheet c2024-079B:

No. 1      **Electronic monitoring**

Pages 3 and 4, Schedule 1[5]–[7], line 32 on page 3 to line 21 on page 4. Omit all words on the lines.

This amendment seeks to remove dangerous attacks on civil liberties present in the bill. The existing law allows for electronic monitoring as a condition of bail, but the bill would make it a requirement whenever somebody is charged with certain offences. That is mandatory sentencing by a different name. In fact, it is worse than mandatory sentencing because those released on bail have not even been convicted. Libertarians believe in the presumption of innocence and many of those who will be forced to endure the discomfort and ignominy of electronic monitoring will be innocent. Automatically subjecting those accused of certain crimes by the State to invasive surveillance goes against Libertarian DNA. It would be a dangerous and unjustified invasion of privacy of the falsely accused.

Every time someone is arrested, the circumstances are unique. A wise magistrate needs to weigh up many factors. Libertarians also believe in the separation of powers. The legislative branch should not be trampling on the discretionary power of the judiciary in that way. Bail courts already have the power to order electronic monitoring when the specifics of the situation call for it. Without this amendment, the bill would nullify the ability for the judiciary to do its job and weigh up the nuances of each case before handing down a ruling. The amendment would remove items [5], [6] and [7] from the bill to preserve the presumption of innocence and the separation of powers.

**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) (18:24):** The Government does not support this amendment. The Government's bill contains a requirement that any accused granted bail in relation to a serious domestic violence offence against an intimate partner be electronically monitored unless the bail authority is satisfied sufficient reasons exist in the interests of justice not to justify imposing the condition. The Libertarian Party's amendment would remove those electronic monitoring provisions from the bill.

The Government has not used electronic monitoring as a panacea in its bill. The Government expects that, as a result of the strengthened show cause and unacceptable risk provisions in the bill, accused persons facing serious domestic violence charges within intimate partner relationships will be less likely to be granted bail in the first place. For the remaining minority of accused persons charged with serious domestic violence offences who are granted bail despite the strengthened show cause and unacceptable risk test, electronic monitoring is an important, additional and final safeguard to promote victim safety.

Put quite simply, removing electronic monitoring from the bill via this amendment would remove that final safeguard for victims. In relation to electronic monitoring, the bill contains a number of appropriate safeguards to protect the rights and liberties of individuals, including both the accused person and, importantly, victim-survivors of violence. First, courts will retain a discretion not to impose electronic monitoring if satisfied in the individual

circumstances that sufficient reasons exist in the interests of justice not to do so. Second, the Government's bill makes it clear that the availability of electronic monitoring is not to be considered in the bail authority's assessment of the show cause or unacceptable risk test.

The Government does acknowledge that the imposition of electronic monitoring on some accused persons will involve an incursion on their personal autonomy and rights to privacy, but those changes are necessary, balanced, proportionate and reasonable to ensure community safety and protect victim-survivors, who also have rights to live free of fear and violence. There are already frameworks for electronic monitoring in New South Wales. Electronic monitoring already exists as an available bail condition. The Government is building upon that framework to ensure that electronic monitoring is imposed in a select number of cases where persons are accused of some of the most serious crimes against their current or former partners and are granted bail. For those reasons, the Government does not support the amendment.

**The Hon. SUSAN CARTER (18:26):** The Coalition does not support this amendment. I support the comments outlined by my colleague the Hon. Rose Jackson. I also make the observation that we respect and want liberty, but true liberty is only possible when there is personal safety. There is no freedom of association or freedom of movement if one is not free to move around and associate with others. Electronic monitoring in the present circumstances is an important safeguard of personal safety, and therefore is a guarantee of true liberty.

**The CHAIR (The Hon. Rod Roberts):** The Hon. John Ruddick has moved Libertarian Party amendment No. 1 on sheet c2024-079B. The question is that the amendment be agreed to.

**Amendment negatived.**

**The CHAIR (The Hon. Rod Roberts):** Ms Abigail Boyd, I understand that you—and correct me if I am wrong—intend to move The Greens amendments Nos 1 to 5, 7 and 9 on sheet c2024-065I in globo.

**Ms Abigail Boyd:** Yes.

**The CHAIR (The Hon. Rod Roberts):** Lovely. It is great when it all comes together. In that case, I invite you to move those amendments.

**Ms ABIGAIL BOYD (18:28):** By leave: I move The Greens amendments Nos 1 to 5, 7 and 9 on sheet c2024-065I in globo:

No. 1      **Meaning of domestic relationship**

Page 3, Schedule 1[1]. Insert after line 3—

*domestic relationship* has the same meaning as in the *Crimes (Domestic and Personal Violence) Act 2007*.

No. 2      **Omission of definition of intimate partner**

Page 3, Schedule 1[1], lines 6–12. Omit all words on the lines.

No. 3      **Change in meaning of serious domestic violence offence**

Page 3, Schedule 1[1], line 16. Omit "an intimate partner". Insert instead "another person with whom the person who committed the offence has, or had, a domestic relationship".

No. 4      **Show cause offences**

Page 3, Schedule 1[2], lines 19–22. Omit all words on the lines.

No. 5      **Matters to be considered as part of assessment for domestic violence offences**

Page 3. Insert after line 29—

(d2)      the likelihood that, if released, the accused person will harm or threaten to harm a particular person or persons including, in particular, a person with whom the accused person is in a domestic relationship,

No. 7      **Matters to be considered as part of assessment for domestic violence offences**

Page 3, Schedule 1. Insert after line 31—

**[4A] Section 18(1A)–(1C)**

Insert after section 18(1)—

(1A)      For a domestic violence offence, a bail authority must have regard to the following when considering the matter in subsection (1)(d2)—

(a)      whether the accused person has a history of violence,

(b)      whether the accused person has been violent to the other person in the past, whether or not the accused person has been convicted of an offence in relation to the violence,



- (c) whether the accused person has a history of engaging in behaviour that may, under the *Crimes (Domestic and Personal Violence) Act 2007*, section 6A(2), constitute abuse,
  - (d) whether the accused person has failed to comply with a conduct requirement that was imposed for the protection and welfare of the other person,
  - (e) whether, in the bail authority's opinion, the accused person will in the future comply with a conduct requirement imposed for the protection and welfare of the other person.
- (1B) If, because of a lack of time since the person was accused of an offence the subject of the bail application, it is not practicable to obtain sufficient information for the purpose of making a decision in relation to a matter specified in subsection (1A), the bail authority may decide to refuse bail for the offence to allow further information to be obtained for that purpose.
- (1C) For subsection (1B), the period allowed for obtaining the further information must be a period that ends no later than 4pm on the day that is 3 business days after the day the decision to refuse bail is made.

**No. 9      Offences to which electronic monitoring relate**

Page 3, Schedule 1[5], lines 36 and 37. Omit all words on the lines. Insert instead—

- (a) accused of—
  - (i) a serious domestic violence offence, or
  - (ii) an offence under the *Crimes Act 1900*, section 54D, and

As mentioned in both my contribution and my colleague Ms Sue Higginson's contribution to the second reading debate, the intended impact of these amendments is to remove the show cause provision for all the reasons that we outlined and to replace it with what was recommended in the 2012 Law Reform Commission report. The amendments insert in section 18 of the Bail Act a new matter to be considered as part of the bail assessment for domestic violence offences, which is the likelihood that, if released, the accused person will harm or threaten to harm a particular person or persons, including a person with whom the accused person is in a domestic relationship.

Amendment No. 7 lists the factors you would need to take into account when working out if there is a risk of harm to a particular person. This goes to the heart of what The Greens are trying to do. There has been a lot of discussion about where the differences are and where the line is between a domestic violence offence and other offences, and whether there is a case for treating them differently. Philosophically, it comes back to what we think remand or imprisonment is for. There are a number of reasons why we might, as a society, agree to put people in jail: punishment is a big one, deterrence of crimes, hoping that the person could be rehabilitated if we were to take them out of society, and protection of the community.

All the discussion around domestic violence, and harsher sentencing and bail laws for people who are accused of domestic and family violence, is around the concept of keeping the community safe, particularly the victim or potential victim. We now have a better understanding about what coercive control means, how the motive of somebody who is driven to commit a domestic homicide is potentially different from the motive behind a lot of other crimes, and why putting an ankle monitor on somebody or threatening them with jail if they breach an apprehended domestic violence order is unlikely to actually stop a person in the kind of relationships we are talking about from going on to commit that homicide.

Arguably, there is an additional reason to remand people and deny bail, particularly in circumstances where there is a pattern of coercive controlling behaviour with a high risk of leading to a domestic homicide. We are looking at very specific circumstances and the risk. What is the risk profile of this particular individual? Let us make an assessment as to whether or not they are going to represent a threat of harm to a particular person or persons, as it often involves children as well as the current or former intimate partner. When we are looking at the circumstances and risk, unfortunately, in a lot of these cases, the events that lead up to the initial interaction with police can be really minor offences that are not necessarily going to be caught as a show cause offence.

A show cause offence is designed for very serious crimes. Many of them are relevant to protecting somebody from harm such as murder if someone has previously committed murder or manslaughter. But often—and we have discussed the limitations with a coercive control offence—they are matters that by themselves do not look particularly serious, like menacing someone through text messages or attempting to threaten and harm a person through bank accounts. Very notably, those sorts of things are not caught by that definition of a serious domestic violence offence. They may be caught by coercive control, but not soon. We know that, for that coercive control offence to be made out, we need at least two incidents to take place after 1 July this year in order to even begin to qualify towards making a pattern of behaviour for a potential coercive control offence.

We are looking at a show cause offence that is unlikely to catch the type of people that go on to commit domestic homicides. When we are talking about something as serious as reversing the presumption of bail, we

need to think about that. That is why, in the second reading debate, I went back to what the Law Reform Commission said when it reviewed bail in the context of domestic violence offences. At that time, there was a broad domestic violence definition that did not just include intimate partners. Its recommendation was that it really did not make any sense in these cases—a show cause offence was likely to just catch a whole bunch of people who were not actually a risk, while not catching any additional people who would not already be caught by section 18 (1). That is what this part is trying to address.

I correct some of the implications from the statistics in the Minister's reply to the second reading debate. The bill betrays a lack of understanding by the Government of the varied nature of family and domestic violence situations. The truth of the matter is domestic violence-related homicides account for 45 per cent of all murders in New South Wales, at least in the five years until December 2023. But, of those domestic violence murders, less than half of them—45 per cent—involved intimate partner violence. Thirty-three per cent of domestic violence-related murders were matters of family violence and 22 per cent of domestic violence-related murders were in an "other" category. Twenty-two per cent of domestic homicides included carer relationships, housemates, persons in authority or other relationships included within the definition of domestic violence.

There is a really good reason why the scope of relationships is defined so broadly in the main part of the Crimes (Domestic and Personal Violence) Act 2007. That is the norm, because we know that those intimate partner violence murders and incidents of domestic and family violence are quite a minor proportion compared to the rest. I hear the Minister, and I understand that this advice has come from the Attorney General. But the assumption that we do not want to catch somebody who is at real risk of being murdered simply because they are not seen as being of sufficient significance for the Attorney General—because they are sharing a boarding house, they are part of a kinship family or any of the other reasons—when we know that those murders make up a huge number of domestic violence homicides all year brings us back to the point: who is at risk? How do we protect them from harm?

We do not do that by making grand, sweeping statements that include a certain group of people within a category of show cause offence without really understanding where that is coming from. The fact is that this Government has put a very broad, blunt instrument of a show cause in the bill, which only applies to intimate partners, because intimate partner relationships and homicides are newsworthy and create this kind of attention in the first place. The bill ignores all of those women, particularly older women, who are killed by their children. The idea that we do not want to protect them from risk, but we somehow think we can save somebody like Molly, is quite extraordinary.

This change would not have helped Molly. I am really pleased we did not call it Molly's law, because it would not have saved Molly. Those are the actual facts, particularly when we look at all the multiple failures. Molly's parents talked about the Staying Home Leaving Violence failures: that she asked for that house to be made safer, that the people the Labor Government agency had put in place to keep her safe had failed her and that they left her for two weeks in an unsafe property. And yet this Government wants to crow about this bill somehow being Molly's law. It is really offensive, and I think that we need to call that out.

That is why, in this conglomeration of amendments, we have caught the domestic relationship expansion. We do not intend that to apply if the show cause offence stays in, because that would capture even more people, but we point out how ridiculous it is that the Government has only decided to refer to intimate partners in the show cause offence. It shows how little the Government understands about the risks that it is dealing with. I will rest with those comments and commend the amendments to the Committee.

**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) (18:40):** The Government opposes the amendments moved by Ms Abigail Boyd. I will start with the amendments that intend to remove the show cause element. The net effect of these amendments would be to weaken the Government's bill by removing the key protection, the expansion of the show cause test, and seeking to replace it with a modified unacceptable risk test and electronic monitoring requirements. This runs counter to the intention of the Government's bill, which is a strong and well-considered response addressing the risk that people charged with serious domestic violence offences pose to victim-survivors.

The Government's bill will expand the show cause test to serious domestic violence offences alleged to have been committed against intimate partners and the coercive control offence. The Government opposes the amendment that seeks to remove this key protection from the bill. The findings of the joint NSW Law Reform Commission and Australian Law Reform Commission review into family violence acknowledged that reversing the presumption of bail for all domestic and family violence offences was probably not recommended. However, it did acknowledge that, for serious domestic violence offences, presumptions against bail or show cause tests were appropriate and could play an important role in keeping women safe.

The Greens amendments relating to the expansion to intimate partners seek to expand the application of parts of the bill to all domestic relationships, but with the expanded show cause test removed. The amendments seeking to facilitate this expansion are opposed, and there are two reasons why. The expansion of the show cause test and related provisions that would impose electronic monitoring requirements on certain persons if granted bail are targeted at intimate partner violence for good reason. As of December 2023, intimate partner domestic violence assault was the most common form of domestic violence assault in New South Wales. This is not to say that other forms of domestic violence assault are not important—of course they are. But intimate partner violence is the most common form and is the most profound issue. In the 2021-22 financial year, 23 per cent of Australian women reported having experienced violence from an intimate partner.

Intimate partner homicide is the most common form of domestic and family homicide, and the majority involves a female victim. The show cause changes are carefully tailored to balance the significance of a policy decision to expand the category of show cause offences. This is a significant decision but is justified by the importance of protecting victim-survivors and other members of our community who are at risk of escalating domestic abuse and, tragically, domestic and family violence homicide. Targeting intimate partner violence in the show cause provisions is the most appropriate way to achieve that balance. Targeting other relevant offences in the Government's bill ensures that these measures are directed to where the risk is greatest. The definition of "domestic relationship" is much wider and captures a range of different relationships. As I mentioned in the speech in reply, these include flatmates, residents of the same residential facility, people in carer relationships, relatives and, for Aboriginal and Torres Strait Islander people, wider kinship relationships.

The Government does not question that it is important that people in all of those relationships have protection against violence, but this is a very targeted bill that seeks to make a significant change to show cause offences in the Bail Act. It is appropriate that the changes are targeted at the area with the most serious risk, and there is no doubt that area is intimate partner relationships. To me, it is incoherent argument for the member to say on the one hand that she does not want this new serious test of the show cause offence and to say on the other hand that she wants the provisions to apply to a much wider group of people. It is hard to get that balance right. That is why we took a little bit of time with this bill to say that we do want to make it more difficult for some people to get bail, which is why we made the decision to expand show cause offences to serious domestic violence offences. However, we recognised that it needed to be done in a targeted way focusing on the areas of the most risk.

The Greens amendments to the section 18 factors are captured in amendments Nos 5 and 7. These amendments seek to include a new section 18 factor to be taken into account under the unacceptable risk test. This is the likelihood that, if released, the accused person will harm or threaten to harm a particular person or persons, including, in particular, a person with whom the accused is in a domestic relationship. Certain additional factors are also listed as matters to be taken into account when considering that likelihood. These amendments cannot be supported, as they essentially duplicate provisions that are either already in the Bail Act or that are being introduced by the Government's bill but in a way that is less clear and that could potentially give rise to unintended consequences and confusion.

The Greens amendment No. 7 would also allow bail decision-makers to refuse bail and hold an accused person in custody for up to three business days so that further information could be obtained. The Bail Act contains an express provision requiring bail applications to be dealt with as soon as reasonably practicable. This is an important principle that limits rates of short-term remand and ensures that people who have not been found guilty of any offence are not held in custody for longer than necessary before their bail application is heard.

The Greens amendment would be likely to considerably increase the workload of Corrective Services and the Local Court and may lead to a significant number of people being held on remand or having fresh bail hearings that would otherwise not be required. The Government's bill already expands the category of matters in which a stay can be sought under existing section 40 of the Bail Act. In circumstances where a prosecutor has a real concern about a person being granted bail for a serious domestic violence offence, coercive control offence or serious sexual assault offence, they will be able to seek a stay of that decision and make a further detention application before the Supreme Court. Further evidence, if available, could be obtained prior to the hearing of the detention application.

Amendment No. 9 relates to electronic monitoring. The effect of The Greens amendment would be to remove the show cause test from the Government's bill and, as a result, also remove the connection between the show cause test and electronic monitoring provisions. This would mean that a much wider cohort of people would be likely to be subject to electronic monitoring. Under The Greens amendments, the electronic monitoring requirement would also be expanded to serious domestic violence offences occurring in all domestic relationships—for example, housemates, children, relatives and people in kinship networks.

The amendment cannot be supported. It would have the likely effect of having a larger cohort of people charged with serious domestic violence offences out on bail. The entire purpose of this bill is to limit the number of people charged with serious domestic violence offences out on bail. This runs counter to concerns that some in the domestic and family violence sector have conveyed about electronic monitoring being solely relied upon as a solution to the risk that may be posed by people charged with the most serious domestic violence offences.

The Government's amendments would instead see alleged serious domestic violence offenders either remanded in custody under the expanded show cause provisions and enhanced unacceptable risk test, or granted bail, but with electronic monitoring as a final safeguard for victim-survivors. I need to be careful in my remarks due to ongoing police investigations, but I think it is very unfair and untrue to make the comment that these changes would not have protected Molly Ticehurst. The Government and I reject that. I will leave my remarks there because of the ongoing investigations, but I think the member made an irresponsible and untrue statement that is not supported by the Government.

**The Hon. SUSAN CARTER (18:49):** On behalf of the Coalition, I indicate that we also are unable to support these amendments. I thank my colleague for outlining detailed reasons as to why. We are supportive of the show cause test and we want it in the legislation. We think that is very important. We acknowledge these new reforms will not catch every person and prevent every act of domestic violence by somebody on bail. But we also do not want to let the perfect be the enemy of the good. We support the bill as it currently is.

**Ms ABIGAIL BOYD (18:49):** I will address the easy one first. Amendment No. 9 was just preserving the status quo of the bill on the basis of the show cause change we suggested being agreed to. It was to keep it exactly as was intended by the Government; it was not broader. It was never what that amendment did. I note the comment, though, in relation to whether or not this would have prevented the actual matters that are on record in relation to the Molly Ticehurst case. That is just a fact of the law. It is not a controversial statement. I find it quite extraordinary to make the assertion that somehow this bill would have cured all of those issues, and that suddenly this person would have been detained in circumstances when otherwise they were not—but if that is what Government members want to tell themselves, sure.

I am really concerned that members have not understood what control is yet. When the Domestic Violence Death Review Team looked at domestic homicides over a long period, it found that 99 per cent of them were preceded by coercive control. In a lot of cases, there is nothing leading up to that. Although experts in the field can see it, from the love bombing right at the beginning to the increasing levels of control—in the form of, "Don't wear this, don't hang out with that person. I'm having all your financial control now" et cetera—it is rare that there is an actual physical moment that has come to the attention of police before that. These people are very unlikely to have been hit before they are killed. I do not know how many times we have to say that.

Members are looking at this and saying, "Well, most of the domestic violence incidents that turn up on a Saturday night after the football involve intimate relationships, so therefore that's what we are now going to apply when we're looking at the riskiest situations." However, we know from the statistics that the riskiest situations are actually through coercive control, which does not present like that in the first place. I do not know how we get that through to legislators in this Parliament. We have different categories of risk based on the type of relationship.

Unfortunately, a huge number of relationships continue in a very physically abusive way for some time. The type of intervention that works in those types of relationships is men's behaviour change programs. It is people coming into those families where the partners do not actually want to be separated. They do not actually want the man—it is normally the man—in jail; they want the violence to stop. In most cases it is not something that is escalating to actual homicide, statistically, and it is a situation where they can turn around that relationship with counselling, frontline services and the rest of it. That is very different to domestic homicides, where 99 per cent are based on coercive control and—I read out the Bureau of Crime Statistics and Research numbers earlier—less than half of them, or only 45 per cent, involve intimate partner violence.

What are we trying to address? We are trying to keep people safe. If we are going to keep people safe, we need to look at the risk of the perpetrator doing harm. When we look at that risk, we have to look at those factors in new section 18 (1A) to (1C) contained in these amendments. This is one of the things that annoys me about the coercive control legislation. Unlike the rest of the domestic violence legislation, coercive control is limited to intimate partners, despite the evidence and despite the statistics. It is really frustrating. It does not matter what your relationship is with a person—if they are controlling you, you are in fear for your life and are at high risk of being killed. I want our legal system to acknowledge that and say, "You are at risk. We will protect you and keep this person behind bars." I do not think that is a big ask.

Instead, we are ignoring all the evidence and everything people on the front line are telling us about what these relationships are actually like. Instead of looking at actual risk, we are trying to make it easy by saying, "We'll just deny them all bail", while not actually capturing over half the people, who are the ones at actual risk

of going on to do the homicides. This is not good legislation-making. This is not good governance. It is simplistic and it is not well thought through. The idea that this is making a difference to anything is really quite distressing. It will not save any great number of people. I would be very surprised if this protected even one person from harm. I wish it were different.

It is in that context that I look at the vast numbers of people who will be put on remand because of this show cause provision and the tens of millions of dollars it will cost every year. That money could instead go towards men's behaviour programs. It could be going towards frontline services. It could be going towards actually making Staying Home Leaving Violence work. It could be going towards emergency accommodation and refuges. Instead, we are putting it towards this provision—which will not really have any protective effect—and patting ourselves on the back and saying we somehow changed the law for the better. I really hope members reflect on that. I commend the amendments to the Committee.

**The CHAIR (The Hon. Rod Roberts):** Ms Abigail Boyd has moved The Greens amendments Nos 1 to 5, 7 and 9 on sheet c2024-065I. The question is that the amendments be agreed to.

**The Committee divided.**

Ayes .....6  
Noes .....25  
Majority.....19

**AYES**

Boyd (teller)  
Cohn

Faehrmann  
Higginson

Hurst (teller)  
Ruddick

**NOES**

Buckingham  
Carter  
Donnelly  
Fang (teller)  
Farlow  
Farraway  
Franklin  
Houssos  
Jackson

Kaine  
Lawrence  
MacDonald  
Martin  
Merton  
Mitchell  
Mookhey  
Moriarty

Munro  
Murphy (teller)  
Nanva  
Primrose  
Rath  
Sharpe  
Suvaal  
Ward

**Amendments negatived.**

**Ms ABIGAIL BOYD (19:04):** By leave: I move The Greens amendments Nos 6, 8 and 10 on sheet c2024-065I in globo:

No. 6 **Matters to be considered as part of assessment for domestic violence offences**

Page 3, Schedule 1[4], lines 30 and 31. Omit all words on the lines.

No. 8 **Domestic violence offence is a serious offence**

Page 3, Schedule 1. Insert after line 31—

**[4B] Section 18(3)**

Insert after section 18(2)—

(3) Despite subsection (2), a domestic violence offence is a serious offence for this division.

No. 10 **Offences to which electronic monitoring relate**

Page 3, Schedule 1[5], line 38. Omit "bail.". Insert instead— bail, and

(c) granted bail subject to a conduct requirement that the accused person must not be at a specified place or within a specified distance of a specified place.

These are the remaining amendments that I flagged ahead of time. Amendment No. 10 seeks to address a situation where somebody was released and put back in the family home and still had to wear an electronic monitor. We thought that was not the intention of the bill and would be a waste of money. As for amendments Nos 6 and 8, at the moment there is a provision in the Bail Act as to how we consider whether an offence is a serious offence and the result of that then flows through into the risk assessment. The idea is that all domestic violence offences should be treated as serious offences for the purposes of the section 18 test. That then looks at whether, in those serious

offences, there is a particular risk of harm to an individual. These amendments make sense and stand on their own, even though the previous set of amendments were not supported. They strengthen the assessment to make sure that, regardless of the type of domestic violence offence, the magistrate has a good, old look and makes sure that the accused is not going to be harming the victim.

**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) (19:06):** The Government opposes these amendments. In relation to amendment Nos 6 and 8, the bill makes certain changes to the bail framework that are intended to address the specific issue of intimate partner violence, and the tragic consequences that can result from the escalation of this type of violence. The Greens amendments would broaden the scope of the bill's changes to section 18 (1) of the Bail Act 2013 so that the views of the victim or victim's family would be required to be taken into account for all domestic violence offences, not just those against an intimate partner.

The expansion to explicitly include consideration of victim and the family views for "domestic violence offences" in an intimate partner context in the bill recognises that a victim's own assessment is particularly valuable when evaluating risk in such matters. The definition of "domestic violence offence" has the same meaning as in section 11 of the Crimes (Domestic and Personal Violence) Act 2007. It is intended to capture a broad range of offences, and not just those that are of a violent or sexual nature. The Government's bill also includes another provision requiring a bail decision-maker to consider "red flags", being behaviour that may constitute domestic abuse under section 6A of the Crimes (Domestic and Personal Violence Act), in all domestic violence relationships, not only those involving intimate partner relationships.

Broadening the definition of "serious offence" to include "domestic violence offences" has the effect of broadening the bail concern in section 19 (2) (b). When determining whether there is an unacceptable risk that the accused will commit a further serious offence, the court would be specifically required to consider whether the accused would commit a "domestic violence offence". This amendment is unnecessary as the definition of "serious offence" in section 18 (2) is already sufficiently broad to capture serious domestic violence offences, particularly as the definition requires the court to consider the likely effect of the offence on the victim and the community when determining whether it is a "serious offence".

The Government's bill, taken as a whole, strikes the right balance and includes measures that both address serious domestic violence offences committed in intimate partner relationships, and ensure that any red flags that may constitute domestic abuse are taken into account in all bail matters. The Government does not support amendment No. 10. The effect of this amendment would be to limit the cohort of people charged with serious domestic violence offences who would be subject to electronic monitoring to only those who are subject to a conduct requirement preventing them from being at a specified place or within a specified distance of a specified place.

This amendment is too restrictive and does not cover other conditions that may be amenable to electronic monitoring, including residence conditions or curfew conditions. Also, the Government's bill already provides for judicial discretion to be exercised in circumstances where sufficient reasons exist in the interests of justice to justify not imposing the electronic monitoring condition. This amendment unnecessarily limits the conditions in which electronic monitoring would be required to be imposed by a court and does not enhance or increase victim-survivor safety.

**The Hon. SUSAN CARTER (19:09):** The Coalition does not support the amendments for the reasons already well outlined.

**Ms ABIGAIL BOYD (19:10):** In response, for the reasons that I laid out at the beginning of my speech, I have listened to the response from the Minister but simply do not agree. Either we are treating these offences as serious or we are not. It seems very strange that we would not just identify, given what we know about coercive control, every domestic violence offence as a serious offence for the purposes of assessing risk to a victim, but I understand the amendment will not pass.

**The CHAIR (The Hon. Rod Roberts):** Ms Abigail Boyd has moved The Greens amendments Nos 6, 8 and 10 on sheet c2024-065I. The question is that the amendments be agreed to.

#### **Amendments negatived.**

**The Hon. JOHN RUDDICK (19:11):** I move Libertarian Party amendment No. 1 on sheet c2024-088:

No. 1      **Review of certain provisions**

Pages 4 and 5, Schedule 1[10], proposed section 102(2)–(4), line 41 on page 4 to line 6 on page 5. Omit all words on the lines. Insert instead—

- (2) The review must be undertaken as soon as possible after the period of 12 months from the assent date.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 2 years after the assent date.
- (4) In this section—

*amending Act* means the *Bail and Other Legislation Amendment (Domestic Violence) Act 2024*.

*assent date* means the date of assent to the amending Act.

*reviewable provisions* means the provisions of this Act amended or inserted by the amending Act.

My amendment brings forward and shortens the statutory review period from 24 months to 12 months. I believe that 12 months is ample opportunity to assess the effectiveness or otherwise of this law. The Minister has acknowledged some will be unfairly treated by this law. Why wait two years? We will have sufficient data after 12 months. I commend the amendment to the Committee.

**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) (19:11):** The Government opposes the amendment. The amendment would reduce the time from beginning the statutory review of the bill from three years after commencement to 12 months from the assent of the bill. A review 12 months after the bill receives assent would provide insufficient time to obtain meaningful insights into the impact and operation of the provisions. This is especially the case as the bill commences on proclamation, which means that the provisions will have been in force for less than a year at the time of the proposed review.

The Government has already publicly committed to an administrative review commencing 12 months after the provisions come into effect. Further, the Attorney General has requested that the Coercive Control Implementation and Evaluation Taskforce consider these provisions in its first annual report. A statutory review three years after commencement subsequent to both the administrative review and the coercive control taskforce presents a far more sensible time frame in which a meaningful evaluation can occur.

**The Hon. SUSAN CARTER (19:12):** The Coalition is very happy to support the amendment. We agree that if there are problems, it is better to identify them sooner rather than later.

**Ms ABIGAIL BOYD (19:13):** I thank the Hon. John Ruddick for moving the amendment. I can see what the intention is and where it is coming from. Given The Greens' view that there will be no real significant data coming out for some time, if at all, we would rather see a three-year review, particularly because it now includes coercive control, which as we know will take a long time before it leads to any form of prosecution.

**The CHAIR (The Hon. Rod Roberts):** The Hon. John Ruddick has moved Libertarian Party amendment No. 1 on sheet c2024-088. The question is that the amendment be agreed to.

**Amendment negatived.**

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

**Motion agreed to.**

**The Hon. ROSE JACKSON:** 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. ROSE JACKSON:** On behalf of the Hon. Daniel Mookhey: I move:

That the report be adopted.

**Motion agreed to.**

### Third Reading

**The Hon. ROSE JACKSON:** On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a third time.

**Motion agreed to.**

**LAW ENFORCEMENT (POWERS AND RESPONSIBILITIES) AND OTHER LEGISLATION  
AMENDMENT (KNIFE CRIME) BILL 2024**

**Messages**

**The PRESIDENT:** I report receipt of a message from the Legislative Assembly agreeing to the Legislative Council's amendment to the bill.

*Committees*

**COMMITTEE ON CHILDREN AND YOUNG PEOPLE**

**MODERN SLAVERY COMMITTEE**

**Membership**

**The PRESIDENT:** I report receipt of the following message from the Legislative Assembly:

MR PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That:

- (1) Ms Charishma Kaliyanda be appointed to serve on the Committee on Children and Young People in place of Ms Kylie Wilkinson, discharged.
- (2) Ms Lynda Voltz be appointed to serve on the Modern Slavery Committee in place of Ms Kylie Wilkinson, discharged.
- (3) A message be sent informing the Legislative Council.

Legislative Assembly  
6 June 2024

GREG PIPER  
Speaker

*Adjournment Debate*

**ADJOURNMENT**

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

That this House do now adjourn.

**WESTERN SYDNEY TRANSPORT INFRASTRUCTURE**

**The Hon. NATALIE WARD (19:16):** I speak today on the Government's recent announcements in the Transport and Roads portfolios in the lead-up to the next State budget. It was a step in the right direction; I will give the Government some credit. But it is also important to separate fact from fiction and spin from substance, because you cannot build infrastructure with spin. Turning to Parramatta Light Rail stage two, the Government announced \$73 million for further planning and set aside \$2 billion dollars for the project, which is positive. The transport Minister and the Premier were ready to go for the announcement. However, like most things with this Government, there is a catch. That is not the full funding for the project, and the Government knows it. It knows it is only part of the funding for its sole infrastructure project that it cannot fully fund. How do I know that? I know because Labor was told before the election by the independent Parliamentary Budget Office that the project would cost at least \$3.9 billion. While I accept that infrastructure costs are subject to change, that is not the full funding for the project.

I stand to be corrected, but that funding does not enable the complete delivery of the project. The Government is yet to announce when the \$2 billion worth of funding will be started and what it will be used for. It does not deliver the rail lines, the stations, the trams and all of the operational expenditure required to deliver the project. It just does not. Parramatta Light Rail stage one, a project designed, funded and nearly completely delivered by the former Liberal-Nationals Government, took five years to deliver. Yet, somehow, this new project will take nearly double that time, apparently opening in 2032. We have 50 per cent of the funding and a doubling of the delivery time, and I think we can understand why. It is because it gives the Government more media opportunities. If it does five media ops a year on a project, the eight-year rollout gives the Government an extra 15 media releases on the project.

Turning to the roads funding around the new airport, I welcome the funding for Elizabeth Drive and Mamre Road matching the Federal funding. That is great to know. It was taken away, but it has been put back again. Round and round we go, but the funding seems to have somehow been announced. But yet again we struggle for the detail. When will construction actually start? Is it for the eastern or western portion of Elizabeth Drive or is it for both? When will construction start for Mamre Road? The former Government—the Liberal-Nationals Coalition—promised Mamre Road stage one. We funded it and we started procurement for it, and yet there is still no contract awarded under this Labor Government. Infrastructure is bipartisan. We all want good infrastructure,



roads and upgrades for local areas. But with big media releases must also come detail. A funding promise needs to be delivered to meet that commitment.

### MAPLE LEAF HOUSE

**The Hon. GREG DONNELLY (19:20):** Tonight, once again, I draw the attention of the House to concerns shared by many regarding a NSW Health facility called Maple Leaf House [MLH] located in East Lambton in Newcastle. The facility was opened in April 2021 with the express purpose of treating children and adolescents who may be or are gender dysphoric. In previous contributions made on this matter, I have focused on issues that have come to the surface and been revealed from my own investigations of the facility. Tonight I focus on matters put to me by individuals who work and live in and around the Newcastle region. With respect to "work", I refer to medical specialists including psychiatrists, GPs, psychologists and counsellors, some of whom have direct experience of working at MLH. With respect to "live", I refer to parents and families who have children and adolescents who have been treated at or passed through the facility.

Various people have put to me that concerns about MLH are widespread amongst the medical community in the Newcastle region. This includes those working in the public health system and in community practice. It is an open secret that some staff at MLH express satisfaction at having been able to secure a standalone facility separate from John Hunter Children's Hospital. They say—and it has been repeated more than once—that the strategy of creating a standalone facility had a specific objective, and that was to remove it from direct, line-of-sight supervision and scrutiny. Establishing a standalone facility, separate from a hospital, was seen as a tidy way of keeping those clinicians strongly supportive of affirmation treatment practices altogether.

Many from the medical community have expressed concerns regarding the speed at which patients at MLH are offered off-label hormonal interventions. It has been put to me that it is not uncommon for teenage patients to be commenced on such treatment after as little as two medical appointments. MLH doctors have repeatedly overridden substantial concerns about specific patients raised by psychologists and counsellors working at the facility. I have been informed of one highly experienced counsellor who left working at MLH because of having such serious concerns overridden.

One of the most common areas of concern aired by the medical community is the manifest failure of MLH to engage thoroughly with their patients to establish whether or not there are underlying mental health conditions that need to be properly diagnosed and professionally treated. I, and many others, find it shameful that what virtually applies is a one-size-fits-all approach that places patients on the affirmation treatment conveyor belt when they walk through the door. Such an approach is antithetical to what is recognised as best medical practice for children and adolescents who may be or are gender dysphoric.

Medical specialists—including psychiatrists, GPs, psychologists and counsellors—have all expressed concern that affirmation treatment is the de facto practice that operates at MLH. They say that this can be readily confirmed by examining the facility's records that will show that the vast majority of patients, once they have met an MLH doctor, will be rapidly offered off-label puberty blockers and cross-sex hormones. Regarding the off-label hormonal treatments, members of the medical community are highly critical of the facility's lack of follow-up for patients. Patients can leave MLH and, because there is no follow-up undertaken, there is no confirmation one way or the other whether they commenced the off-label hormonal treatment, whether it had the intended effect, whether there were side effects, or whether they stopped their treatment due to some problem or regret.

It is also well known in the medical community that MLH has a reputation for bullying and coercing parents. Of the examples provided to me, the one I found most repugnant was when an MLH employee suggested to parents, in front of their child, that the child may attempt suicide if they were not permitted to commence transitioning. Some may be surprised to hear that the question, "Would you prefer a live daughter or a dead son?", or vice versa, is not infrequently put to parents by the medical professionals involved in providing affirmation treatment to children and adolescents. However, the facility's high-handedness does not stop there. I have been made aware that Maple Leaf House uses strategic legal action or threats of legal action to place pressure on parents to secure support, or at least neutrality, with respect to the facility's recommended approach to treatment.

All of what I have said tonight is an open secret in the medical community in and around Newcastle. What I have outlined has been provided to me by individuals who have seen and heard these things firsthand. It adds significant further weight to my call for a full, open and independent review of Maple Leaf House and its operations. I urge that it be done without further delay.

### GAZA CONFLICT

**Ms ABIGAIL BOYD (19:25):** The Labor Party in Australia is engaged in a campaign to stifle and silence dissent against their complicity in the genocidal activities of the State of Israel against the Palestinian people. Across the country, at all levels of government, the Labor Party is attempting to prohibit and condemn members

of the public, public servants and politicians from drawing attention to and calling for an end to the Labor Party's support, in lockstep with the Liberal and National parties, for the Israeli Government war machine. The Australian Labor Party has accused my party, The Greens, of seeking to politicise the Government's willing complicity in the war crimes being perpetrated by the Israeli Government in Gaza against the Palestinian population. It wishes that we would stop criticising it for its actions and choices. But the power, and responsibility, is solely in its hands and on its shoulders.

If the Government does not want to be criticised by the public and by The Greens over its response to the calamity unfolding in Gaza, perhaps it should consider simply not handing over nearly a billion dollars to a company, Elbit Systems, helping the Israel Defense Forces slaughter tens of thousands of Palestinians. The Government could choose not to silence and condemn pro-Palestinian voices and not to participate in the wilfully and dangerously false narrative of conflating criticism of Israel and the right-wing nationalist political ideology of Zionism with antisemitism. For as long as the Government continues to enable the annihilation of the Palestinian people, we will continue to hold it to account. The Government is opposed to public calls for targeted boycotts, divestment campaigns and sanctions against senior political leadership of the State of Israel. That is good; that is how we know they work.

My colleagues have drawn attention to our Government's direct role in the arms and munitions industry that is currently waging war on Gaza. But there is a further sinister element to the Israeli war machine that is unique to the horrors of modern war making. It is the technologically enabled weaponry, artificial intelligence [AI], facial recognition and targeting systems that make up modern missile systems. I support and associate myself with calls from public sector workers organising in New South Wales to boycott Hewlett Packard. Hewlett Packard's technology is intimately involved in the oppression of Palestinians. Hewlett Packard is complicit in Israel's occupation and apartheid regime. Hewlett Packard technologies provide the circuits and wires of apartheid and genocide, and New South Wales procurement dollars should not go towards the profits of this corporation.

There is also horrifying news coming out of Israel related to the use of AI technologies for the selection of targets. This is not new but has come to an even more acute head in recent months. In May 2023 the director general of Israel's Ministry of Defense said Israel is aiming to parlay its technological prowess to become an AI "superpower", driving advances in autonomous warfare and streamlined technologically enhanced combat decision-making. In April of this year, The Verge reported Israeli defence technology companies including Axon Vision, Asio Technologies Ltd, and SMARTSHOOTER were looking to export their "battle-tested" AI tools, many of which are being used for the first time in the Gaza Strip. In January, SMARTSHOOTER's CEO framed Israel's war on Gaza as a sales boost, saying:

This is the finest hour of the defense industries.

The Israeli outlet *+972 Magazine* reports that Israel has been relying on AI to decide whom to target for killing, with humans playing an alarmingly small role in the decision-making, especially in the early stages of the war. The report describes three AI systems working in concert to determine targets. Their decisions are taken as gospel, so much so that one system is literally called "The Gospel". The Gospel marks buildings that it says Hamas militants are using. "Lavender", which is trained on data about known militants, then trawls through surveillance data about almost everyone in Gaza, from photos to phone contacts, to rate each person's likelihood of being a militant. It puts those who get a higher rating on a kill list. Something called "Where's Daddy?" tracks these targets and tells the army when they are in their family homes, because it is easier to bomb them there than in a protected military building.

Thirty-seven thousand Palestinians have been marked for assassination by this process, and thousands of women and children have been killed as collateral damage because of AI-generated decisions. Artificial intelligence technologies offer immense promise and opportunity, but they also in many serious ways alienate us from our humanity. As these technologies develop, they risk being increasingly weaponised into highly sophisticated instruments of warfare and horror. But at the end of the day, it is not the technology making the decisions to deploy these missiles; it simply makes the genocide more efficient.

At its core, it is a political decision to confront these atrocities, or to stand by and let them happen, or worse, to be complicit. Our governments are making a political decision to permit this, and every day that continues I will condemn them. The Labor Party knows the public does not agree with its continued support of the Israeli military offensive on Gaza and fears losing votes, so it is trying to silence dissent. Free Palestine.

### CANNABIS INDUSTRY

**The Hon. JEREMY BUCKINGHAM (19:30):** Today I announce that peace has broken out, unfortunately not in Gaza but in the war on drugs and cannabis, following the Biden administration in the United States announcing that it will reschedule cannabis from the schedule 1 designation that it has held for more than 50 years. Under the Controlled Substances Act, cannabis will effectively be down-scheduled from a schedule 1

drug to a schedule 3 drug. Schedule 1 drugs are those that have no currently accepted medical use, such as heroin. The new schedule for cannabis will make it a drug accessible from a pharmacy without prescription. When he announced the change, which is the first step towards full federal legalisation of cannabis, President Biden said, "This is monumental. It's an important move toward reversing longstanding inequities." He pointed to work already done to pardon a record number of people charged with federal offences for simple possession of cannabis.

Since voters in Colorado and Washington voted to legalise cannabis in 2012, twenty-three other states have followed suit in the United States. So far more than 40 countries have legalised cannabis for medical or adult use. The rapid growth of cannabis legalisation and consumption in western nations is of far greater importance to Australia and New South Wales than the simple right to choose between a joint or a glass of wine on a Friday night. I note this month even the Islamic nations of Pakistan and Morocco have moved to legalise medicinal cannabis. The fact that there are now more daily cannabis users than daily alcohol users in the United States, or the fact that the global cannabis industry is worth US\$44 billion this year, should concern all of us. Sales will be \$65 million by the end of the decade in the United States, making cannabis as big as the wine industry and one-quarter of the size of the alcohol industry in that country.

We are witnessing a tectonic economic and social shift that offers hugely significant opportunities for New South Wales. I will give one example. I recently visited Tasmanian Botanics, a medicinal cannabis farm situated in one of the most economically challenged areas in Australia: the northern suburbs of Hobart, where unemployment runs at more than 30 per cent and public housing at about 80 per cent. Owner and cannabis pioneer Dan Howard has taken over a former jail and now employs more than 150 people. His company is the largest employer in that region. They used to lock people up for sitting at home and snipping and selling buds. Now those people are in the old jail, snipping and selling buds, and making \$60,000. Those involved with medicinal cannabis are saying, "How good's this?" How is that for a peace dividend?

But time is not on our side. Every day that we sit on our hands and pretend that this is not happening, or we cling on to the discredited falsities propagated by the war on drugs, the more we slip behind, allowing our burgeoning market of medicinal cannabis users to be served by imports from Canada—a country where we are prohibited from competing in cannabis sales. I welcome the recent resolution at the Victorian State Conference of the Australian Labor Party that endorsed full legalisation of cannabis, and I welcome the announcement of a driving trial in Victoria testing the reactions of medicinal cannabis patients. I also welcome this Government's formation of an Industrial Hemp Taskforce, whose very existence is necessary only because hemp is in the same family as cannabis.

If we are going to benefit from the extraordinary economic and social benefits now available to us, we have no time to lose. I call on this Government to form an expert advisory panel to design a strategic plan for the New South Wales medical cannabis industry as a starting point to full legalisation. That is a massive opportunity for New South Wales. It could be a huge transition industry and employer, and have real applicability in places like the Upper Hunter, the Central West and other regions that are transitioning out of coal and looking for tens of thousands of jobs in the next decade. The Government's own data says that the Upper Hunter and Central West are going to lose 40,000 jobs in the coal downturn in the next eight years. Cannabis can be part of that solution. We need to follow the lead of the United States and those countries that are bringing in progressive cannabis law reform.

## BIODIVERSITY

**The Hon. JACQUI MUNRO (19:35):** In the week of World Environment Day, I speak about the importance of biodiversity. Biodiversity is the wellspring of life on earth. Even as reasonably intelligent beings, the complexity and scale of our universe may well remain beyond our full comprehension for all time. It is that complexity—the fragility against certain human activity—that I hope to contribute to protecting and nurturing as a custodian and legislator. In discussions about the environment, which are fairly concerned with climate change, we often miss the reasons for limiting the anthropomorphic impact of human creation, outside of basic human survival. Like any animal facing habitat destruction, it is critical to recognise that we are dependent on the totality of our environment, not just certain parts of it.

The deep, connected, myriad ways that our earth and universe provide for our existence are, potentially, unknowable. That is why my sense of philosophy has its roots in Stoicism and, I have discovered more recently, pantheism, particularly that of the Spinozan variety. The development of modern pantheism is generally attributed to the work of seventeenth century philosopher Baruch Spinoza and his posthumously published work *Ethics*. I referred in my inaugural speech to my affinity with Stoicism, which is essentially a pantheistic philosophy. In discovering the work of Spinoza, I have found a more specific representation of not only a framework to approach individual situations, which Stoicism offers, but also a broader sense of belonging to a whole. In the mid-1600s Spinoza articulates with clarity and simplicity my own instinct about existence and something like a higher power.

He suggests, "Deus sive Natura. God is nature and nature is God." In 1929 Albert Einstein presented the idea poetically. He said:

I believe in Spinoza's God, who reveals Himself in the lawful harmony of the world, not in a God who concerns Himself with the fate and the doings of mankind.

That instinct is felt with depth whenever I look up, down or out at the world. To look at the stars and see our own galaxy light up the sky from the State's first dark sky national park in the Warrumbungles, to breathe in deeply the scent of eucalyptus while hiking in the Blue Mountains or to watch ancient crocodiles in Windjana Gorge in the Kimberleys has a spirituality to it.

Yet biodiversity and the complexity of our living systems on earth—ecosystems that have taken millennia to develop—are at serious and fatal risk due to human activity. An article published in *Science* magazine in April entitled "Global trends and scenarios for terrestrial biodiversity and ecosystem services from 1900 to 2050" states, "During the twentieth century the planet lost 2.3 per cent of species from land-use change impacts alone." That is approximately 200,000 species if one assumes the planet's diversity to be around nine million species. Australia is called out for a pronounced reduction in species richness across eastern and south-western Australia.

According to the *Independent Review of the Biodiversity Conservation Act 2016*, published in August 2023 and led by Dr Ken Henry, AC, feral cats and foxes kill around seven million native animals every day in Australia. In addition, 72 species are extinct in New South Wales, including 25 mammals, and 954 threatened species and 111 threatened ecological communities are currently listed under the Act. In 2016 the Coalition Government responded to the urgent need to address outdated, disparate approaches to biodiversity conservation by introducing the Biodiversity Conservation Act 2016. It was led by the environment Minister at the time, the Hon. Mark Speakman. He said:

We are fortunate in New South Wales to have a rich and diverse range of native wildlife. But the laws we have now for regulating human interactions with native animals and plants are more than 40 years old and have not kept pace with the evolution of wildlife management in practice.

The Act itself has the purpose of maintaining:

... a healthy, productive and resilient environment for the greatest well-being of the community, now and into the future, consistent with the principles of ecologically sustainable development ...

There have now been multiple reviews into the Act. The most recent report, by Dr Ken Henry, lists 58 clear recommendations for the Government to strengthen the legislation. In particular, it will be critical for the planning and environment departments to develop and implement a monitoring, evaluation, reporting and improvement framework for the Biodiversity Offsets Scheme. I also point to recommendations 36, 47, 48, 49 and 50, which aim to enhance data gathering and management, to improve data-informed decision-making and assist in the development of a comprehensive set of natural capital accounts for New South Wales. As a Liberal, I believe in preserving Australia's natural beauty and environment for future generations.

## ENERGY PRICES

**The Hon. CAMERON MURPHY (19:40):** Tonight I talk about one of the many failures resulting from energy privatisation. New South Wales consumers are leading the nation in the transition to renewable energy. Nearly one million households across the State have invested in solar panels for their homes, generating clean energy for their households and directing unused excess back to the grid for the benefit of their community. Instead of being rewarded by energy providers for this effort, they are about to be penalised. In July of this year, households who export unused renewable energy back to the grid will face monetary penalties. The so-called "sun tax", expected to be implemented by energy retailers throughout far northern, western and southern parts of New South Wales, is designed to incentivise consumers to export their solar energy during the hours of peak demand in the late afternoon and early evening by charging them for energy exported during daytime hours.

While consumers have the option to avoid these fees by opting out of the new two-way pricing structure, this will exclude them from receiving any feed-in tariffs for exporting energy at the more convenient times designated by their energy provider. Energy retailers, including Ausgrid, Essential Energy and Endeavour Energy, have justified these export tariffs because of the expected increase in congestion on the grid as more Australians make the transition to renewable energy. It is essential that our grid can handle additional solar energy to minimise power outages and other disruptions to households. In other cases, retailers have moved to smart meters and have gouged consumers for time-of-day pricing—charging a higher amount in the evening—without properly informing people that they were moving to this system in circumstances where consumers cannot change their usage in order to avoid it.

It should be the responsibility of the energy providers to ensure that their networks are up to the task of storing clean energy. It is more cost efficient and practical for the energy providers themselves to secure storage

capacity at scale than it is for every household to run small batteries. In May this year, Nexa Advisory released a research report that found energy distribution networks allocate less than 1 per cent of their expenditure to managing exports of power. Investment in solar energy storage is clearly not a priority for energy providers. The reform is yet another example of private companies passing unnecessary costs on to consumers instead of fronting the bill themselves, even when it would be a small cost to them to do so.

Under the new two-way pricing structure, only solar panel owners who have purchased costly personal batteries capable of storing their excess power to be sold during high-demand periods will avoid taking a financial loss. Those batteries can cost upwards of \$9,000 per unit. After already having made a sizeable investment in solar panels for the benefit of the wider community, the majority of solar-powered households are unable to afford the additional cost. Instead of investing in batteries themselves, energy providers are passing the financial responsibility on to consumers.

I welcome initiatives by the Government to provide subsidies to consumers for the installation of solar and batteries. But in my view the energy companies should be primarily funding storage to solve their problem, not the taxpayer and not the consumers. Australian households are already suffering from a cost-of-living crisis. While a tariff of a few cents per kilowatt may not be immediately concerning, citizen advocacy groups have already expressed that the potential \$30-a-year addition to power bills will not only contribute to financial stress but also discourage more households from investing in solar panels.

Rather than investing in vital upgrades to energy storage and transportation systems to help the State transition to clean, renewable and reliable energy, those private corporations are erecting further barriers to completing the transition, causing Australian households to suffer in the process. The corporations have a poor record when it comes to paying workers fairly, and they have a social responsibility to ensure that Australia has access to affordable, reliable power. Solving the problem of expected grid congestion should not fall on Australian households.

**The PRESIDENT:** The question is that this House do now adjourn.

**Motion agreed to.**

**The House adjourned at 19:45 until Tuesday 18 June at 12:30.**