

LEGISLATIVE COUNCIL

Thursday 21 November 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.

Documents

PARLIAMENTARY DEPARTMENTS

Reports

The PRESIDENT: I table the following reports:

- (1) Report of the Department of the Legislative Council for year ended 30 June 2024.
- (2) Report of the Department of Parliamentary Services for year ended 30 June 2024.
- (3) Report of Parliament of New South Wales—Financial Performance 2023-2024.

Budget

BUDGET ESTIMATES 2024-2025 TIMETABLE

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (10:03): I seek leave to amend Government business notice of motion No. 1 for today of which I have given notice by:

- (1) In paragraph (1):
 - (a) omitting "Day Seven: Wednesday 5 March 2025 PC 1 Finance, Domestic Manufacturing and Government Procurement, Natural Resources" and inserting instead "Day Seven: Wednesday 5 March 2025 PC 1 Treasurer"; and
 - (b) omitting "Day Eight: Thursday 6 March 2025 PC 1 Treasurer" and inserting instead "Day Eight: Thursday 6 March 2025 PC 1 Finance, Domestic Manufacturing and Government Procurement, Natural Resources".
- (2) Inserting after paragraph (1):
 - (2) That, unless the committee decides otherwise:
 - (a) the sequence of questions to be asked at the hearings for the following portfolios alternate between opposition and crossbench members, in that order, with equal time allocated to each:
 - (i) Education and Early Learning, Western Sydney;
 - (ii) Premier;
 - (iii) Health, Regional Health, the Illawarra and the South Coast;
 - (iv) Attorney General;
 - (v) Climate Change, Energy, the Environment, Heritage;
 - (vi) Planning and Public Spaces;
 - (vii) Treasurer;
 - (viii) Finance, Domestic Manufacturing and Government Procurement, Natural Resources;
 - (ix) Water, Housing, Homelessness, Mental Health, Youth, the North Coast;
 - (x) Families and Communities, Disability Inclusion;
 - (xi) Special Minister of State, Roads, Arts, Music and the Night-time Economy, Jobs and Tourism; and
 - (xii) Transport.
 - (b) the sequence of questions to be asked at the hearings for the following portfolios alternate between crossbench and Opposition members, in that order, with equal time allocated to each:
 - (i) Agriculture, Regional New South Wales, Western New South Wales;

- (ii) Small Business, Lands and Property, Multiculturalism, Sport;
- (iii) Women, Seniors, Prevention of Domestic Violence and Sexual Assault;
- (iv) Local Government;
- (v) Industrial Relations, Work Health and Safety;
- (vi) Aboriginal Affairs and Treaty, Gaming and Racing, Veterans, the Central Coast, Medical Research;
- (vii) Customer Service and Digital Government, Emergency Services, Youth Justice;
- (viii) Regional Transport and Roads;
- (ix) Better Regulation and Fair Trading, Industry and Trade, Innovation, Science and Technology, Building, Corrections;
- (x) Skills, TAFE and Tertiary Education;
- (xi) The Legislature; and
- (xii) Police and Counter-terrorism, the Hunter.

Leave granted.

The Hon. PENNY SHARPE: Accordingly, I move:

- (1) That, further to the resolution of the House of 20 June 2024 referring budget estimates 2024-2025 to the portfolio committees for inquiry and report, and the resolution of the House of 12 November 2024 adopting the 2025 sitting calendar, the 2024-2025 additional budget estimates hearings be scheduled as follows:

Day One: Tuesday 25 February 2025

- PC 3 Education and Early Learning, Western Sydney
 PC 4 Agriculture, Regional New South Wales, Western New South Wales

Day Two: Wednesday 26 February 2025

- PC 1 Premier
 PC 4 Small Business, Lands and Property, Multiculturalism, Sport

Day Three: Thursday 27 February 2025

- PC 2 Health, Regional Health, the Illawarra and the South Coast
 PC 5 Women, Seniors, Prevention of Domestic Violence and Sexual Assault

Day Four: Friday 28 February 2025

- PC 5 Attorney General
 PC 8 Local Government

Day Five: Monday 3 March 2025

- PC 7 Climate Change, Energy, the Environment, Heritage
 PC 1 Industrial Relations, Work Health and Safety

Day Six: Tuesday 4 March 2025

- PC 7 Planning and Public Spaces
 PC 1 Aboriginal Affairs and Treaty, Gaming and Racing, Veterans, the Central Coast, Medical Research

Day Seven: Wednesday 5 March 2025

- PC 1 Treasurer
 PC 8 Customer Service and Digital Government, Emergency Services, Youth Justice

Day Eight: Thursday 6 March 2025

- PC 1 Finance, Domestic Manufacturing and Government Procurement, Natural Resources
 PC 6 Regional Transport and Roads

Day Nine: Friday 7 March 2025

- PC 2 Water, Housing, Homelessness, Mental Health, Youth, the North Coast
 PC 8 Better Regulation and Fair Trading, Industry and Trade, Innovation, Science and Technology, Building, Corrections

Day Ten: Monday 10 March 2025

- PC 5 Families and Communities, Disability Inclusion
 PC 3 Skills, TAFE and Tertiary Education

Day Eleven: Tuesday 11 March 2025

- PC 6 Special Minister of State, Roads, Arts, Music and the Night-time Economy, Jobs and Tourism
 PC 1 The Legislature

Day Twelve: Wednesday 12 March 2025

- PC 6 Transport
 PC 5 Police and Counter Terrorism, the Hunter

- (2) That, unless the committee decides otherwise:

- (a) the sequence of questions to be asked at the hearings for the following portfolios alternate between Opposition and crossbench members, in that order, with equal time allocated to each:
 - (i) Education and Early Learning, Western Sydney;
 - (ii) Premier;
 - (iii) Health, Regional Health, the Illawarra and the South Coast;
 - (iv) Attorney General;
 - (v) Climate Change, Energy, the Environment, Heritage;
 - (vi) Planning and Public Spaces;
 - (vii) Treasurer;
 - (viii) Finance, Domestic Manufacturing and Government Procurement, Natural Resources;
 - (ix) Water, Housing, Homelessness, Mental Health, Youth, the North Coast;
 - (x) Families and Communities, Disability Inclusion;
 - (xi) Special Minister of State, Roads, Arts, Music and the Night-time Economy, Jobs and Tourism;
 - (xii) Transport; and
 - (b) the sequence of questions to be asked at the hearings for the following portfolios alternate between crossbench and Opposition members, in that order, with equal time allocated to each:
 - (i) Agriculture, Regional New South Wales, Western New South Wales;
 - (ii) Small Business, Lands and Property, Multiculturalism, Sport;
 - (iii) Women, Seniors, Prevention of Domestic Violence and Sexual Assault;
 - (iv) Local Government;
 - (v) Industrial Relations, Work Health and Safety;
 - (vi) Aboriginal Affairs and Treaty, Gaming and Racing, Veterans, the Central Coast, Medical Research;
 - (vii) Customer Service and Digital Government, Emergency Services, Youth Justice;
 - (viii) Regional Transport and Roads;
 - (ix) Better Regulation and Fair Trading, Industry and Trade, Innovation, Science and Technology, Building, Corrections;
 - (x) Skills, TAFE and Tertiary Education;
 - (xi) The Legislature;
 - (xii) Police and Counter-terrorism, the Hunter.
- (3) That for the purposes of the 2024-2025 additional budget estimates hearings:
- (a) each portfolio, except The Legislature, be examined concurrently by Opposition and crossbench members only, from 9.15 a.m. to 10.45 a.m., and from 11.15 a.m. to 12.45 p.m., then from 2.00 p.m. to 3.30 p.m., and from 3.45 p.m. to 5.15 p.m., with 15 minutes reserved for Government questions at 10.45 a.m., 12.45 p.m. and 5.15 p.m., if required; and
 - (b) the portfolio of The Legislature be examined by Opposition, crossbench and Government members from 9.15 a.m. to 11.00 a.m., and from 11.15 a.m. to 1.00 p.m.
- (4) That for the purposes of the 2024-2025 additional budget estimates hearings:
- (a) the committees must hear evidence in public;
 - (b) the committees may ask for explanations from Ministers, Parliamentary Secretaries or officers of departments, statutory bodies or corporations, relating to the items of proposed expenditure;
 - (c) Ministers be invited to appear for the morning sessions only unless requested by committees to appear also for the afternoon session;
 - (d) witnesses, including Ministers, may not make an opening statement before a committee commences questions;
 - (e) members may lodge supplementary questions with the committee clerk by 5.00 p.m. within two business days following the receipt of the hearing transcript; and
 - (f) answers to questions on notice and supplementary questions are to be published, except those answers for which confidentiality is requested, after they have been circulated to committee members.

Motion agreed to.

*Motions***COUNTING THE COST OF LIVING REPORT**

The Hon. NATASHA MACLAREN-JONES (10:04): I move:

- (1) That this House notes the *Counting the cost of living – The impact of financial stress on young people* report was released on 19 September 2024 and examined the experiences of young people who had experienced financial stress over 2024.
- (2) That the House further notes the report found that:
 - (a) one in five young people reported having experienced financial stress, including financial hardships or concerns about financial security;
 - (b) young people from marginalised groups are more likely to experience financial stress;
 - (c) young people experiencing financial stress reported feeling less confident about achieving their educational and career goals and anticipated more barriers to achieving these goals; and
 - (d) they were also more likely to face housing instability, poor mental health, an increased need to work while studying and difficulties in accessing supports.
- (3) That this House acknowledges the report was prepared by Orygen and Mission Australia, using the data from nearly 20,000 responses to the 2023 Mission Australia Youth Survey.
- (4) That this House notes that the report recommends:
 - (a) developing a youth-focused transition passport app to guide young people through financial and social services as they transition into adulthood;
 - (b) increasing financial support including JobSeeker and Youth Allowance to \$80 per day, raising the maximum threshold of Commonwealth Rent Assistance by 60 per cent and review with other rental subsidies;
 - (c) increasing youth housing options, including a national pool of 15,000 social housing youth tenancies and constructing 10 40-unit Youth Foyers over the next three years;
 - (d) improving educational pathways, including increased funding for services that keep financially disadvantaged students engaged in education and on positive post-school pathways;
 - (e) participating in community activities by prioritising funding for bursaries, scholarships, and fee support to enable young people in financial stress to engage in sports, arts, music and other community activities;
 - (f) increasing connection to support services by developing accessible, evidence-based online support resources, co-designed with young people, to provide guidance on key issues; and
 - (g) investing in further research on the impact of financial stress on youth mental health and wellbeing to address rising psychological distress observed in the youth population.

Motion agreed to.

REPUBLIC OF CHINA (TAIWAN) NATIONAL DAY

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

- (1) That this House notes that on 3 October 2024 the Taipei Economic and Cultural Office in Sydney celebrated the 113th National Day of the Republic of China (Taiwan) with an event highlighting the cultural and economic ties between Taiwan and Australia.
- (2) That this House acknowledges the significant contributions of the Taiwanese Australian community, which is currently over 10,000 strong in New South Wales, enriching our multicultural society and fostering deeper ties between Taiwan and Australia.
- (3) That this House recognises the growing importance of the economic relationship between New South Wales and Taiwan, with bilateral trade between Australia and Taiwan totalling AUD \$34.71 billion in 2023, spanning key industries such as advanced manufacturing, renewable energy, biotechnology and information and communications technology.
- (4) That this House also notes the landmark memorandum of understanding signed between the City of Ryde and Taiwan's Hsinchu Science Park Bureau, which establishes an official collaboration to promote research, innovation, and business opportunities between Hsinchu Science Park and the growing tech hub in Ryde.
- (5) That this House notes the attendance of the following people at the celebration of the 113th National Day of the Republic of China (Taiwan):
 - (a) Mr David Cheng-Wei Wu, Director-General, Taipei Economic and Cultural Office Sydney;
 - (b) the Hon. Paul Fletcher, MP, Federal member for Bradfield;
 - (c) Senator David Shoebridge, Senator for New South Wales;
 - (d) the Hon. Rod Roberts, MLC, Deputy President and Chair of Committees;
 - (e) Ms Robyn Preston, MP, Deputy Leader of the Opposition in the Legislative Assembly, shadow Minister for Mental Health and Medical Research, shadow Minister for Veterans and shadow Minister for Western Sydney;

- (f) Mr Tim James, MP, member for Willoughby, shadow Minister for Small Business and shadow Minister for Fair Trading, Work Health and Safety and Building;
- (g) the Hon. Chris Rath, MLC, shadow Special Minister of State, Opposition Whip in the Legislative Council;
- (h) the Hon. Susan Carter, MLC, shadow Assistant Minister for Corrections, Attorney General and State;
- (i) Mr Matt Cross, MP, member for Davidson, shadow Assistant Minister for Education and shadow Minister for Government Accountability;
- (j) Mr Jordan Lane, MP, member for Ryde, shadow Assistant Minister for Multiculturalism and shadow Minister for Health; and
- (k) the Hon. Jacqui Munro, MLC, shadow Assistant Minister for the Arts, Innovation, Digital Government and the 24-Hour Economy.

Motion agreed to.

LOCAL GOVERNMENT LIBERAL PARTY CANDIDATES

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

- (1) That this House congratulates all the successful Liberal candidates on their election in the councils of Bayside, Georges River, Sutherland Shire, Kiama and Liverpool.
- (2) That this House acknowledges the integral work of all Liberal council candidates, volunteers and sitting councillors who sacrificed a considerable amount of time, resources and energy so that high-quality campaigns could be run.
- (3) That this House congratulates those councillors who are stepping down from their positions on council in Wollongong and Georges River and thank them for their service to the community, including Cameron Walters, John Dorahy, Aitken Elisha, Sam Elmir, Nick Smerdely and Lou Konjarski.
- (4) That this House also congratulates the following councillors on their successful election and in many cases re-election to council:
 - (a) Councillor Jerome Boutelet, Bayside Council;
 - (b) Councillor Fiona Douskou, Bayside Council;
 - (c) Councillor Michael Nagi, Bayside Council;
 - (d) Councillor Vicki Poulos, Bayside Council;
 - (e) Councillor Ron Bezic, Bayside Council;
 - (f) Councillor Oliver Dimoski, Georges River Council;
 - (g) Councillor Nancy Liu, Georges River Council;
 - (h) Councillor Sam Stratikopoulos, Georges River Council;
 - (i) Councillor Marcelle Elzerman, Sutherland Shire Council;
 - (j) Councillor Melanie Gibbons, Sutherland Shire Council;
 - (k) Councillor Joanne Nicholls, Sutherland Shire Council;
 - (l) Councillor Haris Strangas, Sutherland Shire Council;
 - (m) Councillor Meredith Laverty, Sutherland Shire Council;
 - (n) Councillor Stephen Nikolovski, Sutherland Shire Council;
 - (o) Mayor Ned Mannoun, Liverpool City Council;
 - (p) Councillor Richard Ammoun, Liverpool City Council;
 - (q) Councillor Matthew Harte, Liverpool City Council;
 - (r) Councillor Fiona Macnaught, Liverpool City Council; and
 - (s) Councillor Emmanuel Adjei, Liverpool City Council.

Motion agreed to.

BEACHES YOUTH HUB

The Hon. NATASHA MACLAREN-JONES (10:06): I move:

- (1) That this House notes that:
 - (a) Beaches Youth Hub is a local mental health support centre in Avalon which provides free counselling, case management, mentoring, workshops and other support services for youth in need;
 - (b) Beaches Youth Hub runs a variety of engaging workshops for young people and their families which cover a range of important topics such as healthy relationships, mental health, drug and alcohol, sexual health, body image and self-love, parenting seminars and life skills; and

- (c) Beaches Youth Hub also runs a Youth Advisory Group for young people aged 12 to 24 years old who contribute to community events, local workshops, and development opportunities and this allows them to bring their dreams, ideas, and concerns about what is it like living, working or studying in the Pittwater area.
- (2) That this House acknowledges the vital work that Beaches Youth Hub undertakes to help break down the stigma to help-seeking and support the mental health and wellbeing of young people to ensure positive outcomes.

Motion agreed to.

WOMEN'S RESILIENCE CENTRE

The Hon. NATASHA MACLAREN-JONES (10:07): I move:

- (1) That this House acknowledges the vital work of the Women's Resilience Centre, which provides support to women who have experienced domestic violence, trauma and deep loss as they transition from short term crisis care to full recovery.
- (2) That this House notes that the centre offers free mentoring and support to assist women to heal as they regain their independence by providing financial and legal guidance, employment advice and peer to peer support networks.
- (3) That this House further notes the opening of the Resilience Circle, offering resources and a space for women to connect, share, and grow, as well as a place for the northern beaches community to directly support women in need through donations, volunteering and services.
- (4) That this House thanks the volunteers, staff, patrons and ambassadors for the work supporting the Women's Resilience Centre and women experiencing trauma.

Motion agreed to.

MOON FESTIVAL CARNIVAL

The Hon. MARK BUTTIGIEG (10:07): I move:

- (1) That this House notes that:
 - (a) on 7 September 2024, Australia Chinese Entertainment, Rhodes Multicultural Community Association and TVB Anywhere held the Moon Festival carnival at the Rhodes Foreshore Park, and the Hon. Mark Buttigieg, MLC, was honoured to attend and make a speech representing the Premier, the Hon. Chris Minns, MP;
 - (b) the carnival was a bright and exciting celebration of the Moon Festival, or Mid-Autumn Festival, an age-old harvest celebration, with a number of performances, including from renowned Hong Kong artists Katy Kung Ka Yan and Joel Chan Shan-chung, food stalls and activities for all ages;
 - (c) the event was very well attended, with guests including:
 - (i) Federal member for Reid, Ms Sally Sitou, MP;
 - (ii) member for Drummoyne, Ms Stephanie Di Pasqua, MP;
 - (iii) mayor of the City of Canada Bay Council, Michael Megna;
 - (iv) City of Canada Bay councillor Andrew Ferguson; and
 - (v) City of Canada Bay councillor Charles Jago.
- (2) That this House notes and congratulates Australia Chinese Entertainment, Rhodes Multicultural Community Association and TVB Anywhere on hosting the fantastic Moon Festival carnival 2024.

Motion agreed to.

VOICE OF KOREAN-AUSTRALIAN BUSINESSES EVENT

The Hon. MARK BUTTIGIEG (10:07): I move:

- (1) That this House notes that:
 - (a) on 20 June 2024, the Voice of Korean-Australian Businesses [VOKAB] held its Australia-Korea Closer than Ever (Knowing Korea: Fostering Multicultural Connections) event, and the Hon. Mark Buttigieg, MLC, was honoured to attend representing the Hon. Stephen Kamper, MP, Minister for Small Business, Minister for Lands and Property, Minister for Multiculturalism, and Minister for Sport;
 - (b) VOKAB does important work to promote the business interests of Korean Australians, with its event promoting networking among multicultural businesses, celebrating the business ties between Australia and Korea, and discussing the great value of multiculturalism in business;
 - (c) the event was very well attended, with many local community organisations and leaders showing their support at the event, with members of Parliament and councillors in attendance including:
 - (i) Mr Jerome Laxale, MP;
 - (ii) Ms Donna Davis, MP;
 - (iii) Councillor Lyndal Howison, City of Ryde;
 - (iv) Councillor Charles Song, City of Ryde; and

- (v) Councillor Bernard Purcell, City of Ryde.
- (d) keynote speakers at the event included Dr Gi-Hyun Shin, Senior Lecturer and Convenor of Korean Studies at the University of NSW and Dr Sung-Young Kim, Discipline Chair of Politics and International Relations at Macquarie University.
- (2) That this House congratulates VOKAB, particularly its president, Mr Patrick Cha, and vice-president, Ms Julianne Lee, on conducting the fantastic event.

Motion agreed to.

NON-RESIDENT NEPALI ASSOCIATION

The Hon. MARK BUTTIGIEG (10:08): I move:

- (1) That this House notes that:
 - (a) on 13 June 2024 the Non-Resident Nepali Association [NRNA] Australia held an inauguration for its first physical office located in Merrylands, and the Hon. Mark Buttigieg, MLC, was honoured to attend;
 - (b) the Premier, the Hon. Chris Minns, MP, inaugurated the NRNA Australia office, with many members of the local community, the NRNA board, members of Parliament and dignitaries in attendance such as:
 - (i) Ms Julia Finn, MP;
 - (ii) Ms Donna Davis, MP;
 - (iii) the Hon. Jacqui Munro, MLC;
 - (iv) His Excellency Kailash Raj Pokharel, the Ambassador of Nepal to Australia; and
 - (v) Deepak Khadka, the former Honorary Consul General of Nepal to New South Wales.
 - (c) the inauguration came after almost 20 years of the NRNA's dedicated work to support and promote the interests of Australia's ever growing Nepalese community, a significant milestone deserving recognition.
- (2) That this House congratulates the NRNA, including its president, Anil Pokhrel, on the inauguration of its office in Merrylands.

Motion agreed to.

RIDING FOR THE DISABLED ASSOCIATION NSW

The Hon. SCOTT BARRETT (10:08): I move:

- (1) That this House notes that:
 - (a) just after the first Tuesday in November, Riding for the Disabled Association NSW Orange centre, held its very own Melbourne Cup themed race day;
 - (b) this race meet saw jockeys from Glenroi Heights Public School, Anson Street School, Bowen Public School and a couple of individual riders compete in races throughout the day;
 - (c) the day was complete with a mounted track steward, a race caller and several strappers and handlers; and
 - (d) the Hon. Scott Barrett, MLC, attended the event and was honoured to present ribbons to the winners, that is, all children who participated on the day.
- (2) That this House acknowledges that Riding for the Disabled is a self-funded organisation, sustained through local fundraisers such as barbeques, raffles and gate contributions from local events.
- (3) That this House thanks and congratulates:
 - (a) all the volunteers who helped out on the day;
 - (b) all committee members and others who helped organise this special event;
 - (c) all the amazing horses that were the backbone of any Riding for the Disabled event; and
 - (d) all volunteers and contributors to Riding for the Disabled across New South Wales whose involvement allows the organisation to provide equine assisted activities so that people with disabilities can develop and enhance their abilities.
- (4) That this House acknowledges the important role local organisations such as Riding for the Disabled Orange play in the wellbeing, vibrancy and liveability of our regional communities and as such the entire State.

Motion agreed to.

Documents

TABLING OF PAPERS

The Hon. PENNY SHARPE: I table the following papers:

- (1) Aboriginal Languages Act 2017 and Government Sector Finance Act 2018—Report of the Aboriginal Languages Trust entitled *Aboriginal Languages Trust Annual Report and Annual Review of the Implementation of The Strategic Plan: 1 July 2023 – 30 June 2024*.
- (2) Anti-Discrimination Act 1977—Report of the Anti-Discrimination Board of New South Wales for year ended 30 June 2024.
- (3) Cancer Institute (NSW) Act 2003—Report of Cancer Institute NSW entitled *Cancer in New South Wales 2024*.
- (4) Casino Control Act 1992 and Government Sector Finance Act 2018—Report of the NSW Independent Casino Commission for year ended 30 June 2024.
- (5) Crime Commission Act 2012 and Government Sector Finance Act 2018—Report of the New South Wales Crime Commission for year ended 30 June 2024.
- (6) Director of Public Prosecutions Act 1986 and Government Sector Finance Act 2018—Report of the Office of the Director of Public Prosecutions for year ended 30 June 2024.
- (7) Environmental Planning and Assessment Act 1979 and Government Sector Finance Act 2018—Report of the Independent Planning Commission for year ended 30 June 2024.
- (8) Fisheries Management Act 1994—Report of NSW Recreational Fishing Trust for year ended 30 June 2024.
- (9) Government Sector Finance Act 2018—Reports for year ended 30 June 2024:

Aboriginal Housing Office

Art Gallery of New South Wales Trust

Australian Museum Trust

Board of Surveying and Spatial Information

Cemeteries and Crematoria NSW

Centennial Park and Moore Park Trust

Chief Investigator of the Office of Transport Safety Investigations

Cobar Water Board

Combat Sports Authority

Combined New South Wales Health Professional Councils

Dams Safety NSW

Department of Climate Change, Energy, the Environment and Water, volumes 1 and 2

Department of Communities and Justice, volumes 1 and 2

Department of Customer Service

Department of Enterprise, Investment and Trade

Department of Planning, Housing and Infrastructure, volumes 1 and 2

Department of Regional NSW

Destination NSW

Fire and Rescue NSW

Heritage Council of NSW

Hunter and Central Coast Development Corporation

Independent Pricing and Regulatory Tribunal

Jenolan Caves Reserve Trust

Judicial Commission of New South Wales

Legal Aid New South Wales

Legal Profession Admission Board

Library Council of New South Wales

Local Land Services

Lord Howe Island Board

Mental Health Commission of New South Wales

Multicultural NSW

Museums of History NSW

Natural Resources Commission

New South Wales Aboriginal Land Council
New South Wales Government Telecommunications Authority (trading as NSW Telco Authority)
NSW Architects Registration Board
NSW Biodiversity Conservation Trust
NSW Crown Solicitor's Office
NSW Education Standards Authority
NSW Electoral Commission
NSW Energy Corporation (EnergyCo)
NSW Environment Protection Authority (EPA)
NSW Environmental Trust
NSW Food Authority
NSW Health, together with financial statements volumes 1 to 3
NSW Health Foundation
NSW Institute of Sport
NSW Police Force
NSW Premier's Department
NSW Reconstruction Authority
NSW Rural Fire Service
NSW Skills Board
NSW State Emergency Service
NSW TrainLink, volumes 1 and 2
NSW Trustee and Guardian
Office of Sport
Parliamentary Counsel's Office
Parramatta Park Trust
Place Management NSW and Luna Park Reserve Trust
Property and Development NSW
Public Service Commission
Regional Growth NSW Development Corporation
Rental Bond Board
Royal Botanic Gardens and Domain Trust
Service NSW
State Insurance Regulatory Authority
State Records Authority NSW
State Sporting Venues Authority
Sydney Metro, volumes 1 and 2
Sydney Olympic Park Authority
Sydney Opera House Trust
Sydney Trains, volumes 1 and 2
Teacher Housing Authority of New South Wales
Technical and Further Education Commission (TAFE) NSW
The Cabinet Office
Trustees of the Anzac Memorial Building
Trustees of the Museum of Applied Arts and Sciences
Venues NSW
Veterinary Practitioners Board of NSW

- Waste Assets Management Corporation
- Wentworth Park Sporting Complex Land Manager
- Western Parkland City Authority
- Western Sydney Parklands Trust
- Zoological Parks Board of New South Wales (trading as Taronga Conservation Society Australia)
- (10) Greyhound Racing Act 2017—Report of Greyhound Racing New South Wales for year ended 30 June 2024.
- (11) Greyhound Racing Act 2017 and Government Sector Finance Act 2018—Report of the Greyhound Welfare and Integrity Commission for year ended 30 June 2024.
- (12) Harness Racing Act 2009—Report of Harness Racing New South Wales for year ended 30 June 2024.
- (13) Health Care Complaints Act 1993 and Government Sector Finance Act 2018—Report of the Health Care Complaints Commission for year ended 30 June 2024.
- (14) Health Practitioner Regulation National Law—Reports for year ended 30 June 2024:
- (a) Report of the Australian Health Practitioner Regulation Agency
- (b) Report of the National Health Practitioner Ombudsman and Privacy Commissioner.
- (15) Health Services Act 1997 and National Health Reform Act 2011 (Cth)—Report of the Administrator of the National Health Funding Pool for year ended 30 June 2024.
- (16) Law Enforcement (Powers and Responsibilities) Act 2002—
- (a) Report of the Office of the Inspector of the Law Enforcement Conduct Commission entitled *Covert Search Warrant Report for the period commencing 29 May 2023 and ending 28 May 2024: Section 242(3) of the Law Enforcement (Powers and Responsibilities) Act 2002*, dated June 2024
- (b) Report pursuant to section 242A of the Law Enforcement (Powers and Responsibilities) Act 2002 by the Commissioner of the NSW Crime Commission for the year ended 30 June 2024
- (c) Report pursuant to section 242A of the Law Enforcement (Powers and Responsibilities) Act 2002 by the NSW Police Force on Covert and Criminal Organisation Search Warrants for the year ended 30 June 2023
- (d) Report pursuant to section 242A of the Law Enforcement (Powers and Responsibilities) Act 2002 by the NSW Police Force on Covert and Criminal Organisation Search Warrants for the year ended 30 June 2024.
- (17) Law Reform Commission Act 1967— Report of the NSW Law Reform Commission for year ended 30 June 2024.
- (18) Legal Profession Uniform Law (NSW)—Report of Legal Services Council for year ended 30 June 2024, incorporating the report of Commissioner for Uniform Legal Services Regulation.
- (19) Legal Profession Uniform Law Application Act 2014—Reports for year ended 30 June 2024:
- (a) Report of the New South Wales Bar Association
- (b) Report of the Office of the NSW Legal Services Commissioner.
- (20) Liquor Act 2007 and Government Sector Finance Act 2018—Report of the NSW Independent Liquor and Gaming Authority for year ended 30 June 2024.
- (21) National Health Reform Act 2011 (Cth) and Public Governance, Performance and Accountability Act 2013 (Cth)—Report of the National Health Funding Body for year ended 30 June 2024.
- (22) New South Wales-Queensland Border Rivers Act 1947 and Government Sector Finance Act 2018—Report of the Dumaresq-Barwon Border Rivers Commission for year ended 30 June 2024.
- (23) Personal Injury Commission Act 2020—Review of the Personal Injury Commission for year ended 30 June 2024.
- (24) Personal Injury Commission Act 2020 and Government Sector Finance Act 2018—Report of the Office of the Independent Review Officer for year ended 30 June 2024.
- (25) Public Defenders Act 1995—Report of the Public Defenders for year ended 30 June 2024.
- (26) Rice Marketing Act 1983 and Government Sector Finance Act 2018—Report of the Rice Marketing Board for the State of New South Wales for the year ended 30 June 2024.
- (27) RSL NSW Act 2018—Report of the Returned and Services League of Australia (New South Wales Branch) for year ended 30 June 2024.
- (28) Terrorism (Police Powers) Act 2002—Report of the Law Enforcement Conduct Commission entitled *Covert Search Warrants and Preventative Detention Orders: Review under the Terrorism (Police Powers) Act 2002 (NSW) July 2020 – June 2023*, dated September 2024.
- (29) Thoroughbred Racing Act 1996—Report of Racing NSW for year ended 30 June 2024.
- (30) Transport Administration Act 1988 and Government Sector Finance Act 2018—Report of the Department of Transport for NSW for year ended 30 June 2024, volumes 1 and 2.

- (31) Water Industry Competition Act 2006—Report of the Independent Pricing and Regulatory Tribunal entitled *Licence compliance under the Water Industry Competition Act 2006 (NSW): Annual Compliance Report to the Minister*, dated October 2024.

AUDITOR-GENERAL

Reports

The CLERK: According to the Local Government Act 1993, I announce receipt of a Performance Audit Report of the Auditor-General entitled *Road asset management in local government*, dated 21 November 2024, received out of session and published this day.

Notices

PRESENTATION

[During the giving of notices of motions]

The Hon. Jeremy Buckingham: Point of order: I raise a very serious matter under Standing Order 203, the removal of strangers for disorderly conduct. Standing Order 203 (c) applies to strangers who create a disturbance within the precincts of the House. I ask that you direct Mr Sam Tedeschi to remove himself from the House until the next sitting of the House because I am particularly disturbed by his suit. I ask for your guidance on that matter, and also ask that you consider the attire of the Hon. Mark Buttigieg for similar reasons.

The PRESIDENT: As tempted as I might be, as I look around the Chamber, I see that there are far too many members I would need to remove on that basis. On this occasion, I do not uphold the point of order.

Business of the House

POSTPONEMENT OF BUSINESS

Ms CATE FAEHRMANN: I postpone business of the House notice of motion No. 2 until the next sitting day.

The Hon. PENNY SHARPE: I postpone Government business notices of motions Nos 2 and 3 until a later hour of the sitting.

Ministerial Statement

BICENTENARY OF THE LEGISLATIVE COUNCIL

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (10:25): On this last sitting day of 2024, I commemorate and celebrate the bicentenary of the New South Wales Legislative Council and the extraordinary program that truly captured and recognised our rich, 200-year history. On 25 August 1824 the Legislative Council held its inaugural meeting at what was then Government House—today's Australian Museum—just down the road from what would eventually become its permanent home at the then Rum Hospital. The Legislative Council consisted of five members. It was the first example of representative government in Australia. Since then, the Legislative Council has survived three attempts to abolish it, including a menacing threat from the Treasurer in his inaugural speech.

The Legislative Council's first woman, Catherine Green, entered the Legislative Council as one of the first two women to serve as members in 1931. Ellen Webster joined her two days later. These women were both appointed to the Council. It was not until 1952 that the first woman was elected to the Council, Gertrude Melville. It was not until 1998 that a woman was elected President of the Legislative Council, and we know that the Hon. Virginia Chadwick looks down upon the members of this House every day. After 199 years the Legislative Council saw the first woman in the role of Leader of the Government in the Legislative Council. Women now make up 45 per cent of the members of this place, with women in leadership positions across the Parliament, in government, in the parties of opposition and in three of the minor parties in this place.

The year-long program commemorating the bicentenary of the Legislative Council not only celebrated 200 years of democracy but also engaged honestly and frankly with the history of this place. The bicentenary program explored this history through a seminar series that brought together members of our community. One of the most profound and important in the series was the Gudyarra seminar, which brought together Elders of the Wiradyuri community and others to explore the bicentenary of the first use of martial law against Aboriginal people in New South Wales. Chaired by the President, the panel featured members of the Wiradyuri Traditional Owners Central West Aboriginal Corporation Dinawan Dyirribang, Uncle Bill Allen Jr, Auntie Leanna Carr and Yanhadarrambal Uncle Jade Flynn. It also featured Dr Stephen Gapps, David Suttor and the Hon. Jeremy Buckingham.

I was privileged to be part of the "Pride and Precedent: Law, Representation, Reform" seminar along with Mr President; the Hon. Trevor Khan, a former and well-regarded member of this place; and Justice Richard Weinstein, SC. The seminar discussed over 40 years of LGBTIQ+ law reform, which began with the decriminalisation of homosexuality in 1984. We remarked that this was driven through multi-member and multipartisan cooperation and advocacy. With no party holding a majority in this place since 1988, that spirit of cooperation has continued to define the Legislative Council. The rise of the crossbench has fundamentally changed the way that reform is achieved, and it must be acknowledged as part of the never-ending democratic project that is New South Wales.

The Legislative Council went on the road, engaging communities across New South Wales in regional roadshows. The Legislative Council ran a high school public speaking competition and youth forum across each location, along with community workshops on all things parliament and democracy. Regional roadshows were held in Lismore, Port Macquarie, Bathurst, Batemans Bay, Armidale and Wagga Wagga. An artwork was commissioned from Gumbaynggir/Bundjalung artist Kim Healey. Entitled *Ngurra Jagun*, the artwork sits in the front foyer and features intricate designs in hues of blue centred around the Southern Cross formation. "Ngurra" is a Gumbaynggir word for home or shelter, and "jagun" is a Bundjalung word that means country. Together they mean homeland or home country.

Ngurra Jagun honours the connection of our State's First Nations people with the sky, waters and land on which we live and where Parliament meets. A piece of music named *Reflect, Celebrate, Imagine* was commissioned. We thank the fantastic musicians and composers Rhys Owens, Yuqi Zhou and Tullia Cairns. The bicentenary program concluded with a visit from His Majesty King Charles III and Her Majesty Queen Camilla. We also had the sixty-seventh Commonwealth Parliamentary Association conference. When he visited the Parliament, His Majesty reflected on the evolution of the Legislative Council. He said:

Democratic systems must evolve, of course, to remain fit for purpose, but they are, nevertheless, essentially sound systems ... When underpinned by wisdom and good faith, democracy has, I believe, an extraordinary capacity for innovation, compromise and adaptability, as well as stability.

His Majesty, of course, gifted us a special hourglass for our divisions. After a rocky start with the Hon. Rod Roberts, it is serving us well, and we thank His Majesty for his gift. The sixty-seventh Commonwealth Parliamentary Conference [CPC] brought over 700 parliamentarians from 56 nations together in Sydney to celebrate democracy and share their experiences as parliamentarians. It has been quite a year.

The thoughtful and diverse bicentenary commemorative program would not have happened without the tireless work of many people. On behalf of the Government and the rest of the House, I put on record my thanks to the staff of the Legislative Council, including the Clerk, David Blunt; Steven Reynolds; and, in particular, the Usher of the Black Rod, Jenelle Moore, and her team. I also thank Naureen Chowdhury, Luke Hollands, Anthea Darmon, Charlotte Middleton, Rachael Ho, Rhys Melbourne, Maddie Hollins, Nathan Stein, Dylan Vischschoonmaker, John Ferguson, Haleema Hashmi, Dan Collins, Katinka Bracker, Sam Malfitana, Min Yao and Angela Finn. I thank the key Department of Parliamentary Services teams, including security, audiovisual and broadcast, the library and Hansard. On behalf of the Government, I thank the parliamentary staff who supported various events, and the staff from all three departments who supported the open house on 25 August and the CPC.

I also acknowledge the President's staff, including Rebel Neary, Will Coates, Damian Spinks and David Smith. They have done a lot of work behind the scenes. Finally, I thank you, Mr President, for your thoughtful and energetic stewardship of the bicentenary of the Legislative Council. The success and diversity of the bicentenary program is largely a result of your inclusive and optimistic approach. I am not quite sure what you and your team will do next year. If I could make one request on behalf of the House, we really, really want you to fix the lifts! The Legislative Council is a very different place than it was 200 years ago. We are elected, we are more diverse and we represent our communities with passion, determination and rigour. I hope the next 200 years of the democratic process for New South Wales are as successful.

The Hon. DAMIEN TUDEHOPE (10:31): I join the Leader of the Government in reflecting on the bicentenary year of the Legislative Council. I endorse many of the sentiments that she expressed in her statement. Following the passage of the New South Wales Act 1823 through the British Parliament and its ascent by King George IV, a five-person Legislative Council was appointed on 1 January 1824 and first met on 25 August 1824. The composition of the Legislative Council has certainly changed over the succeeding 200 years. The first direct elections took place in June and July 1823, albeit with a very limited franchise. Today the Legislative Council in which we are privileged to serve is a 42-person, fully elected legislative body. Section 3 of the Constitution Act 1902 provides:

The Legislature means His Majesty the King with the advice and consent of the Legislative Council and Legislative Assembly.

I note that this House is placed ahead of the other place in that definition—rightly so, given that the Legislative Assembly is a mere 168 years old. Under the Constitution of New South Wales, His Majesty has an intrinsic part to play in the composition of the legislature. Given that, it was very fitting that the current monarch, King Charles III, visited the Legislative Council during this bicentenary year.

On 20 October 2024 I was delighted to be among the representative members who participated in the launch of the impressive bicentenary exhibition in the Fountain Court, which was attended by His Majesty the King. The thoughtful royal gift of an hourglass, which now graces the Chamber and is used every sitting day, serves as a reminder not only of His Majesty's visit but also of his constitutional role in New South Wales. Executive governments come and go in New South Wales as the electorate decides, and members of the Legislative Council serve at the will of the people. Under our constitutional arrangements, the Crown remains very much a part of the polity but not of our politics.

His Majesty also participated in an event at Parramatta, where I am informed by the Deputy Leader of the Opposition that he showed great interest in the "I love Dubbo" T-shirts sported by her and her National Party colleagues. The popular support for the Crown has been demonstrated at visits of the reigning monarch to New South Wales since Her Late Majesty Queen Elizabeth II first visited in 1954. It was on display again at the Sydney Opera House on Tuesday 22 October 2024, as thousands of people flocked to see the King and Her Majesty Queen Camilla.

After leaving our shores, the King went to Samoa for the opening of the 2024 Commonwealth Heads of Government Meeting. His Majesty King Charles III is the head of the Commonwealth of Nations, a free association of 56 independent nations with a shared commitment to democracy. That includes the recognition that parliaments are essential to the exercise of democratic governance. On behalf of the Opposition, I express our deep gratitude to His Majesty for his tireless service and our delight at his recent visit to New South Wales, and especially to the Legislative Council during its bicentenary.

Before I conclude, I reiterate the sentiment of the Leader of the Government in thanking all of the people who participated in the bicentenary celebrations. It is a long list of people. Mr President, I thank you for your stewardship of the bicentenary celebrations. I also acknowledge the contributions of the previous President, the Hon. Matthew Mason-Cox, which ensured that the events and their planning were put in place. That gave us the opportunity to impress gravity and seriousness upon every event and to ensure that they took place in an appropriate way. Both sides of politics are grateful to you and your staff, Mr President. I also thank the Clerk and his staff, and all of the other staff of this place, for the manner in which the celebrations took place and for the marvellous atmosphere that was created. I join the Leader of the Government in calling on you to do what is possible within your power to fix the lifts.

The PRESIDENT: Yes, I picked up from the Premier's speech that there is some agitation regarding the lifts—they are being fixed. Before we move on, I note that the bicentenary is not quite over yet. The final conference of the three will take place on 9 and 10 December. I encourage all members to come to that. Early next year there will be the Young Aboriginal Leaders Program, and I will provide more information to members about that.

The Hon. Damien Tudehope: There are the Christmas carols too.

The PRESIDENT: There are also the bicentenary carols by the St James' Singers on 2 December. This will never end.

Bills

PROTECTION OF THE ENVIRONMENT LEGISLATION AMENDMENT (FOGO RECYCLING) BILL 2024

First Reading

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

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

Statement of public interest tabled.

Second Reading Speech

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (10:38): I move:

That this bill be now read a second time.

The Government is pleased to introduce the Protection of the Environment Legislation Amendment (FOGO Recycling) Bill 2024. The bill proposes amendments to the Protection of the Environment Operations Act 1997 to mandate the source-separated collection of food and garden organics waste, also known as FOGO, from households and of food waste from businesses. The bill also mandates the reporting of food donations by large supermarkets. These measures are urgent and timely to help solve significant waste challenges that are facing the people of New South Wales. There is no beating around the bush: Greater Sydney is running out of landfill. Our recycling rates have stagnated at 2016 levels. There are problems in regional areas too. Areas like Port Macquarie and Coffs Harbour are also predicted to reach waste capacity within the decade.

New South Wales produces around one-third of Australia's waste. We must do more to reduce, re-use and recycle. We can lead the way, but that involves making strong and tough decisions. Today's bill is part of that. Urgent action is needed. This includes mandating the recycling of food and garden organic waste. We are introducing this legislation now to give councils and businesses time to prepare. Mandating the separate collection of FOGO has been discussed for many years; this Government is committed to implementing it. By making it law, we give certainty to local government and the waste sector to invest in the new waste infrastructure that New South Wales needs. The Government also commits to playing its part. We have to move quickly, and we have to move together. We know that Greater Sydney is rapidly running out of ways to safely manage residual waste—the waste we put into our red bin every day.

At the current rate of waste generation, Greater Sydney is projected to run out of landfill capacity by 2030 or earlier. If we do not act, this shortfall will likely exacerbate the cost-of-living pressures on the average household as the cost of disposing of waste rises. By 2030, the capacity of landfills servicing households in Greater Sydney will fall short by an estimated 1.1 million tonnes each year. If Greater Sydney runs out of landfill space, the cost households pay for domestic waste management services is expected to increase substantially. However, this Government is determined to reduce residual waste entering landfill in the first place. Each year in New South Wales households and businesses generate around 1.7 million tonnes of FOGO waste and most of this material is collected in red-lid rubbish bins and landfilled. That is despite the great potential for FOGO waste to be recovered for beneficial use, such as for compost for industries like agriculture.

On average, food waste makes up more than one-third of the material in New South Wales household red bins. In landfill, organic waste decomposes to emit methane, a greenhouse gas that is more potent than carbon dioxide. Landfilling organic waste also attracts the waste levy, increasing the cost to households and businesses to dispose of a material that is otherwise recoverable and recyclable. An analysis of the proposed household mandates found that application of the mandates to all households in New South Wales may result in the diversion of almost 950,000 tonnes of FOGO waste each year from landfill. Along with increasing the recycling of organic material, which this bill will achieve, we are committed to ensuring that there is support for councils to achieve a clean waste stream. We need to make sure that the food and garden waste we collect is not contaminated by people throwing away food and beverage packaging with their FOGO waste. Collecting food and garden organics waste separately takes effort and we do not want that effort to be undermined by inadvertent contamination that impacts the product.

This bill provides important amendments to ensure that we can divert FOGO waste from landfill. The bill takes a balanced approach to regulation by gradually implementing the mandates, with businesses starting from 1 July 2026 in stages based on bin volume, and households from 2030. This recognises the different capacities to adapt. Of course, many businesses and council areas will move earlier than the mandates. Many thousands of households and many businesses are already separating their waste. The NSW Environment Protection Authority [EPA] has consulted on the proposals with local government, other government agencies and the waste industry, and led a formal public consultation process from July to October this year. I thank everyone who provided feedback on these important reforms. I also acknowledge the work of the previous Government in conducting extensive investigations into the viability and delivery of FOGO collection.

I now turn to the detail of the bill. Proposed new section 170F outlines that businesses and institutions deemed to be "relevant premises" under proposed new section 170B are required to provide sufficient food waste bins for the collection of food waste on site. Businesses will be required to ensure that food waste bins are collected weekly and that the food waste is not mixed with other waste during transportation. The maximum penalty for not complying with the business mandates is \$500,000, with an additional \$50,000 penalty each day for continuing offences. On-the-spot fines of up to \$5,000 can also be issued, with higher fines for second offences. The penalties reflect the importance of compliance with the mandates and ensure that the fine cannot just be treated as a cost of doing business. However, fines are not our preferred way of doing business. Our priority is to work with businesses to ensure that they can easily comply and are supported to do so.

Schedule 1 [6] to the bill inserts new part 21 into schedule 5 to the Act, which outlines that the mandates will be phased in, based on the weekly residual waste bin capacity of a relevant premise. The first stage of

businesses will commence food collection on 1 July 2026, followed by 1 July 2028, with the final stage on 1 July 2030. Those businesses are likely to include supermarkets, large hospitality venues and some retailers. In relation to household mandates, the bill includes amendments to require local councils to separately collect and transport food and garden organics waste from households from 1 July 2030 for all residential dwellings.

Wherever possible, the bill uses standard definitions from the local environment plan standard instrument. A "household", for the purposes of the chapter under proposed new section 170A, includes a place of residence that is provided with a residual waste service. This definition ensures that councils are not unduly burdened with providing a food waste collection service where they do not already provide general waste services, for example, this may be in particularly remote or inaccessible areas of the State. Councils may elect to provide food organic [FO] and garden organic [GO] collection through separate bins or FOGO collection combined in one bin, depending on the council's preference.

Councils must provide an organics collection bin or bins of sufficient size to hold the average amount of food organics waste and garden organics waste generated onsite by a household of that type. Councils must collect FO or FOGO weekly and must ensure that the organic waste stays separated from other non-organic waste during transportation. Where garden organics are collected in separate bins to food organics, the council is responsible for determining the frequency of the garden organics. The intent of the food organics weekly collection frequency is to ensure that households are not discouraged from using FOGO because of the decomposition of material before collection. We are aware of the smell issues. This mandated collection frequency aims to address that. I know that many councils across the State have this well and truly underway.

In circumstances where a household is not provided a collection by a local council but is provided a collection by a person other than a local council, such as a commercial waste service provider, the business mandates in proposed new section 170F will apply. This is to ensure that, where a private waste contract has been negotiated, the building will still have an obligation to have a food organics collection service. Residential accommodation covered by the business mandates is not required to comply with the mandate until 1 July 2030. This is to ensure that all residential accommodation types are treated in the same way. The main exception is seniors housing, such as nursing homes, which use commercial waste service providers and would be covered from 1 July 2026 if the bin capacity thresholds apply. There are penalties for noncompliance with the household mandates, with councils liable for penalties of up to \$500,000, with an additional \$50,000 penalty each day the offence continues. On-the-spot fines of up to \$5,000 can also be issued, with higher fines for second offences.

I now speak about the large supermarket donation mandates. The bill makes amendments to mandate that large supermarkets with a retail floor area of over 1,000 square metres must record their food donations monthly from 1 July 2026. Proposed new section 170F specifies the categories of food items that large supermarkets must report on. The EPA may request the food donation records of large supermarkets and may publish those records. The intent of the mandate is to encourage the donation of usable food, to avoid food waste and bring greater transparency to food donations.

I now speak about the exemptions. Under proposed new section 170D of the chapter does not apply to Lord Howe Island or any part of the Western Division of New South Wales that is not within the area of a local council. An important aspect of the bill is proposed new section 170J that enlivens the ability of the EPA to grant exemptions from any of the requirements. This Government recognises that a one-size-fits-all approach will not work. We want to work with everyone to make FOGO work everywhere that it can. We do not want it to be draconian. It will not be applied in a draconian way. We want sectors to have the help that they need to get the transition right.

We also recognise that in some areas a food waste collection or a combined FOGO collection is not practical. One of those areas might be very remote communities, for example—although I acknowledge that some quite remote towns already have FOGO facilities and regional New South Wales already has a large spread of FOGO processing. As part of the exemption process, we will consider the threshold where the population of an area does not support FOGO viability. The intention of the exemption power is to recognise that in some areas, especially regional and remote areas, FOGO collection may not be viable or cost-effective. Exemptions could also be utilised where the required FOGO processing capacity may not be able to be delivered in time to match the demand as the mandates commence. The Government recognises that, in some situations, the access of a council or a business to a FOGO collection service may be limited or cost prohibitive. In those situations, exemptions may be available.

The exemption power may also be used to allow the necessary exemption of certain multi-dwelling units. Some multi-dwelling units may have unique challenges in their infrastructure design, such as the use of bin chutes or a lack of available bin-room space. They can also face contamination challenges due to some people inadvertently putting the wrong item in their FOGO bin. Because multiple people contribute to the waste stream, it only takes one household to not use the bins properly to contaminate the stream, even if the majority are using

it correctly. The power to grant exemptions recognises that while some multi-dwelling units may be able to adopt FOGO collection by 1 July 2030, there will be others that need more time to get there. Ultimately, the Government wants to support businesses, councils and households to divert FOGO from landfill.

The bill contains regulation-making powers where the Minister may make, by way of regulation, a local council exempt from the chapter. The intent of the exemption powers is that they may be ongoing or temporary. An ongoing exemption may be one where a council is deemed to be exempt from the requirement by regulation. This may be due to the remoteness or lack of supporting infrastructure. An example of a reactive exemption may be where a person applies for an exemption from the requirement due to requiring more time to comply. The bill allows for entire local government areas to be exempt from the household mandate and to exclude localities from the business mandate.

The exemption powers are designed to be flexible, and the Government is committed to consulting further as it develops guidance around circumstances where exemptions from the mandates may be appropriate and explains how exemptions would be developed. We want to work in partnership with councils, business and industry to get this done. The intent of this legislation is to achieve an outcome and to do that together. There are offences contained within the legislation; however, the Government wants to work with businesses and councils to achieve the intent of the mandates. For the purposes of compliance activity, the appropriate regulatory authority for the business mandates will be a shared responsibility between local councils and the EPA. Broadly speaking, the EPA will oversee institutions operated by the State or a public authority, such as public schools, public hospitals, TAFEs, jails and council-run childcare centres, while councils will oversee businesses and some institutions. For the household mandates and supermarket reporting mandates, the EPA will be the appropriate regulatory authority.

The bill, under proposed section 170G, also allows for local council-authorised officers appointed under the Food Act 2003 to exercise functions for the purpose of the business mandates under proposed section 170F without needing to be appointed under the Protection of the Environment Operations Act 1997. These measures offer greater efficiency and flexibility for local councils in how they implement checking of the business mandates. Councils that have separate compliance teams for food safety and hygiene compared to environment protection could utilise the expertise of their food safety inspectors for enforcement and inspection of the business mandates.

These measures are ultimately designed to increase recycling, divert FOGO waste from ending up in landfill, reduce residual waste and avoid methane emissions. If New South Wales is to avoid a landfill shortage, strong action must be taken to divert waste. FOGO waste can be a valuable material and, therefore, it is in our interest to ensure that it remains in the circular economy. The proposals in the bill have been years in the making. I am pleased to bring them to the Parliament. The time for action is now. We cannot kick this down the road any longer. This bill is a result of many recommendations from a range of strategies and extensive consultation.

The Government recognises that the sector and, specifically, councils will need support to adapt to the mandates. To help households and businesses prepare for the requirements, the Government commits to undertaking a statewide community education program to reduce waste, use the right bins and avoid contamination. I am hoping that fights at the back gate about what goes into the recycling bin will be alleviated as a result of the campaign. We are also looking at ways to provide support to councils to provide practical onsite education and support to help households improve their disposal practices and transition to the new organic waste collection requirements. The Government recognises the problems that the State is facing and has a plan to manage what is becoming a waste crisis. We need to drive up our recycling rates. We need to build a more sustainable future and create a circular economy that exists not just in platitudes but in real, concrete actions. This is an important step in that plan. I commend the bill to the House.

Debate adjourned.

ENERGY AMENDMENT (PIPELINES AND GAS SAFETY) BILL) 2024

First Reading

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

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

Statement of public interest tabled.

Second Reading Speech

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (10:54): I move:

That this bill be now read a second time.

The Energy Amendment (Pipelines and Gas Safety) Bill 2024 is about ensuring public safety when it comes to New South Wales's gas infrastructure. The New South Wales energy system and the role of gas within that system is undergoing rapid change. As this change occurs, public safety remains at the forefront of our minds. For this reason, it is critical that our regulatory framework for gas infrastructure keeps pace. The amendments in the bill strengthen and harmonise the safety and technical regulation for pipelines and other gas network infrastructure in New South Wales.

The bill amends three pieces of legislation: the Gas Supply Act 1996, the Pipelines Act 1967 and the Criminal Procedure Act 1986. Schedule 1 amends the Gas Supply Act. The amendments in the bill are intended to modernise the Gas Supply Act and better harmonise it with the Pipelines Act, as well as with other, similar energy legislation in New South Wales and other jurisdictions. The changes will enhance the governance, safety and operational efficiency of gas networks in New South Wales. Many of the changes are in response to issues raised with my department over the past few years by a wide range of stakeholders, including gas network operators, industry representatives and community members.

My department publicly consulted on the proposed changes to the Gas Supply Act and the Pipelines Act in August and September this year. The feedback from the consultation was broadly supportive of the proposed amendments and the case for change. The amendments include expanding government inspection powers to better investigate incidents, enable seizure of materials for comprehensive testing to determine failure causes and direct actions to ensure network safety and reduce the chance of hazardous incidents from happening. This is consistent with powers in other New South Wales legislation and other jurisdictions. The enhanced investigation powers aim to allow effective and timely investigations to take place in response to gas leak and rupture incidents such as the devastating explosion in Whalan this year, thereby reducing public safety risks.

The changes will also align offences and penalties across the Gas Supply Act and the Pipelines Act. Some of the current penalties are outdated. This bill increases penalties to ensure that they are high enough to deter breaches of the regulatory framework. Correspondingly, local court penalty limits are also increased, and continuing offences are introduced. The proposed introduction of penalty infringement and show cause notices would provide a structured and timely response to violations and ease reliance on court processes for the award of offences. Further amendments in the bill include general refinements to administrative processes, including the ability to delegate the Minister's and secretary's functions and clarification to the regulation-making power for data collection. All amendments to the Gas Supply Act are intended to commence on the bill's assent. These changes will ensure that the regulation of New South Wales's gas network is consistent with other energy legislation and maintains public safety and operational integrity.

Schedule 2 to the bill amends the Pipelines Act. The intention of the proposed amendments to the Pipelines Act is similar to that of the proposed amendments to the Gas Supply Act, bringing both Acts into alignment in terms of obligations, offences and investigative powers. The proposed amendments include introducing certain requirements, such as compliance with Before You Dig Australia protocols and notification for damage to pipelines. An additional proposed amendment in the Pipelines Act is a new regulation-making power to prescribe minimum requirements for compulsory acquisition processes by licensees for pipeline land and easements. The regulation-making power will enable requirements, such as those modelled on the Land Acquisition (Just Terms Compensation) Act 1991, to be indicated for the establishment of a land acquisition process that meets contemporary community expectations and that is consistent with other energy infrastructure. This will provide certainty to both communities and industry.

The changes also include refinements to administrative processes and delegations. The amendments to the Pipelines Act will occur in two stages. The amendments relating to fees and penalties being debts due to the Crown are proposed to commence by proclamation due to the need to make corresponding amendments to the Pipelines Regulation 2023. These will occur in the first half of 2025. All other proposed changes are intended to commence on the bill's assent. Ultimately, the proposed changes aim to modernise and harmonise the Pipelines Act to be consistent with other New South Wales legislation and other jurisdictions, and to enhance the safety and operational efficiency of pipelines infrastructure in New South Wales.

Schedule 3 to the bill amends the Criminal Procedures Act. These changes are consequential to the penalty amendments in the Gas Supply Act and the Pipelines Act. The proposed changes to the Criminal Procedure Act are required to enable indictable offences in these Acts to also be able to be tried summarily. Effectively, this change will improve efficiency by utilising alternative court levels, thereby alleviating burden on court processes for indictable offences. In conclusion, this bill is about modernising outdated legislation to promote public safety and meet community expectations. It is further evidence of this Government's commitment to sensible regulatory reform to support the transformation of New South Wales's energy system. I commend the bill to the House.

Debate adjourned.

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

Visitors

VISITORS

The PRESIDENT: I welcome to the public gallery Anna Lucas, the daughter of one of our valued committee staff members. Anna has just finished the first year of a teaching degree and we wish her all the best in that endeavour. You are very welcome. I also welcome to the public gallery Miss Lucille Thompson, a year 10 student at Ascham School. Lucille is currently doing work experience in office of the Hon. Kevin Anderson, MP. You are also very welcome.

Questions Without Notice

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. DAMIEN TUDEHOPE (11:00): My question is directed to the Leader of the Government. Noting that the Minns Government is not prepared to make an application under section 424 of the Fair Work Act 2009 for an order to stop the protected industrial actions that threaten to cripple the New South Wales economy over the weeks leading up to Christmas, will the Minister confirm that there is likely to be continued massive disruption to the train networks until the Government caves in to the Rail, Tram and Bus Union's 37.4 per cent wage rise demand?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:01): That question contained a bit of argument, but I will let it slide given it is the last sitting day of the year. We can manage that. The situation is this: There are ongoing good faith negotiations with rail unions relating to the dispute and the bargaining regarding wages and conditions for staff across the network. That is not a surprise. That is part of the process being undertaken. I do not accept that there will necessarily be ongoing action, because of the discussions that are taking place. That is the point of the discussions; that is the point of bargaining. The approach that this Government has taken since coming to office is to provide a way for workers in this State to make the case for wage rises and go through a good faith bargaining process, which is being undertaken.

The Government has made it clear that we would prefer for the action not to be undertaken, but those discussions continue and they will reach a conclusion. The last point I make is that those opposite, and the Leader of the Opposition in particular, know full well that applications that are put forward are not always successful. We need to be clear about what action we will take. It is all very well to say, "You should do this." They did it a few times and it failed spectacularly. The approach of this Government is to work in good faith with relevant unions as we work through their wage claim issues.

The Hon. DAMIEN TUDEHOPE (11:03): I ask a supplementary question. Noting that the Minister described the negotiations as being "in good faith", how does she respond to the Rail, Tram and Bus Union's complaint that there has been no change to the Government's offer of 11 per cent over four years since it was made in June?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:03): I know that the Leader of the Opposition is getting the claims from what is written in the newspaper every day, and he is entitled to do that. Behind the scenes there are ongoing discussions in good faith. There are wage negotiations. There are also logs of claims that have been worked through in good faith, and we will continue to do that.

ENVIRONMENTAL PROTECTION

The Hon. ANTHONY D'ADAM (11:03): My question without notice is addressed to the Minister for the Environment. Will the Minister advise the House of action taken to protect the environment in the last 20 months?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (11:04): I thank the honourable member. Members would know that the need to tackle climate change and biodiversity loss are two of the biggest challenges facing New South Wales. Over the past 20 months this Government has moved to turn the dial on two issues that are tracking pretty badly. I want to spend the last question time going through some of the things that have occurred in the past 20 months. The Minns Government has passed landmark environmental reforms, welcomed with bipartisanship and multi-partisanship across this Chamber, to provide the biggest boost to environmental protections in more than 30 years.

We are starting the work on dealing with the waste and recycling crisis, as Sydney is running out of landfill space. We have taken serious action to reduce invasive species across all land tenures—and I note the work of the Hon. Tara Moriarty in relation to that—particularly in places like Kosciuszko National Park. We are starting to see recovery in one of our largest and most fragile parks. We have stopped the logging of koala hubs within the Great Koala National Park assessment area as we get ready to finalise one of our biggest elections commitments.

We have started the land transfer of the new koala national park along the Georges River. We purchased over 11,000 hectares of koala habitat and acquired over 475 hectares of land for national parks. We established 138 private conservation agreements covering over 90,000 hectares. We welcome the work of those private landholders, who are doing an incredible job in protecting biodiversity. We stopped the raising of the Warragamba Dam wall project to protect the Blue Mountains World Heritage area. We protected the Butterfly Cave, a culturally sacred site for Aboriginal women in the Hunter.

We banned offshore gas and oil exploration. We passed the net zero Act and enshrined emissions reduction targets in law. I again acknowledge the bipartisanship with which those things have been achieved. We established the independent Net Zero Commission. We directed planning authorities to continue climate targets in all decisions, and we revised the planning guidelines for renewable energy projects. We introduced new extraction limits in climate change modelling to protect our rivers. We created a standalone Department of Climate Change, Energy, the Environment and Water.

To tackle climate change and cope with the retirement of coal-fired power stations and the decarbonisation of the grid, we put people at the centre with New South Wales's first Consumer Energy Strategy, backed by \$209 million to support households and businesses to work through the transition. We are supporting local businesses to take advantage of the renewable energy roll-out through almost half a billion dollars for net zero manufacturing. We established the State-owned Energy Security Corporation, which is investing \$1 billion in projects that boost energy reliability. The first renewable energy zone, Central-West Orana, is approved and underway. We are rolling out electric vehicle charging infrastructure in cities and regions. There is a lot more to do, but we have started to shift the dial to tackle climate change and deal with biodiversity loss.

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. SARAH MITCHELL (11:07): My question is directed to the Minister for Roads, representing the Minister for Regional Transport and Roads. What impact is the Rail, Tram and Bus Union protected industrial action having on NSW TrainLink services? How many services have already been cancelled? How many passengers have been affected? What steps is Transport for NSW taking to specifically address this transport crisis for Regional New South Wales?

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) (11:07): I thank the member for her question. There will clearly be impacts as the actions unfold. This is an emerging situation, but I can provide the House with some details. There will be an impact on regional train services because long-distance regional trains provided by TrainLink run part of their journeys on the Sydney Trains network. As a result, any protected industrial action that impacts the Sydney rail network will also impact those regional services. NSW Trains staff are currently working through the impacts associated with all parts of network. They will be in a position to inform customers about changes shortly. That will be done as soon as possible. One of the advantages in dealing with the regional train network is all the services operated by NSW TrainLink are booked services. That will allow TrainLink to communicate directly with passengers who are impacted, which will be done with SMS updates direct to those customers.

Some of the rail services that are impacted will have coaches provided. However, due to the extent of the disruption—I need to be up-front—it will not be possible to provide all those services with replacement coaches. Of course coaches will be required both in the Sydney metropolitan area as well as for those services. Some services will be cancelled altogether as a result of that. We know that is frustrating for customers. This is one of the reasons why the transport Minister highlighted this earlier in the week and was very up-front about the impact on customers. That will impact in the city and it will impact on the million people a day who move on the train network, but it will impact on regional services as well. I thank the TrainLink staff for working very hard to assess the impacts, to make alternative arrangements and to communicate with passengers. Each of those three things needs to happen in rapid order. Those staff are working very quickly to do that. I place on the record the Government's thanks for the work they are doing in order to make that possible.

MURRAY-DARLING BASIN PLAN

The Hon. TANIA MIHAILUK (11:10): My question is directed to the Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North

Coast. According to the NSW Irrigators' Council, the Federal Government has already acquired 4,800 gigalitres of water entitlements, well above the requirement for the Murray-Darling Basin Plan. Given the Federal Government has walked away from honouring the intergovernmental agreement, specifically section 4.7, which ensured that any impact on basin communities and basin States would need to be "socio-economically neutral or beneficial", why are the Minister and the Premier—and I quote the member for Murray—not "standing up" to Federal water Minister Plibersek, why are they silent on protecting New South Wales' interests, and will the Minister accept the call from the member for Murray to either fix it or resign?

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) (11:11): There is no announcement that I will make here in question time about that. I would say this: I do not accept a number of elements of that question and claims that the member for Murray and the Hon. Tania Mihailuk have made in relation to the way the New South Wales Government has managed the decisions of the Commonwealth Government in relation to water purchase. It is just not true that I have been silent. That is factually inaccurate. I do not know how many times I need to say in this place that the New South Wales Government opposes water purchase as a form of water recovery. The New South Wales Government recognises that that has a negative impact on communities and does not want it to proceed.

If the Hon. Tania Mihailuk does not understand how the water market works, it is a voluntary private market. These are private property rights. It is like saying that the New South Wales Government would somehow have some power to intervene in a private transfer of property between two individuals who have reached an agreement to sell and purchase a house, and that somehow the New South Wales Government would intervene and stop that. That is not how the private market works. People who engage in water buybacks are willing sellers participating in a private market. The New South Wales Government says to the Commonwealth, "Do not be that purchaser. Do not facilitate this market, because it has a negative impact on our communities." I say it privately to Minister Plibersek. I say it publicly, repeatedly, in this House and in the media.

Ultimately the Commonwealth is a completely different level of government, with a different policy from that of the New South Wales Government on this issue. That is a shame. I call on the Commonwealth Government to review its policy. It is utter nonsense that I have been silent. The New South Wales Government has been so clear that it does not agree that this is the best way to manage water recovery. There are better ways. Work with us to invest in the infrastructure that can deliver good environmental outcomes without negative impacts. To be perfectly honest, I remain all ears about practical suggestions as to how we might further intervene. But, to be very clear, it is a private market where willing sellers are engaging in a private contract with a willing buyer. The capacity for government to intervene in that is, in a way—rightfully—quite limited. I am actually probably one of the more government interventionist type people in this Parliament.

The Hon. Daniel Mookhey: True.

The Hon. Damien Tudehope: And that's problematic.

The Hon. ROSE JACKSON: Fair enough. Even I can recognise that is a step too far, but we will continue our advocacy. [*Time expired.*]

The Hon. TANIA MIHAILUK (11:14): I ask a supplementary question. Will the Minister elucidate as to why the member for Murray would be asking her to either fix it or resign, if the Minister has no responsibility?

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) (11:14): I will. I have a lot of respect for member for Murray. The reason she is doing that is because she is a really passionate advocate for her community. No knocks on her. I was pleased to work with her recently in the Water Management Amendment (Water Access Licence Register Reform) Bill. That was her bill, introduced in the Legislative Assembly and supported by the Government in the Legislative Council, to bring more transparency to this market.

As I said, the private water market is a problematic space. It needs more transparency. It needs more oversight. We recently passed a law to deliver that, but it is still a private market. The New South Wales Government is trying to improve its operation. The member for Murray cares deeply about her community. Of course it saddens me that she does not feel as though the way this Government is approaching the matter meets the expectation she has as a community advocate for the level of engagement. I went to her electorate recently. I visited farms in and around Griffith. I sat at tables with irrigators and I understand the level of agitation they have.

I know that the Hon. Tania Mihailuk is asking this question in good faith on behalf of people who are agitated, upset, frustrated and anxious. But I have to say to those people, genuinely, that the options available to the New South Wales Government in this space are limited because of the structure of this market and the

decisions of the Commonwealth that we are not responsible for. We tell the Commonwealth it would be better if they did not approach it in this way. The member for Murray is very passionate. She does not feel as though the way we have articulated our frustration is in terms that are robust enough. I feel as though my language, perhaps not as colourful as the member for Murray, is couched in very strong terms and I will continue to do that work. *[Time expired.]*

The Hon. WES FANG (11:16): I ask a second supplementary question. In the Minister's answer she referenced speaking both privately and publicly to the Federal Minister for the Environment and Water in relation to the Federal policy on water buybacks. Will the Minister elucidate her answer and tell this House exactly what the Federal Minister's response was in relation to Federal policy and why the Commonwealth is not prepared to adopt New South Wales' position?

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (11:17): I will. I obviously do not want to speak for the Federal Minister for the Environment and Water. People have concerns. They can feel very free to raise them directly with her, as I have done. The Commonwealth's view is that it is committed to the Murray-Darling Basin Plan and committed to the legally binding water recovery targets under that plan. The Commonwealth feels as though purchasing water access licences on the private and open water market is one way that it can achieve water recovery. The Commonwealth believes that is important to deliver the environmental outcomes that the plan is intended to deliver. That is the Commonwealth's view.

My view is we can deliver those same environmental outcomes through investment in infrastructure. I have made that case to Minister Plibersek. She is open to that; in fact, we are working pretty well together on that suite of options. The Commonwealth is funding the New South Wales Government to deliver that. Minister Plibersek wants to keep options on the table and thinks that water purchase is one of the tools in her toolkit that will deliver to her the outcomes she is looking for. As I said, that is the point where we disagree. I have said that to her privately. I have written to her on that matter. I have said it publicly in this House. I have said it publicly in the media. The Federal Minister disagrees with me.

If people have a view on the approach the Commonwealth should take, they are welcome to make that case through the avenues that they have to make their point known to the Commonwealth in relation to that. The New South Wales Government does not always agree with the Commonwealth, whether it is on the GST or on this matter. It should not shock this Chamber that there is disagreement between the New South Wales Government and the Commonwealth on some matters. That is the nature of Federation. This is another one of the examples, and I make no apology for that. I am not embarrassed by that. I am very clear. The New South Wales Government has its view. The Commonwealth has its view. We talk, we negotiate, and sometimes we disagree.

The PRESIDENT: I know that members are all excited because it is the last sitting day. However, members need to refrain from interjecting, particularly the member sitting to my direct left.

STATE ECONOMY

The Hon. BOB NANVA (11:19): My question without notice is addressed to the Treasurer. Will the Treasurer update the House on the latest gross State product [GSP] figures?

The Hon. DANIEL MOOKHEY (Treasurer) (11:20): I thank the member for his question.

The Hon. Damien Tudehope: It would be good if you talked about the rail dispute, mate.

The Hon. DANIEL MOOKHEY: Does the shadow Treasurer have a question for me? If the shadow Treasurer has a question for me, I look forward to him asking it.

The Hon. Damien Tudehope: There are more important people here than you, mate.

The Hon. DANIEL MOOKHEY: And that is why you are on that side of the Chamber, my friend. I am sure that lots of people, including the shadow Treasurer, tuned in yesterday for the annual release of the State accounts, which is very important for all States and Territories. I sure the Hon. Mark Latham did. He is a student of the Australian Bureau of Statistics [ABS] and an avid reader of its material. The ABS made some interesting points yesterday about the opportunities and challenges in the New South Wales economy. The good news is that GSP growth was amongst the second or third greatest in the country. That is very encouraging.

The Hon. Mark Latham: Second or third?

The Hon. DANIEL MOOKHEY: It depends. Pleasingly, we did see GSP growth in these difficult economic times. What is encouraging is that, in large part, we are also seeing a pick-up in business investment to the tune of 4.8 per cent, and that remains resilient compared to household consumption. That is important because when business investment is high, it tends to lead to higher productivity growth, which is one challenge the figures

revealed yesterday. Just like all of Australia and a lot of advanced countries, we have a productivity challenge in New South Wales, which will be a theme of next year's budget and the year to come.

The numbers make clear that we have households under pressure and the high interest rates are hurting New South Wales households a lot. We can see that in the household consumption figures. That is no surprise because, as the housing Minister has made clear, it costs more to get a mortgage and to rent in New South Wales. High interest rates flow into that. That means the debate we have to have next year between the two sides of politics is about which has the best ideas to solve the problems. Our Government will continue to argue the point—

The Hon. Sarah Mitchell: It's not about a contest of ideas; you have to act.

The Hon. DANIEL MOOKHEY: It is not about a contest of ideas—ain't that the truth! Members on that side of the House do not have any ideas. I accept that. I have to say that 12 years of their ideas was enough. We are fine to have no more ideas from members on that side of the House. Next year, members on this side of the House look forward to coming up with ideas. Maybe next year we will get a question from them. [*Time expired.*]

FIREARMS REGISTRY

The Hon. MARK BANASIAK (11:23): My question is directed to the Hon. Tara Moriarty, representing the Minister for Police. Firearm design and manufacture in New South Wales is fraught with consistently inconsistent and arbitrary decisions by the Firearms Registry. Schedule 1 [7] of the Act states prohibited firearms include any firearm that substantially duplicates in appearance machine guns, rifles and shotguns designed or adapted for military purposes which are known. Will the Minister outline the specific criteria used by the NSW Firearms Registry to determine whether a firearm substantially duplicates military-style rifles in design, function or appearance as per the so-called appearance law?

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (11:24): I thank the member for the very detailed question on the rules of the Firearms Registry about how guns are defined. It is a serious question, and I know that it is an ongoing area of concern for the member and his party. It is a topic that comes up regularly with me—with a different hat on—in relation to animal control. I do not have the information about how the registry works at that level. It is a valid question so I will seek some information from the Minister for Police and Counter-terrorism and bring it back to the House.

ROAD TOLLS

The Hon. NATALIE WARD (11:24): My question is directed to the Minister for Roads. Given that when trains are not running people who would usually make use of that public transport are forced to drive on our roads, will the Government commit to no tolls on any Sydney road on any day that trains are not in service?

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) (11:25): Imagine leaving a bill for drivers of \$195 billion and then saying, "Well, now tolls shouldn't apply." Honestly, imagine that.

The PRESIDENT: Order! The Opposition has asked the question; its members might like to hear the answer.

The Hon. JOHN GRAHAM: Firstly, the Government does not accept that everyone will take to their cars over that time. That is because there is a range of other transport arrangements being put in place, and I am happy to update the House about some of those. The Government is very grateful for the work that Didi and Uber are doing regarding limiting surge pricing and making sure that drivers are on the road.

The Hon. Natalie Ward: Point of order: We have heard a lot about Uber and other things but that is not, with respect, my question. My question is specifically about people who are forced to drive on our roads and whether the Government will commit to no tolls for those people on the days that trains are not in service. I ask that the Minister come back to that specific part of the question.

The Hon. JOHN GRAHAM: To the point of order: I am putting the case about the extent to which the question will actually be true, and I submit that that is directly relevant.

The PRESIDENT: I will give the Minister the benefit of the doubt. Nonetheless, I have heard the point made by the Hon. Natalie Ward and I will listen closely. The Minister has the call.

The Hon. JOHN GRAHAM: On that central question about whether people will be flooding our roads, I thank the work of Didi, Uber and the Taxi Council. I thank Taxi Council chief executive officer Nick Abraham, who has confirmed that 4,000 taxis will operate. I thank Sydney Metro for providing additional services. I thank

Sydney Light Rail for increasing its services. A major event bus plan will operate at Sydney Olympic Park on Saturday and emergency buses will be in place between Sydney Airport and the CBD. Thanks to all those things, the suggestion of the shadow Minister is incorrect.

Our message to travellers and people considering travel is to check the apps and the transport information to make alternative arrangements where possible. If people can travel outside the peak or reconsider travel, that is recommended at the moment. Early notification has been provided to people but the Government is up-front about the fact that there will be impacts. For those reasons, the suggestions made in the question by the shadow Minister are incorrect. The Government will not have taxpayers pay the cost of tolls over this period.

Negotiations are ongoing. In addition to the 27 bargaining meetings that the Leader of the Government outlined yesterday and the 12 all-day meetings in October, I can inform to the House that senior levels of government we have more discussions later this afternoon. Discussions are continuing and the Government is dealing with it at the highest level, as is appropriate, given the impact on the State, which the Government has been very up-front about. The situation has not been assisted by the scaremongering by the Opposition. [*Time expired.*]

The Hon. Natalie Ward: Mr President—

The PRESIDENT: I would have allowed the Hon. Natalie Ward to ask a supplementary question if I could hear her asking for the call. I could not hear her over the cacophony from the Leader of the Opposition. The Hon. Natalie Ward may ask a supplementary question.

The Hon. NATALIE WARD (11:29): I ask a supplementary question. I thank the Minister for his answer referring to rideshare and taxis. Is the Minister saying that the solution to the industrial chaos is to get an Uber or taxi?

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) (11:29): No, I am not saying that. I am saying that there will be impacts, and I am outlining what the Government is doing to mitigate them. We will not be taking lessons from the Opposition on this. Their Minister for Transport had a bit of trouble with the union, but he also revealed that—

The Hon. Natalie Ward: Point of order: These are very serious matters. I am asking very specific questions about the expectation of commuters. I did not ask about the history of industrial action or otherwise. I asked about the very real implications for tomorrow and, given the Minister spoke extensively about rideshare and Uber, whether that is the Government's response. To clarify what the Government is proposing, I ask that you draw the Minister back to the part of the question that he offered up.

The PRESIDENT: While the question was quite wide in its scope when asking what the Government is doing, it was not wide enough for the Minister to talk about what the previous Government did. The Minister has the call.

The Hon. JOHN GRAHAM: In dealing with the issue, I am confident that the current Minister for Transport will meet face to face with its secretary. Not only will the current Minister for Transport meet with the union and communicate to passengers, she will also meet face to face with its officials, which apparently never happened before the train system was shut down last time under the former Government.

The Hon. Greg Donnelly: Unbelievable.

The Hon. JOHN GRAHAM: Honestly, it is unbelievable. I had to re-read the evidence that was brought out by the then—

The Hon. Damien Tudehope: Point of order: The Minister should direct his comments through the Chair.

The PRESIDENT: I uphold the point of order. The Minister has the call.

The Hon. JOHN GRAHAM: There I was reading some of the shadow Treasurer's best work. As the former Minister for Transport confessed, he had never met the secretary face to face when the rail network was shut down by surprise. The then Premier was taken by surprise in the morning as the whole network shut down. He did not even know about it. That is no surprise given the background.

The Hon. Natalie Ward: Point of order: The Minister is now flouting your ruling. I have asked very serious and specific questions. I ask that you ask him in the very short time left to tell the commuters of New South Wales how they are supposed to get anywhere tomorrow.

The PRESIDENT: The Minister is indeed flouting my ruling. He will cease doing so.

The Hon. JOHN GRAHAM: I return to my first point, which is that I do not accept that the Government's position is as the shadow Minister suggests. I have outlined perhaps eight measures in place that will ease things. The Minister for Transport is communicating directly to travellers to outline what they can do given the circumstances. Ultimately the Government hopes that, like many of the industrial dispute that have occurred and been cheered on by the Opposition and settled, this industrial action will be in that category. About half of the public service— [*Time expired.*]

The Hon. TANIA MIHAILUK (11:33): I ask a second supplementary question. Will the high-level Government discussion this afternoon involve the Premier penning an apology to parents who will be forced to stay home tomorrow as a result of schools ordering remote learning?

The Hon. JOHN GRAHAM (Special Minister of State, Minister for Roads, Minister for the Arts, Minister for Music and the Night-time Economy, and Minister for Jobs and Tourism) (11:33): I thank the member for her question. I do not know the agenda for the meeting, but my expectation is that it will not. The meeting will be a serious attempt to continue discussions about the issue. There have been extensive discussions, as have been outlined. The meeting will be a continuation of those.

GOVERNMENT PERFORMANCE

The Hon. Dr SARAH Kaine (11:33): My question without notice is addressed to the Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources. Will the Minister update the House on how key issues in finance, domestic manufacturing and government procurement, and natural resources have been progressed by the Government in 2024?

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (11:34): I thank the honourable member for her excellent question. If I had to characterise 2023 as assessing and stocktaking the damage of what the Government inherited, then 2024 was certainly the year that it got deep into the policy work of fixing that mess. The caveat is that some nasty surprises were still uncovered this year. The former Government unlawfully charging the public, despite being alerted to that on three separate occasions, was one of those surprises. I have no doubt that there will be more to come, but our final question time is a worthwhile opportunity to reflect on some of what this Government is doing to genuinely fix the challenges it inherited.

The Treasurer and the Government delivered two budgets in nine months, so a comparison of about nine months immediately comes to mind. It is certainly a testament to the immense abilities of the Treasurer and his team that he reduced gross debt and interest payments. That is such an important part of what this Government is about. As part of that budget, this New South Wales Government made the first intervention by a State government to support bulk-billing. That came into effect on 4 September 2024 so that GPs who bulk-bill their patients will already receive that payroll tax. We also launched our Performance and Wellbeing Framework, and last month we had a fantastic consultation at Parliament. The parliamentary inquiry report is due next week, and we are excited to take that to the next level in next year's budget. We saw half a billion dollars invested to rebuild the next generation of Tangaras in New South Wales as part of our commitment to rebuild the State's domestic manufacturing capacity. That will take time, but this Government is absolutely committed to that and getting it underway.

We launched our new core New South Wales public service work policy. Those opposite wanted to spend billions of dollars on consultants. We do not. We want to rebuild our public service, and we have got that underway too. Whether it is the Jobs First Commission, the Critical Minerals and High-Tech Metals Strategy or the Future Jobs and Investment Authorities that I spoke about yesterday, there is a range of measures to get that work underway. We will have more to say next year. We have introduced some commonsense, practical changes. We have talked a lot about ticketless parking this week. I am happy to say that legislation has passed and we are looking forward to those parking fines being reissued, but there is nothing stopping councils from doing it today.

It has been big year. I wish members a very merry Christmas, and safe and happy holiday season with their families. I hope to see them next year.

GREAT KOALA NATIONAL PARK

Ms SUE HIGGINSON (11:37): My question without notice is directed to the Treasurer. How advanced is the transition package for workers and the quota buyback scheme for sawmill quota holders affected by the Great Koala National Park?

The Hon. DANIEL MOOKHEY (Treasurer) (11:37): I thank the member for her question, which is the thirty-ninth question from the crossbench that I have received this year. That is three times the number of questions that the shadow Treasurer has asked me, so I thank her very much. The member asks me about the Great

Koala National Park, which I know she is very passionate about. I advise her that the Government is committed to strong action to better protect the State's endangered koalas, including conserving key habitat on the Mid North Coast by creating an iconic Great Koala National Park. Work establishing the park is already well underway. The 2023-24 State budget committed \$80 million in funding over four years to create the park.

That involves detailed assessments informed by expert scientific advice and independent economic analysis, as well as a consultative process. The social, economic and environmental assessments for the park are in progress. The community, industry and Aboriginal panels have met multiple times. Together, their input will inform a strong plan and design for the Great Koala National Park. The assessment process for the proposed park is considered detailing analysis of ecological, economic, social, cultural and contractual matters. Recently my colleague the Minister for the Environment provided an update on the processes to establish the park, including that discussions with the panels have included the draft results of a survey for koalas as well as an update on the assessment of wood fibre supply and industry in the assessment area, which the member knows is quite important. That work continues to progress.

The Government will need to consider all the information before it makes any decision about a transition package. Those are all key inputs into the design of the package. Of course, there will have to be an interaction between the assessment of the effect of the harvest of timber and how that overlays with contractual arrangements—and that is before one gets to the important questions around making sure that workers and communities are supported. That is very important, particularly if one is to learn the lessons from places like Victoria and Western Australia. There are lessons to be drawn from how those States acted when drafting a transition package.

I can provide a final piece of information. The Government is determined to work in partnership with affected businesses, workers and communities. We want to be sure that the discussion is based in fact, and that everybody has access to a common set of facts. Of course, that means there will be contests, disagreement, agitation and argument about what constitutes an appropriate transition package. However, the Government wants to listen to and work in partnership with people. I know that the Minister for Agriculture and the Minister for the Environment are committed to that. I, as Treasurer, along with the Minister for Finance as the other shareholder, are also committed.

Ms SUE HIGGINSON (11:40): I ask a supplementary question. Will the Treasurer elucidate the part of his answer around the importance of getting things right, and expand on the timing? Will the transition package and quota buyback be announced at the same time that the park boundaries are announced? They seem to be inextricably linked. What is the timing of that?

The Hon. DANIEL MOOKHEY (Treasurer) (11:41): I accept the member's point about the temporal sequence that must be followed. We cannot announce a transition package until we know precisely what it is that we are doing. That is true. I will need to take further advice on that particular question. The Government's intention is to provide certainty as quickly as possible.

The Hon. WES FANG (11:41): I ask a second supplementary question. Will the Treasurer elucidate the part of his answer where he talked about the support packages? When putting together the support packages, will the Government take into consideration the support for native forestry at the Labor conference? Will the Cabinet consider the position of the Labor conference when developing any package?

The Hon. DANIEL MOOKHEY (Treasurer) (11:42): I thank the member for the question. I think that I understand it: Does the Labor Government support Labor policy?

The Hon. Penny Sharpe: Yes.

The Hon. DANIEL MOOKHEY: Yes, we do! I know it is a novel concept for my friends opposite that the Cabinet would support the party—

The Hon. Scott Barrett: Point of order: Mr President, at least twice last week you urged members asking questions to do so at the dispatch box. It is only respectful that the responders do the same thing. The Treasurer should show respect to the question being asked, instead of turning around and speaking to his cheerleaders, like a bad scene from *Grease 2*.

The PRESIDENT: I advise members that the Hon. Scott Barrett has, in fact, played Danny Zuko in *Grease*. Nevertheless, the point is well made. The Treasurer will ensure that he is directing—

The Hon. DANIEL MOOKHEY: I am happy to play Sandy to my Danny. I am very happy to, if that is what is required. I want to make sure that members opposite can understand this point, and I am very happy to speak through the microphone. The Labor Government supports Labor policy; that is true. That is perhaps novel and stands in contrast to my friend who asked the question. As a National Party member who has made a career

of opposing Liberal Party policies, I know that is quite difficult for him. As a National Party MP who has spent more time this year fighting the Liberal Party than the Government, the Hon. Wes Fang might want to draw from our example. I also make the point that not only does the Government's consideration include support for its own policies, but Government members are also proud to support each other. I know that is a very novel concept for those opposite. For example, when I get questions, I talk to my colleagues. They do not need to give me permission to ask questions. I do not need to negotiate with my colleagues to give members information.

The Hon. Wes Fang: Point of order: As entertaining as that was—and I was happy to indulge it a little—I ask that you draw the Treasurer back to the question. The Labor conference passed a motion supporting native forestry. Will the Treasurer take that into consideration when forming any package?

The PRESIDENT: I uphold the point of order. I fail to see how the Hon. Wes Fang is relevant to the question asked. The Treasurer will complete his answer.

The Hon. DANIEL MOOKHEY: Mr President, you are right: It is very hard to see how the Hon. Wes Fang is relevant.

The Hon. Sarah Mitchell: Point of order: I appreciate that it is the final sitting day. However, there should be a level of respect for all.

[Government members interjected.]

The Hon. Sarah Mitchell: You are the Government. You should actually have a bit of decorum.

The PRESIDENT: Order!

The Hon. Sarah Mitchell: For the Treasurer to make such a derogatory comment about the Hon. Wes Fang is unparliamentary. It is not funny; it is childish. He should withdraw it.

The PRESIDENT: There are 15 minutes of question time remaining. I agree with the Hon. Sarah Mitchell. I ask the Treasurer to withdraw that comment and complete his answer.

The Hon. DANIEL MOOKHEY: I withdraw the comment. The answer to the Hon. Wes Fang's question is that of course the Labor Government will take into account the position of the Labor Party conference when it comes to questions of transition. I make the other obvious point that that will also include the Government working in consultation with affected communities, because that is also what the Labor conference said that it should do.

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. CHRIS RATH (11:46): My question is directed to the Parliamentary Secretary for Industrial Relations. I note his answer yesterday in relation to the Rail, Tram and Bus Union [RTBU] industrial action. He said:

There will be a resolution to the dispute, the workers will get an outcome and the public will be happy to have their transport restored in due course.

Yesterday, RTBU secretary Toby Warnes said that the union would continue to disrupt commuters every weekend until Christmas until a better wage offer was put to them. When does the Parliamentary Secretary anticipate that outbreak of public happiness is likely to occur?

The Hon. MARK BUTTIGIEG (11:47): I thank the member for the question. I do not have a crystal ball. However, I do know that, as I said yesterday, the number of lost hours due to industrial disputation is 154 times lower in the past 18 months, under this Government, than it was under the reign of the former Government. That is a fact. It is simply because our approach to industrial relations is to respect the rights of workers to negotiate and withdraw their labour in accordance with a legal framework that allows people to take protected action via their unions. I do not know how many times Opposition members want to ask the same question. I will repeat the answer ad nauseam. The Government respects the industrial relations system. If Opposition members do not respect that system, they should offer an alternative. Under the former Government there was a wages cap—

The Hon. Chris Rath: Point of order: I think the Parliamentary Secretary actually answered my question in the first five seconds. He has then proceeded to talk about the former Government's approach. I ask that you draw him back to my very specific question about when the anticipated public outburst of happiness is likely to occur.

The Hon. Penny Sharpe: To the point of order: That is one of the most ridiculous points of order we have heard from members opposite over the whole year. The member acknowledged, in taking his point of order, that the Parliamentary Secretary was being directly relevant and has answered the question. He does not then get

to whinge about the way the Parliamentary Secretary chooses to answer. The Parliamentary Secretary has to be directly relevant, and he is being directly relevant. There is no point of order.

The Hon. Damien Tudehope: To the point of order: Just because the Parliamentary Secretary answered the question in the first five seconds does not grant him liberty to say whatever he likes on any other issue he sees fit to pontificate on for the remainder of his time. If he is asked whether the sky is blue and answers, "Yes, it is", it would be completely out of order to then engage in discussion about the state of Sam Tedeschi's dress.

The Hon. Daniel Mookhey: To the point of order: This is the first time I have heard the Leader of the Opposition complain about a Government member answering a question. What the Leader of the Opposition said about the second part of the answer is nonsense. The Hon. Mark Buttigieg was not talking about Sam's excellent suit. If the information is directly relevant to the question, then it is not only a direct answer but also an extensive and relevant answer, which is what the member was providing.

The PRESIDENT: The Hon. Mark Buttigieg was being directly relevant for the first part of his answer. However, the Leader of the Opposition is right to say that just because he was relevant in the first part of his answer does not mean he has licence to say whatever he would like on any issue for the remainder of the answer. The question now is whether the Treasurer is right to say that the second part of the member's answer was relevant to the question, and the answer to that is no. The Parliamentary Secretary will come back to the question that was asked.

The Hon. MARK BUTTIGIEG: I could spend the remaining one minute and 45 seconds saying, ad nauseam, that I do not have a crystal ball, but I do not want to bore the House with that. I was pointing out that there are two approaches to industrial relations. That is a direct implication from the question. One can take an adversarial approach in which one attacks unions and workers and the rail network is shut down indefinitely, as it was under the previous Government, or one can allow a restored Industrial Relations Commission to broker a clearing house arrangement where, eventually, via the cut and thrust of industrial action, parties come together and reach a negotiated outcome. That is what will happen.

When will that happen? I am not 100 per cent sure, but I am confident that, like all the other disputes the Government has resolved in short time, it will be resolved. If you want to compare industrial relations approaches, the contrast is stark. It is an adversarial system with a 2½ per cent wages cap for 10 years versus a system that has seen public sector workers get their best pay rises in a generation, a promise the Labor Government was directly elected on. I will rate our record against yours any day of the week, and if you want to come to his House and keep asking questions, then I look forward to the February session.

The PRESIDENT: I remind the Parliamentary Secretary to speak through the Chair at all times.

The Hon. CHRIS RATH (11:53): I ask a supplementary question. Will the Parliamentary Secretary please elucidate whether he agrees with the approach of the Minister for Transport of begging the Rail, Tram and Bus Union to withdraw its protected industrial action? What action has he taken to support the Minister in that request?

The Hon. MARK BUTTIGIEG (11:53): The Minister responsible has made her position clear, and I agree with it. Of course I ask the Rail, Tram And Bus Union to come to the table for a negotiated outcome. The Government does not want the public unnecessarily disrupted, but the law states that people have a right to take protected industrial action and use it as leverage in negotiations. That is happening. The Government respects the law and the Industrial Relations Commission's ability to broker an outcome. That is exactly what is playing out. It will play out, and we will have a resolution where both sides of the debate eventually get an outcome.

The implication is that the Government should not be doing that and it should be saying, "No, we do not agree with people's right to withdraw labour. We do not agree with unions going through the Industrial Relations Commission, as is their right." But that is not the Government's position. That is the Opposition's position. Yes, I think that the Rail, Tram and Bus Union should come to the table. It has been having discussions with the Government and the Minister. Again, it is a simple and straightforward process of people using their leverage to get an outcome. In terms of what I have done, I let the Minister take the lead on that. It is her portfolio, and I support her. But let me be clear: I support the right of unions to exercise their right under the law. If you do not support it, you should tell us what you would do if you were in government.

The PRESIDENT: Order! The Parliamentary Secretary will direct his comments through the Chair.

The Hon. MARK BUTTIGIEG: Through you, Chair, I ask the Opposition, if you were in Government, would you come in here and dismantle this system, which is working much better than it was under your reign?

The PRESIDENT: I call the Hon. Mark Buttigieg to order for the first time. Saying, "Through you, Chair," and then saying "you" is not adhering to my ruling.

The Hon. TANIA MIHAILUK (11:55): I ask a second supplementary question. Does the Parliamentary Secretary agree with Toby Warnes' view that it was easier to deal with Minister Elliott than with Minister Haylen, given that David Elliott always had his door open, unlike Minister Haylen?

The Hon. Daniel Mookhey: Point of order: That is clearly a request for an opinion.

The PRESIDENT: I uphold the point of order.

DRUG SUMMIT

The Hon. CAMERON MURPHY (11:56): My question is addressed to the Minister for Mental Health. Will the Minister update the House on the Government's Drug Summit?

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) (11:56): I am pleased to let the House know that I recently attended the two regional drug summits that were part of a suite of events the Government is holding to have a broad community conversation about the way we manage drug use in this State. The Government was pleased to be joined by so many people in Griffith and Lismore, and I recognise the Hon. Wes Fang, who came to the Griffith drug summit.

The Hon. Jacqui Munro: Despite the Government not wanting MPs there.

The Hon. ROSE JACKSON: These are bipartisan events, and everyone is invited. If members feel as though they have not received invites, I am more than happy to raise that with NSW Health. Ms Sue Higginson was at the Lismore event with Ms Cate Faehrmann. These are bipartisan events to bring the Parliament, community, stakeholders and people with lived experience together to have collective conversations about how we approach this issue. It was important that we held those two regional events because, of course, the Government recognises that these issues are expressed and understood differently in the regions. That was a fantastic conversation to have, and the Government is looking forward to the two days in Sydney. Hundreds of people are coming together to be part of the conversation. The Drug Summit is modelled on the previous drug summit, held 25 years ago. That was drug summit 1.0. Drug Summit 2.0 is bigger. It has a regional presence, with a range of associated site visits.

The PRESIDENT: Order! The Hon. Jacqui Munro will cease interjecting during the Minister's answer. The Minister has the call.

The Hon. ROSE JACKSON: This is a genuine effort to have a collective conversation about how we approach these issues. I thank members from across the Parliament who participated in the two events we held in Griffith and Lismore, and I extend a clear invitation to anyone in the Parliament who is interested in coming to the Sydney events. The summit will be hearing from a range of stakeholders. I acknowledge the work of the co-chairs, John Brogden and Carmel Tebbutt, who have been playing an incredibly sensible, practical and empathetic leadership role, sharing their own experiences.

Carmel Tebbutt is a former Minister and was a participant in the previous Drug Summit. She now runs Odyssey House, which is a drug and alcohol treatment service. She has very solid, hands-on experience in the sector. John Brogden has been really open about his challenges with mental health. The co-chairs have provided clear leadership on the kind of conversations that we want to have. So far, it has been really good to have the regional events, and we are looking forward to the Sydney events at the beginning of December. We will then work with the co-chairs to craft a summation of those issues for the Parliament to consider.

GREAT KOALA NATIONAL PARK

The Hon. MARK BANASIAK (11:59): My question is directed to the Minister for the Environment. With regard to the assisted payments for the Great Koala National Park, it is my understanding that there are two socio-economic reports that the Government is considering. Will the Minister advise the House whether the Government is giving primacy of consideration to the Mandala Partners report or the KPMG report?

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (12:00): I thank the member for his question. When it comes to forestry, the one thing I have learned is that there are no agreed facts. There are many different reports that say many different things. What I can guarantee is that we are still working through the thorough process on the Great Koala National Park, but it is getting closer. We are receiving input from everyone who has brought information to the table. There are a number of different processes, but I will not go into all of them because some are Cabinet processes. All of the information that has been gathered will be considered by the Government as we make decisions to create an incredibly important and iconic park for New South Wales. The Great Koala National Park is primarily driven by the desire and the need for us to save koalas in the wild, because they are on track for

extinction. It is primarily for conservation outcomes, but there is a lot more that will go into it than just that. There is a whole lot of work around how we manage such a park into the future.

We have had conversations with industry representatives, which have been really appreciated. We have welcomed their input and the good faith with which they have participated in the creation of the modelling. We are now getting to the pointy end of what that looks like. It is incredibly important that people know that my door has been open to everyone who has wanted to talk to us about this. There are also incredible opportunities for First Nations people. The Aboriginal panel has shown a great desire for the creation of a park that is genuinely jointly managed, and that has economic opportunities on country for Aboriginal people. There are lots of different reports. I make the bold prediction that some people will never agree on what any of the reports do or do not say. The Government and the Cabinet will seriously deliberate on all of the information to create a national park that will save koalas and that will be a great driver of tourism and visitors for the Mid North Coast. We will look after any workers who are impacted as a result of the creation of the park.

The time for questions has expired. This was the last question time for the year. I thank members for their excellent questions throughout the year. Members will have to wait until February if they have any more questions. If members have further questions I suggest they place them on notice.

Supplementary Questions for Written Answers

STATE ECONOMY

The Hon. MARK LATHAM (12:03): My supplementary question for written answer is directed to the Treasurer about his quoting of Australian Bureau of Statistics [ABS] data. On the release yesterday, he said that New South Wales came second or third in gross State product. Which one is it? It is not a matter of guesswork. Has the Treasurer actually read the ABS release, *Australian National Accounts: State Accounts*? In key statistics, it says:

- Gross State Product (GSP) rose in all states and territories in 2023-24
- The strongest result was observed in the Northern Territory, which grew 4.6%, followed by the Australian Capital Territory (4.0%), Queensland (2.1%) and Victoria (1.5%)

In fact, New South Wales came second last, not only among the six States but also the eight States and Territories. Given his track record, the next time the Treasurer consults ABS data, will he first go to Specsavers?

The PRESIDENT: I remind all members that supplementary questions are to be questions rather than speeches.

GREAT KOALA NATIONAL PARK

Ms SUE HIGGINSON (12:04): My supplementary question for written answer is directed to the Treasurer. I appreciate that he took part of my other question on notice. If the Government announces the boundaries of the Great Koala National Park, which we anticipate in the coming weeks and months, will the transition arrangements be announced simultaneously? Will logging within the announced boundaries cease immediately, or will it continue until the funding is allocated to the buyout of the wood supply agreements of the quota-holders within these boundaries?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. DAMIEN TUDEHOPE: I move:

That the House take note of answers to questions.

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. DAMIEN TUDEHOPE (12:05): I take note of the answers given by the Leader of the Government and the Deputy Leader of the Government to questions about the industrial terrorism being inflicted on the people of New South Wales by Labor's Rail, Tram and Bus Union [RTBU] mates. With the Government refusing to make an application under section 424 for an order to stop the RTBU industrial sabotage, or even to calculate the cost of the economic damage, there will either be continued chaos on the train network, or the Government will cave to the RTBU billion-dollar-plus wages demands. It will be one or the other:

Who is wrong and who's right
This game of winner takes all
And all means nothing left
Spoils go to the victor
And the other left for dead

Either way, the Minns Government has failed the people of New South Wales, and they are "left for dead". We are sitting late tonight, but hopefully not too late. Toby Warnes will be up all night too:

Waitin', watchin' the clock, it's four o'clock, it's got to stop
Tell him—

drive no more. Meanwhile, the Minister for Transport is "talking to herself, there's no one else who needs to know". The RTBU reported to its members yesterday that "the Premier popped into the room in the late afternoon and said some encouraging things":

Can't find a better man
Can't find a better man

The Parliamentary Secretary says there will be an outbreak of public happiness when the trains run on time, and this may even be before Christmas:

So I did what I should
I hung my stocking on a wall
I didn't get a thing at all
...
Well staying up late at night
To see Santa Claus fly
Well sure enough don't you know
The fat boy didn't show

I apologise to Pearl Jam, and have the deepest sympathy to all those fans who do not make it to the concert this weekend because of the industrial sabotage of the RTBU and the failure of the Minns Labor Government. I am loath to quote Alexandra Smith in *The Sydney Morning Herald*, but in light of the contribution of the Parliamentary Secretary today, I will. She says:

As Sydney faces an unprecedented rail shutdown from Friday morning, stretching across the weekend, rail union bosses are longing for the old days of a conservative government.

Speaking to Sky's Laura Jayes on Wednesday, the RTBU NSW secretary, Toby Warnes, said it was easier to negotiate with Elliott than his Labor successor, Jo Haylen.

This is because "his door was always open and hers is always shut". [*Time expired.*]

INDUSTRIAL RELATIONS POLICY

The Hon. MARK BUTTIGIEG (12:08): Lyrics spring to mind:

Maybe I didn't love you
Quite as often as I could have
Little things I should have said and done
I just never took the time
You were always on my mind

It seems as though we need to explain how industrial relations work under a Labor government. It is a very simple concept. Laws are introduced that recognise the right of workers to withdraw their labour and to be represented by unions. This the exercise of a thing called "industrial leverage". Admittedly, it can sometimes cause pain for society, but it is part of the leverage they are entitled to. That puts pressure on the parties to eventually come to the table and, if they cannot reach an agreement, there is provision in the Industrial Relations Commission to arbitrate an outcome.

That is the system we have faith in and that is the system which has, under our 18 months in government, as I said in question time, proven much more effective for everyone. Why? Look at the wage rises that public sector workers have received under this Government compared with under the previous Government—remembering that Labor was elected directly on a platform to increase those wages. I can cite many disputes that have been resolved, where workers have got stellar outcomes. But on top of that, and to the point that Opposition members were making in question time, the level of industrial disputation is way, way down in terms of lost personnel hours.

On every count, the system is working much better under this Government's regime than it was under the previous Coalition Government. The reason for that is very simple: It is because Labor respects unions, our party comes from the union movement, and we understand why workers' rights are so important. To Opposition members' credit, they have made it clear that they do not agree with that system, they do not like workers, and they would prefer to see an adversarial system where we have disputation and rail networks shutting down with no communication whatsoever. If I am correct, the Opposition leader's surname, Tudehope, means "full of hope" in French.

The Hon. Sarah Mitchell: Oui, oui!

The Hon. MARK BUTTIGIEG: Oui, oui! The idea that people would yearn for a conservative government after 18 months of unmitigated success under this Government is truly full of hope. I congratulate the Leader of the Opposition on living up to his surname. [*Time expired.*]

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

Ms SUE HIGGINSON (12:11): I take note of answers given today about what is happening in Transport for NSW and expand upon those answers to speak about its dysfunction. As I speak, an amazing young person—Newcastle's 2020 Young Citizen of the Year—is appearing before the Supreme Court of New South Wales in proceedings she has taken against Transport for NSW for its overreach in trying to implement an exclusion zone, under the Marine Safety Act, over the waters of the Port of Newcastle. What is Transport for NSW doing right now? What is this Government doing? To draft an exclusion notice and place it in the *Government Gazette* to restrict ordinary people from accessing the waters of the port at Newcastle for swimming, bathing, paddling, surfing or doing whatever those humans would like to do in our State's waters is a serious overreach.

Transport for NSW, under the arm of the current transport Minister—who, seriously, right now should be focused on keeping trains running over the weekend—is trying to control the activities and behaviour of people who are going to attend a "protestival", a fun event at Newcastle. By a gazetted order restricting access to those waters, the Minister for Transport, Jo Haylen, is literally criminalising people for wanting to go for a swim at Newcastle off Horseshoe Beach. It is just ridiculous. This Government should get its house in order.

The good news is that right now an incredible young person is in the Supreme Court of New South Wales, across the road from this Parliament, challenging the New South Wales Government's absurd and arbitrary exercise of power—and I suggest she will be successful. The Government is not above the rule of law. I imagine that the Government is trying to negotiate an outcome where it can say, "Actually, we didn't try to use the powers under the laws of New South Wales above their intended effect." As much as Jo Haylen, Chris Minns and the New South Wales Labor Government do not want people to be protesting about the Government's climate policies, they are entitled to do so. This Government and its Ministers are not above the law.

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

DRUG SUMMIT

The Hon. SARAH MITCHELL (12:14): I take note of a couple of answers given in question time today. First, I take note of the answer given by the Hon. John Graham to my question about the impact of the Rail, Tram and Bus Union's proposed industrial action on NSW TrainLink services. To his credit, the Minister was honest in saying that it is not a good outcome. The reality is that regional people who have TrainLink bookings to come to Sydney for a range of reasons—personal commitments, recreational travel, medical or other appointments—are being told their train service will be cancelled. People have been notified that they will not be able to get to Sydney. I know of regional people who are currently in Sydney who have been told, "You will not be able to get home."

This Government is in a complete shambles when it comes to negotiating with the union, and the reality is that means a million people in Sydney, and hundreds more from the regions, will have their lives disrupted this weekend. That is very challenging. As someone who lives in regional New South Wales, I often caught the CountryLink train to university. To be fair, I have not been on a regional train service for a while, but I found it a very pleasant way to travel. TrainLink is a very important service. Train travel is affordable for regional people who need to get to Sydney. For those who live in smaller communities who do not have access to air services, being able to get on the local train service makes a big difference. Often these trips are booked well in advance for, as I said, very good reasons, including personal, business or medical appointments. The cancellation of those services will have a big impact.

The Minister effectively admitted today that they will not be prioritised for bus services. There will not be enough bus services, so people will be really impacted. This strike and the resulting chaos, caused by this Government, will not just impact people in metro areas; it will have a statewide impact. It is not good enough. We need a resolution. We need to make sure that those people who are going to be severely disrupted are listened to. I urge the Government to have bus services or alternative mechanisms in place for those people who will be really put out. The same goes for people who are travelling to the Pearl Jam concert on the weekend. I am a Pearl Jam fan—but maybe not a fan of the Leader of the Opposition's use of their lyrics. I went to a Pearl Jam concert back in the late '90s. That is now nearly 30 years ago, which is a bit frightening.

People are excited. They have booked concert tickets well in advance. I have friends and family who are coming to Sydney from the north-west for the concert on Saturday night, and they are genuinely worried about whether they will be able to get there. That is not a great advertisement for Sydney. It is not great for live music in this State. These are the multiple layers of impact that we are seeing, caused by a government in chaos. I also

take note of the answer given by Minister Jackson in relation to the drug summit. I note that there were Ministers at the drug summit held in Griffith. But I heard, very quickly, from community members that not one Minister stayed for the whole day. They had to get a plane back to Sydney. It was great that they went, but maybe next time they should stay for the full day of their own summit.

DRUG SUMMIT

The Hon. STEPHEN LAWRENCE (12:17): I take note of answers given today by the Hon. Rose Jackson about the Drug Summit held in Griffith. I travelled to Griffith to attend the summit and it was a really good event. The attendees were broken up into smaller groups. For part of the day, I was on a table with the Hon. Wes Fang, the police Minister, some senior police officers and representatives from organisations closely involved in drug treatment services in the Griffith area. It was a unique mix of people and a good opportunity for those local service providers to share their perspective on the real, grassroots experience of people in the Riverina. We learned about the lack of detoxification services in Griffith.

The policy issues considered at the drug summit crossed a wide array of laws and government services. There were discussions on the day in relation to drug treatment services—for example, the lack of rehabilitation services, particularly in regional parts of the State, and the need for population mapping to underpin the provision of those services. It should not depend on individual communities or organisations taking the initiative to push for them. There is a really strong argument, that came out of an upper House inquiry that I gave evidence at some years back, for population mapping and providing those services in a systemic way.

There were really good discussions, as I said, about detoxification services—they are a key part of the picture—but also about things that touch more on the law reform issues. There were a wide array of discussions about drug checking. That is quite a popular and publicised issue in respect of music festivals. There was discussion about the use of that particular service in different settings—in public health settings, in community settings and so forth. There was discussion about the broader issue of decriminalisation and legalisation of different drugs. There were an array of different views about that. I had the opportunity to speak with the two co-chairs, who both presented at the beginning of the summit. They were tremendously impressive in their open-mindedness and clear willingness to lead on those issues. There was a real sense of history in the room. The drug summit process is a historic opportunity to forge a bipartisan consensus on issues that go to things as profound as the loss of human life and the thousands of people who overdose in Australia each year.

MURRAY-DARLING BASIN PLAN

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. TANIA MIHAILUK (12:20): I speak about a number of issues. I put a question to the Minister for Water about concerns that the member for Murray has raised on many occasions. I acknowledge the member for Murray, who is a staunch advocate for her community and on the issue of water itself. I cannot understand the difficulty that the State Government is having, particularly the Premier and the Minister for Water, in being able to take on the Federal Minister. I cannot understand why they have not condemned or at least rebuked what the Federal Minister for the Environment and Water is doing. I can only take it to be a difficult situation where the left maybe struggles to take on their own federally. We saw that with the McPhillamys mine, where the left-wing Ministers were relatively silent on what Federal Minister Plibersek was doing in relation to New South Wales. That is often to the detriment of the interests of New South Wales. We can see that here with the issue of water. What the Commonwealth Government is doing in renegeing on the intergovernmental agreement is entirely not in the interests of New South Wales.

I say well done to the member for Murray for continuing to raise the issue. She has now secured a short select committee inquiry into the social impacts of the Murray-Darling Basin Plan and the changes that the Federal Government has proposed. The member for Murray is well within her rights to say to the Minister for Water, "Either fix it or resign." I know that the Minister for Water has indicated that she has met with people up there, but it is not enough to just try to placate the member for Murray and go there to meet with people to secure confidence and supply. She actually has to fight for that community as well. She has to get up and do more than say that she is in disagreement with the Federal Minister. She has to rebuke and condemn her. That is what is expected from the New South Wales Government. Sometimes she has to be tough, even if it is with her own party and her own left-wing faction members. It is very disappointing that she has not done so. I acknowledge the great work of the member for Murray.

I also asked a question of the Minister for Roads, and I acknowledge his response. I asked about the fact that the Government is in complete disarray in relation to the shutdown this weekend and on Friday and the fact that the Government has not even considered the impact on parents. Many students have been told that they have to do remote learning tomorrow and have been ordered by their schools to stay home. That means that a parent

needs to stay home as well. The strike is not just about Pearl Jam and the events that might happen on the weekend; it is having real repercussions on families in New South Wales. [*Time expired.*]

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. NATALIE WARD (12:23): I also take note of answers given to questions today. Opposition members asked a number of questions about the Rail, Tram and Bus Union [RTBU] industrial action, its impact on commuters and what will be done by the Government, and we did not get a substantive response. It is disappointing that we asked diligent, thorough questions about the impact on regional areas and the impact on roads and motorists, but not one attempt was made to substantively answer and provide the commuting public and taxpayers of New South Wales with what they expect: certainty from government. When there is a dangerous mix of ministerial incompetence and industrial terrorism, commuters are held hostage. We have noted today that there was no empathy for customers and no attempt to provide them with the answers that they seek.

The Parliamentary Secretary for Industrial Relations gave an answer. In my humble opinion, the Parliamentary Secretary should be a Minister because he is diligent, does a good job and works very hard. We have different views on industrial relations; that is very plain for anyone to see. The Parliamentary Secretary's answer regarding the RTBU industrial action was that the union is entitled to use "leverage" and the cost of that is pain. That pain is felt by human beings. That pain is felt by the commuters who are trying to go about their lives on the transport system that they pay for. It is funded by their taxpayer dollars. They pay for it. Some of those people are going from the country to medical specialists in Macquarie Street or in the city. It is not just an inconvenience. They cannot just get another appointment the next day. It takes months to get those appointments. Those people absolutely are in pain.

I am talking about schoolkids trying to get to school and home. The roads Minister says, "That is okay; just get an Uber or a rideshare and be grateful that you do not have surge pricing. We have had a chat with the rideshare providers. It is okay; you will not have to pay more." That is sheer arrogance on the part of this Government. They are arrogant answers to diligent questions. Frankly, when the Premier has to resort to talking about me during question time, he really is getting desperate. When he is backgrounding media and getting desperate enough to shitcan somebody—excuse my language—or oppose the Opposition doing its job, it is very sad. I know that he can do better.

I applaud him for turning up for afternoon tea with the RTBU—good on him—but I think that they should be deploying him much earlier and getting people in there who know what they are doing. Bring back David Elliott. He got on with the job. When you represent 10 per cent of New South Wales, you need to consider the other 90 per cent. Those opposite talk about the former Government and what happened two years ago, but they should talk about the chaos here and now that is implemented by this Government. Taxis and Ubers are not good enough. To send the nurses to the Fair Work Commission, but not the RTBU, beggars belief.

GOVERNMENT PERFORMANCE

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. Dr SARAH KAINE (12:26): I take note of an answer given by the Minister for Domestic Manufacturing and Government Procurement. I note the wideranging aspects of the answer given by the Minister, which gave us a taste of the scope of the developments that have taken place in her portfolio areas over the past year and a half or so. Looking at the more macro level and the decrease in gross debt, she mentioned that that factors into the decrease in interest payments as well. She then talked about the very specific initiatives that the Government has implemented, including the bulk-billing initiative for GPs who receive payroll tax support, which is an innovative and interesting way to try to make it easier for people to access GPs in a cost-of-living crisis. That is important at the industry level but also at a personal level for people trying to access health services.

I also talk about initiatives and developments that have taken place in the domestic manufacturing and procurement space, which has become more and more dear to my heart as I have chaired the procurement inquiry. Most notably, of course, there is the Minister's directive of "if not, why not?" regarding government spending rules. That is attempting to assist local manufacturing through a huge government spend and the big economic footprint that the New South Wales Government has. It is about making sure that government agencies look as locally as they can to fill their procurement needs before looking elsewhere. That was not able to be done under the previous Government. In fact, those opposite had put in a specific prohibition on prioritising that kind of local content. I am pleased at the Government's ability to do that and the effect it will have on rebuilding the State's domestic manufacturing sector.

On a completely different topic, I object to the notion of industrial terrorism that was used several times in response to questions today. It is not appropriate to use that kind of language. As the Parliamentary Secretary has pointed out on several occasions, unionists and workers exercising their legal right to take industrial action should

not be equated with terrorism of any form. To do so is to try to sensationalise what is recognised to be a very serious situation for the people of New South Wales, as they make transport arrangements. We should not resort to a cheap, sensationalised terminology.

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

The Hon. CHRIS RATH (12:29): I take note of answers given today, in particular, those relating to the industrial action of the Rail, Tram and Bus Union [RTBU] and how unbelievably out of touch Labor Party members are on this issue. They would have us believe that things are going well at the moment in our State's industrial relations system. They would have us believe that things are going well for our transport system and the industrial action. They say, "It is all just part of the process." After we experienced the year of the strike in 2022, they promised that things would get better. In fact, things have gotten much worse. That is not just my view or the Opposition's view. It is based on the fact that the head of the RTBU said on Sky News only yesterday that it was easier dealing with the previous Coalition Government and David Elliott than it is dealing with this Labor Government.

Who is right? Is it the comments made by those opposite or those made by the head of the RTBU, who has been in negotiation with both governments? I think we can probably take his word for it. Let us put that to one side and look at some other facts. Since the Labor Party became came to power in March last year, 26,000 days have been lost to strikes. It is the worst industrial anarchy that New South Wales has seen since the 1970s. They would have us believe that it is all going well, that it is all part of the process and that it was so much worse under the Coalition Government than it is under their Government today. It would cost \$2 billion if the Labor Party capitulates to demands of the RTBU.

We have a weak and ineffectual Minister, and a spineless and flaccid Premier. They cannot control the unions—in particular the RTBU, an affiliated union of the New South Wales Labor Party, which provides it with hundreds of thousands of dollars in donations and affiliation fees, and sits on its Administrative Committee. The Labor Party is letting the union get away with this industrial sabotage, which costs \$30 million a day in lost economic activity. The Parliamentary Secretary says it will all come to a conclusion soon, and the public will be happy. They are not happy. He is completely and utterly out of touch if he thinks that the public is happy with how things are going at the moment.

DRUG SUMMIT

The Hon. CAMERON MURPHY (12:33): Mr President—

The Hon. Mark Buttigieg: Song time!

The Hon. CAMERON MURPHY: I apologise that I do not have a song. If I did, it would be utterly dreadful if I attempted to sing it. I take note of the answer given by the Minister for Mental Health about the Drug Summit. All members of this place should take up the invitation to go along to at least one of the days of the Drug Summit. As the Minister mentioned, I was in Griffith with the Hon. Stephen Lawrence and the Hon. Wes Fang. It was very interesting to hear the diverse viewpoints of people who are dealing with drug issues on the ground.

They had sensible suggestions about their priorities and the reform they want to see. Many of the issues raised were around the stigma attached to illicit drugs and the desire for the Government to take action to make health the priority in dealing with the drugs. The summit considered police searches, decriminalisation and other things. It was wonderful. I must correct some of the aspersions that have been cast by the Opposition. Ministers had site visits with local services the day before the Drug Summit as well as the morning of. They met with most people, who were wonderful in the way they assisted.

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

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. DANIEL MOOKHEY (Treasurer) (12:35): The Government thanks all members for their contributions to the take-note debate and during question time. All year we have had a spirited exchange of ideas across the Chamber. For the entire year, the Government has welcomed the scrutiny of the House and replied to it in a spirited way. We take very seriously the accountability function of question time. All Ministers take very seriously their responsibility to answer questions in this place. I speak about one of the issues raised in question time. The Hon. Mark Latham asked me a supplementary question for written answer. I take the member's point that one should always be accurate in the information they provide to the House. Allow me to clarify what I said with respect to gross State product [GSP] growth.

Firstly, I believe that New South Wales's GSP at current price values is the third fastest growing of the States. To be fair to the member, he is quite right that a distinction needs to be drawn between the States and the Territories. I accept his point. I will provide him with a more fulsome answer on notice, as requested. The GSP in chain volume measures is the other method by which it is measured. I observe from the data—and I want to correct this—that we are not second or third. We are, in fact, fourth: The Tasmanians beat us by 0.2. I want to be accurate in providing answers to the House. I take the member's point that when one is questioned on points of fact, one should take the opportunity to correct or otherwise explain as soon as possible. I look forward to providing further information to the member on notice. Equally, I look forward to question time resuming in February next year.

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

Motion agreed to.

Written Answers to Supplementary Questions

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

In reply to **the Hon. SARAH MITCHELL** (20 November 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:

The number of cancelled services that will be disrupted due to protected industrial action is not presently known. The degree of service degradation will depend on whether industrial actions remain in force, together with their duration.

The community will be updated as regularly as possible concerning service alterations and cancellation.

The gap between projected train travel and substitute bus patronage is not known.

SYDNEY SCIENCE PARK

In reply to **the Hon. MARK LATHAM** (20 November 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:

The former New South Wales and former Australian Governments jointly committed \$11 billion to the delivery of Sydney Metro - Western Sydney Airport in 2020.

The Government expects all relevant agencies to cooperate with the Public Accountability and Works Committee inquiry into Western Sydney Science Park and Aerotropolis developments or any other inquiry undertaken by the Parliament. We will continue to observe the committee's work.

RAIL, TRAM AND BUS UNION INDUSTRIAL ACTION

In reply to **the Hon. DAMIEN TUDEHOPE** (20 November 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:

I am advised:

The total cost of the planned protected industrial action has not been identified.

The Government is committed to achieving a fair and reasonable outcome to this matter as quickly as possible, and will continue to bargain in good faith with the Combined Rail Unions.

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

Visitors

VISITORS

The DEPUTY PRESIDENT (Ms Abigail Boyd): I welcome to the public gallery victim advocates and families impacted by homicide, including Emerald Wardle's grandmother Shirley Wade and aunt Kristy Smith, and Advocacy Australia's Clare Collins and Alice Collins.

*Documents***TABLING OF PAPERS**

The Hon. ROSE JACKSON: I table the following papers:

- (1) Forestry Act 2012—Report of the NSW Environment Protection Authority entitled *NSW forestry snapshot report 2021-2022: Implementation of NSW Forest Agreements and Integrated Forestry Operations Approvals*.
- (2) Government Sector Finance Act 2018—Report of NSW Rural Assistance Authority for year ended 30 June 2024.
- (3) Law Reform Commission Act 1967—Report No. 151 of the New South Wales Law Reform Commission entitled *Serious racial and religious vilification*, dated September 2024.
- (4) Passenger Transport Act 1990—Report of the Office of Transport Safety Investigations entitled *Bus Safety Investigation Report: Coach fire, Revesby, 10 February 2023, dated November 2024*.

*Bills***MENTAL HEALTH LEGISLATION AMENDMENT BILL 2024****First Reading**

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

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

Statement of public interest tabled.

Second Reading Speech

The Hon. ROSE JACKSON (Minister for Water, Minister for Housing, Minister for Homelessness, Minister for Mental Health, Minister for Youth, and Minister for the North Coast) (14:03): I move:

That this bill be now read a second time.

I am pleased to bring to the House the Mental Health Legislation Amendment Bill 2024. This bill makes a number of amendments to the Mental Health and Cognitive Impairment Forensic Provisions Act 2020, referred to as the forensic Act, and the Mental Health Act 2007 to improve the oversight of forensic patients. Forensic patients include people who, while mentally unwell or cognitively impaired, have committed crimes—sometimes terrible crimes. They include people who are not considered criminally responsible for their acts because, under law, they either did not know the nature or quality of the act, or did not know that the act was wrong. The fact that forensic patients are not considered criminally responsible under law for their behaviour does not lessen the significant trauma, anger and grief experienced by victims and their families.

I am sure all members agree that it is important to recognise the pain and immense suffering of those who have been harmed and those who have suddenly and tragically lost loved ones. The pain and suffering experienced by victims and their families can be tragic and is lifelong. I express my deepest heartfelt sympathies to all victims of crimes and their families who have been impacted by people in the forensic system. I have met a number of these families. I know that their grief is real. I want the system to better support them. The forensic mental health system in New South Wales is a robust regime with responsibility for treating and managing patients with the aim of protecting the community. The forensic system is not about punishment. It is about ensuring that forensic patients are appropriately managed and provided with specialised care to minimise risk to the patient and others and ensure that patients are not released into the community or given leave, unless and until it is safe to do so.

The forensic system recognises these patients are unwell; that they require treatment; and that this must be done in a way that is dignified but also recognises community safety and the deep grief of victims' families. The forensic Act sets out the processes for the oversight and review of forensic patients. The Mental Health Review Tribunal is the independent semi-judicial body responsible for reviewing forensic patients and making decisions regarding their detention, care, treatment, leave and release. The tribunal must review each forensic patient every six months. At those reviews, the tribunal can make decisions relating to leave or release. However, the tribunal cannot make an order for release or leave unless, among other things, the tribunal is satisfied that the safety of the patient or any other members of the public will not be seriously endangered if the leave or release is granted.

Recent events have highlighted concerns regarding the oversight of forensic patients, particularly in relation to their use of social media and the decision-making processes for granting leave. This is something the Government has received direct representation on from families, from victim groups and from the member for Orange, Phil Donato, who has been a strong advocate on this issue. This bill directly addresses these concerns by introducing several key reforms. Currently, various conditions can be imposed when the tribunal grants leave or release to a forensic patient. There is a non-exhaustive list of conditions set out in section 85 of the Act that the tribunal can impose when granting release or leave. These amendments will explicitly empower the tribunal to impose conditions restricting or prohibiting forensic patients' access to social media or other forms of online

communication where it is appropriate to do so. This change reflects the evolving technological landscape and the potential risks it can pose.

By addressing this issue directly, we aim to safeguard our community and ensure the wellbeing of individuals. It is important that the tribunal has the power to consider on a case-by-case basis whether access to online communication is appropriate and, if so, whether the form of communication should be restricted or limited. While the tribunal can already impose such conditions, in today's digital world it is important that it is expressly recognised in the forensic Act. As such, the bill amends the forensic Act to make clear that the tribunal can impose conditions relating to prohibiting or restricting the use of social media or access to other online communications. The bill also makes changes in relation to the composition of the tribunal when granting leave. When reviewing forensic patients, the forensic Act currently provides that the tribunal must be constituted by three members, including the president or deputy president. However, when the tribunal is considering the release of a forensic patient, the Act requires that at least one member of the tribunal, including the president or deputy president, be the holder or former holder of a judicial office. This ensures that there is appropriate and robust judicial oversight before a forensic patient is released.

The requirement to have a current or former judicial officer sitting on the tribunal currently applies to release decisions only. It does not apply to leave decisions. The bill changes that. Under the bill, the tribunal cannot make a decision relating to leave, other than escorted leave, unless at least one member of the tribunal, including the president or deputy president, is the holder or former holder of a judicial office. This will bring leave decisions into line with release decisions. It will ensure appropriate judicial oversight of the decision-making processes for granting leave to forensic patients, which involves careful consideration of community safety concerns and the care and treatment of patients. I note that this requirement will not apply to escorted leave when the patient is escorted from the facility by a staff member. Escorted leave may be required when a patient needs to attend a medical appointment or access the external grounds of a mental health facility. Escorted leave requires a staff member to be with the patient at all times and is only accessed on a case-by-case basis with the approval of the treating team due to the new requirements that all leave decisions other than escorted leave need to be made by a tribunal that has at least one member who is a current or former holder of a judicial office.

The bill also amends the Mental Health Act to make it easier for magistrates and judges to move between the court and the tribunal. Under the Mental Health Act, if a Supreme Court or District Court judge is appointed president of the tribunal, they retain their status, remuneration and entitlements. However, the current provisions do not extend to a magistrate appointed as president or to magistrates or judges appointed as full-time deputy presidents. The bill changes that. If a magistrate or judge is appointed president or full-time deputy president, they will retain their judicial status and entitlements and the higher of the tribunal remuneration or judicial remuneration. That change will assist in attracting magistrates and judges to the tribunal as it will allow for the transition of entitlements and enable judicial officers to easily return to the court. Further, it will allow for increased flexibility, allowing judges and magistrates to be appointed to the tribunal for short periods to deal with any unexpected increases in workload. The changes in the bill are important and sensible and will help address community concerns and improve the judicial oversight of decisions relating to leave for forensic patients.

In finishing, I once again acknowledge the victims of crime and their families across New South Wales. I thank the member for Orange, Mr Phil Donato, for his important advocacy in this space. He has been a tireless advocate for victims of crime. He has worked closely with my office and the Government and has demonstrated an unwavering commitment to supporting victims and advocating on this important issue. Conversations with the member for Orange have demonstrated his deep understanding of the challenges faced by victims and his commitment to putting their concerns at the forefront of reform. His advocacy has been significant in contributing to the amendments, and I am personally grateful for his contributions.

I pay tribute to the family of Emerald Wardle, who is in the gallery today. I thank Emerald's grandmother Shirley Wardle, Emerald's aunt Kristy Smith and Advocacy Australia's Clare and Alice Collins, who have been tireless advocates for these issues. The changes would not have been possible without their commitment to justice for Emerald and all victims of crime. I am hopeful that this bill is a reflection of the New South Wales Government's commitment to improving oversight of these matters and to helping ensure that our community feels safe. I commend the bill to the House.

Debate adjourned.

**BIODIVERSITY CONSERVATION AMENDMENT (BIODIVERSITY OFFSETS SCHEME) BILL
2024**

Second Reading Debate

Debate resumed from 19 November 2024.

The Hon. SARAH MITCHELL (14:13): I am pleased to continue my contribution to debate on the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024 after my very excellent two-minute contribution on Tuesday night. It was my best work of the year. I was talking about some of the history in the lead-up to where we are today. I was talking about making sure that any time that we have legislation in the biodiversity conservation space, it is important that we recognise the value of our farmers and primary producers as environmental custodians. We need to make sure that we recognise the expertise of our landholders as the conservationists that they are and make sure that the processes are workable, particularly for those who are on farm. I know that is not really about what the bill seeks to achieve but it is still important to put on record.

In relation to some of the specifics of the bill, as I mentioned the other night I sat on the Portfolio Committee No. 7 – Planning and Environment inquiry into the bill. I learnt a lot from the stakeholders who gave evidence, and from the submissions that we got around the complexities and concerns. A theme that came through from a number of stakeholders was about getting the balance right, and that any amendments should have a balanced approach. I appreciate, as I said the other day, that it is a tricky policy space and any government has to walk a bit of a tightrope between environmental outcomes and making sure that development happens where it is needed so that communities can see the investment and the growth that they need.

The Hon. Scott Farlow covered the Opposition's position in relation to the majority of the our concerns and queries about the bill, but I cover a couple of points that will come up in the Committee stage and that were also raised during the committee inquiry. The first is the impact, as I said earlier, on regional communities. I thank the Country Mayors Association for its submission and the evidence its representatives gave, particularly the evidence from Councillor Craig Davies from Narromine. They said that the concern is that these types of bills are effectively a handbrake on opportunities for people who live in regional New South Wales. Its submission highlighted a range of different examples where there was not a good outcome for the community because some of the offset costs made the projects untenable and unable to go ahead.

I fully admit that there are instances from when we were in government as well. They are not new but they show that whenever legislation like this is introduced, it cannot be a set-and-forget exercise because there will be times when the intent of the bill needs to be looked at to know whether it is producing the right outcomes. Some examples given during the inquiry included Murrumbidgee shire and the Bogan Shire Council being unable to go ahead with housing developments that they had put together. For example, Bogan Shire Council had to pay a \$339,000 offset cost for a small housing development in Nyngan, which more than doubled the cost of every block and made them impossible to sell. While there are also housing issues in the city, that is a tangible example of what might be a well-intentioned policy actually stopping community investment in a regional area.

Another example is in Bourke shire, where a development to put in a number of commercial blocks was being considered. That would have provided an opportunity to have more businesses in town, which would have been a great employment lever, particularly for Aboriginal residents in that community but, again, the biodiversity offset costs meant that project was unable to go ahead. There are other examples, such as the Inland Rail project in Moree shire, quarries in Wentworth shire and Narromine, and the renewal of the dingo fence along the New South Wales-Queensland border. That one caught my attention. The cost was \$29 million but the biodiversity offset costs came to a further \$51 million, making it a total of \$80 million for the fence. In the end the fence was built in Queensland to avoid the offset costs. Those examples given by the Country Mayors Association show us that we need to get the balance right.

The argument that was made that, particularly in western New South Wales, there is amazing country but in some places good outcomes could be achieved while ensuring the right environmental protections, such as building housing or a community development like new businesses in Bourke. We think one of the solutions—and we will move a relevant amendment in the Committee stage—is to put in place a payment cap of a maximum of 5 per cent of the land value for credits that are payable in regional areas. There is still a process for biodiversity offsets and there is still a cost involved so it is not a free-for-all, but it does try to better reflect the market and make those projects possible rather than impossible in regional areas.

I am sure the Minister will not mind me mentioning it, but the Nats have had feedback from some of the regional mayors that there is ongoing discussion about ways to get better outcomes in regional towns, and I am sure that they will continue. Some of the other issues or potential ideas that have been raised with us include no payment for biodiversity offsets for projects in western New South Wales valued less than \$10 million, consideration of allowing environmental improvements within the development to be used as an offset credit, mapping low- to nil-value biodiversity areas around regional towns that could be developed without the need for any biodiversity assessment and the consideration of offset credits being provided by adjoining national parks. I am sure that the Minister will have plenty more work to do in that space. I know the bill is not the only piece of legislation or, indeed, policy work that the Government will have in the biodiversity space. Those are the challenges and potential solutions that we put on the table for the Government to consider.

I thank the Ecological Consultants Association of NSW for its evidence. It raised concerns about the power of government department heads to issue directions to accredited persons relating to the preparation and modification of biodiversity assessment reports. The association clearly viewed that power as inappropriate and unethical, and argued that an experienced ecologist who is accredited to prepare and write the reports should be able to do that in an independent way. The Opposition will move an amendment to change that during the Committee stage because the evidence made a lot of sense and the argument was quite compelling.

I also thank the NSW Aboriginal Land Council for its evidence. As a former Minister for Aboriginal Affairs, I am well aware of the complexities of the land claims system and the challenges for any government when working through those complexities. The council made clear that, when it assesses land for any social or economic activation, any significant vegetation is often almost put to the side because it becomes an impediment to moving forward. It also takes away the opportunity for empowerment, growth and development for some Aboriginal communities. I do not think there is a simple solution to that, but it is an issue that we need to keep looking at as a Parliament.

I note the contribution from the Urban Development Institute of Australia NSW [UDIA], which gave good evidence and advice about its challenges. Although the Opposition will not move an amendment about this because it would be better covered by a regulation—I know the UDIA has been meeting with the Minister and her office—the UDIA is particularly keen to see a way forward that limits avoidance to only once during the planning process on a single parcel of land. The institute believes that would create more certainty for biodiversity and developmental outcomes under the offsets scheme. It put forward a very compelling case that limiting the avoidance to once in the planning process, rather than having multiple rounds of avoidance on a single piece of land, would make for a better system.

I invite the Minister to consider that, as I am sure she already is, in the making or changing of any regulations if or when the bill is passed, because that is a sensible approach that could stop some biodiversity challenges becoming a handbrake on development. Lastly, the committee received feedback about a lack of consultation and the rushed process. I understand that the Government has an agenda and a need to put through legislation that it committed to, but it would be remiss of me not to mention that I think every single stakeholder that gave evidence in the inquiry said that the consultation felt rushed or that there was not a lot of time for it.

This policy space is complex, and I have every expectation that there will be other bills or changes to Government policy within it. There was some concern about the lack of consultation, but I am sure the Government has been made aware of that and will take it into account going forward. I appreciate the opportunity to say a few words. My colleague will move some sensible amendments in the Committee stage that would help to get the balance right between protecting the environment and not putting a handbrake on development in this State, particularly in regional areas.

The Hon. MARK BANASIAK (14:23): On behalf of the New South Wales Shooters, Fishers and Farmers Party, I contribute to the debate to oppose the principles underpinning the Biodiversity Offsets Scheme. This legislation represents yet another step in The Greens' relentless agenda to transform New South Wales into an environmental theme park where conservation is elevated above all else and the needs of regional communities are dismissed as an afterthought. Let us consider the broader trend. A few decades ago, the target was 5 per cent of the State as protected areas. Then it became 10 per cent. Now The Greens demand an eye-watering 30 per cent as the baseline for a protected area network.

Ms Sue Higginson: Give us 50 per cent.

The Hon. MARK BANASIAK: I hear the raise of 50 per cent. Add to that the vast tracts of land earmarked for solar and wind farms, coupled with calls for regenerative farming, and we must ask: Where does it end? Are we all destined to be crammed into inner-city Sydney, with some overflow into unproductive areas deemed acceptable by urban policymakers on the fringes of dryland rice farms in northern New South Wales? This legislation, cloaked in the rhetoric of conservation, embodies a disregard for the realities of regional New South Wales. As the Country Mayors Association of NSW aptly put it, the scheme is "designed by city people and does not work in our regions". It is a bureaucratic roadblock that increases costs, stifles local development, and disregards the socio-economic challenges unique to rural areas.

I acknowledge Councillor Craig Davies of Narromine, with whom I have had many conversations about the Act. He hit the nail on the head when he asked, "What more can be done to get our message across, where our regional issues are not being heard in the city?" The scheme represents yet another example of urban policymakers imposing their worldview on those who live and work on the land. The cap on offset costs proposed by the Country Mayors Association of NSW is 5 per cent of land value. Even that would be one hell of an impost on developers and would add to inflation of projects such as housing in a market where the average homebuyer is already struggling.

Ms Sue Higginson stated that she had the privilege, or perhaps the pain, of chairing the inquiry into the bill. It must indeed have been painful not only for her but for many. However, we agree with her statement that the Biodiversity Offsets Scheme is both complex and dysfunctional. As Ms Sue Higginson rightly pointed out, it is fundamentally flawed. Offsets attempt to put price tags on living things that are priceless to many, and we wholeheartedly agree that is indeed a futile exercise. Biodiversity offsetting is, at its core, nature negative. Offsets do not repair nature, nor do they result in biodiversity gains. The scheme reduces biodiversity to nothing more than a cost of doing business. That cost keeps rising and will continue to do so until the loony left shuts down all development in this State entirely.

Ms Sue Higginson highlighted a submission arguing for "no-go" areas for offsetting to protect irreplaceable high-conservation-value areas. While the idea sounds reasonable, it also raises an important question: How much of New South Wales must be "greenscaped" before The Greens are satisfied? After 40 years of expanding the reserve system to cover over 10 per cent of the State and locking up even more land under planning laws, Crown land, State forests and Aboriginal lands, how much more must be set aside before there is no room left for housing, farming or other agricultural activities?

The scheme is also a profound insult to Aboriginal land councils, who have described it to me as "giving with one hand and taking with another". As they have put it, the scheme is a prime example of the "double-F-you principle". After decades of struggle for land rights, Aboriginal communities finally receive their land back, only to find it shackled by green tape. As they have said to me, "Governments need to get past the leftist Green ideal of the 'noble savage'. Modern Aboriginal people want to participate in the modern economy and have the opportunity to put a roof over their heads." The land councils we have been talking to believe this legislation isolates biodiversity from the broader land-use practices that Aboriginal landowners have used for generations: practices like cultural burning and holistic wildlife management that balances environmental, cultural and economic goals.

Yet the Biodiversity Offsets Scheme disregards those practices, perpetuating a colonial mindset that controls rather than partners with Aboriginal communities. Ms Sue Higginson also noted that over a thousand species and ecological communities in New South Wales are threatened. While that is true, she failed to mention the findings of the August 2024 Audit Office review. The review found that the Department of Climate Change, Energy, the Environment and Water is failing to deliver its biodiversity conservation programs, including the Saving Our Species initiative. The review revealed that 36 per cent of Saving Our Species sites are already located outside national parks and that program funding is inadequate to meet delivery targets.

The department requested increased resources for the 2021-2026 iteration of the program but was denied. Instead of addressing those failures, the offsets scheme shifts the burden of biodiversity protection onto private landholders and regional communities. The people living in the cities who vote Green, teal or for any other trendy leftist party enjoy highly modified urban environments developed without biodiversity offsets. Yet rural and regional developers face ever-increasing conservation costs. Meanwhile, those same urban voters sip boutique wines while enjoying a leg of lamb dinner from regional New South Wales, and fly to their favourite overseas ski resorts on carbon-offset flights while congratulating themselves on averting the so-called extinction crisis.

It is high time that The Greens put their money where their mouth is. They are good at telling us what everyone else should pay for and do. I look forward to The Greens amendments that will place a standard biodiversity offset charge on rates in Greens and teal electorates across the State, and which will also give people the option to voluntarily contribute to biodiversity offsets schemes. Imagine the biodiversity gains if each and every Greens voter paid just \$1,000 a year. What could we do with half a billion dollars a year? However, we know that Greens pockets are very deep and Greens arms are very short.

I note that there is a new exemption power for the Minister to stop the scheme from applying to local development in certain circumstances. However, there is simply no guarantee that will happen, for example, for a housing development on Aboriginal land. If the Government needs the support of The Greens in either House and The Greens oppose it, we will not see the exemption power used. This legislation represents the worst kind of policymaking. It is paternalistic, inequitable and ultimately counterproductive.

The Shooters, Fishers and Farmers Party believes in balance. Conservation must coexist with development, agriculture and cultural practices. Landowners, whether farmers or Aboriginal communities, deserve support and not shackles in managing their land responsibly. For those reasons, we cannot and will not support the legislation. It is time for policies that empower, not constrain, the people who live and work in regional New South Wales. Conservation and development are not mutually exclusive, and it is time that the Government and the lefties on the crossbench recognise that.

The Hon. JACQUI MUNRO (14:30): I make a brief contribution to debate on the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024 to speak about the inquiry process. I echo the

sentiments of my colleagues the Hon. Scott Farlow and the Hon. Sarah Mitchell about the substance of the bill. As a member of the committee inquiring into the bill, it was very clear to me that stakeholders appeared to use the process as their only means to engage in feedback and consultation on the bill. That was concerning given the impact the bill will have on many different people around New South Wales.

I note the massive committee workload that many members have, and I love a good committee. I love the process of getting into the depths of policy and speaking to stakeholders from different areas. I think that is very important. However, the Government's use of the inquiry to conduct its consultation is an unsustainable way to engage with the committee process. Looking through the lens of good policy development, it is concerning. I put that on record.

I am grateful to all the stakeholders who provided feedback, made submissions and came to the public hearings to speak to us about their concerns and suggestions. However, a lot of that work should have been done prior to the bill being introduced to Parliament. That is where I think good stakeholder engagement would have given the bill more depth and allowed the committee—if the bill needed to go to a committee—to engage with more substantial issues. I hope that the bill will be better because of the committee process, but it is disappointing that the process was used as the Government's method for consultation, according to the feedback we received from stakeholders. I state that for the record.

The Hon. JEREMY BUCKINGHAM (14:33): On behalf of the Legalise Cannabis Party, I contribute to debate in support of the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024. The New South Wales Biodiversity Offsets Scheme was established under the Biodiversity Conservation Act 2016. The purpose of the Biodiversity Conservation Act is:

... to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development.

Unfortunately, that has not been happening. We are slipping backwards with species and habitat loss. Any assessment of the science in this area is gravely concerning and builds on a poor history of habitat and species loss in this State, this continent and this planet. The Government's first *NSW Biodiversity Outlook Report* in 2020 estimated that, without effective management, only 50 per cent of species and 59 per cent of ecological communities that were listed as threatened in New South Wales will still exist in 100 years. That is worth repeating: Without effective management, only 50 per cent of species and 59 per cent of ecological communities that were listed as threatened—and there are hundreds of them—will still exist in 100 years. That is a damning indictment—a red alert and a red flag for us all to pay serious attention to.

The *NSW State of the Environment 2021* report identified habitat destruction and native vegetation clearing as presenting the single greatest threat to biodiversity. The Auditor-General's 2022 review of the effectiveness of the Biodiversity Offsets Scheme found an undersupply of in-demand credits for numerous endangered species. The Auditor-General also found that the Department of Planning and Environment had not effectively designed core elements of the Biodiversity Offsets Scheme. So here we are.

Over 90 per cent of the assessed obligations relate to major projects, State significant development or State significant infrastructure. The Biodiversity Conservation Trust's acquired obligations from developers have increased year on year. Instead of purchasing credits in the market or establishing their own biodiversity stewardship agreement sites to generate the credits, 340 development proponents had made payments into the Biodiversity Conservation Fund as of May 2022, worth around \$90 million.

The five-year statutory review of the Biodiversity Conservation Act led by Dr Ken Henry and tabled in Parliament in August 2023 concluded the Act is not meeting its primary purpose of maintaining a healthy, productive and resilient environment. Like the Auditor-General, Dr Henry found the Biodiversity Offsets Scheme has not supported a supply of biodiversity credits sufficient to meet demand. He recommended amending the Act to require a net gain for biodiversity.

The *NSW biodiversity outlook report 2024* found that 50 per cent of threatened species are expected to become extinct in the next 100 years. In October 2024, six months after its uplisting to endangered status, the Biodiversity Offsets Scheme facilitated the net loss of gang-gang cockatoo habitat to the tune of nearly \$34,000. I note that the Hon. Trevor Khan, a former member of this place, would be particularly aggrieved by the decline of the gang-gang.

Reform of the Biodiversity Offsets Scheme is overdue and urgent. The Legalise Cannabis Party welcomes the introduction of the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024 as a significant step forward. It will assist with understanding biodiversity risks early in the planning process. The bill proposes to restrict the circumstances where proponents can pay into the Biodiversity Conservation Fund.

Section 6.2A is inserted to transition the Biodiversity Offsets Scheme to net positive. That is something that absolutely must happen.

The Minister will be required to make a strategy for the transition of the Biodiversity Offsets Scheme to deliver net positive biodiversity outcomes, including targets and time limits for the transition. The insertion of section 6.3A introduces the avoid, minimise and offset hierarchy as follows:

- (a) the proponent of the action first takes all reasonable measures to avoid the impacts of the action on biodiversity values,
- (b) after taking all reasonable measures under paragraph (a), the proponent then takes all reasonable steps to minimise the impacts that have not been avoided,
- (c) having taken the measures under paragraph (b), the proponent then takes biodiversity conservation measures under the biodiversity offsets scheme to offset or compensate for any residual impact on biodiversity values.

Those are all important measures in an important framework that ensures we are moving towards having a net positive impact on the environment while developing State significant infrastructure and proposals, as we have to, in this State. Reform is overdue and we need to act. This bill is a significant step forward. I will be moving an amendment in the Committee stage to help improve the bill. I thank my staff, who have been negotiating with the Government on this issue; the Minister's staff; and departmental staff, who have been giving us great advice. I also thank the Minister for making sure that this bill has been on the agenda and will be resolved by this House sooner rather than later.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:40): In reply: I thank the Hon. Scott Farlow, Ms Sue Higginson, the Hon. Sarah Mitchell, the Hon. Mark Banasiak, the Hon. Jacqui Munro and the Hon. Jeremy Buckingham for their contributions to this debate. I also place on record my thanks to Portfolio Committee No. 7 - Planning and Environment, many members of which spoke during the debate, for conducting an inquiry into this bill, and the broad range of stakeholders who made submissions to that inquiry.

I respond to one point that was made about consultation on the bill. Consultation did not start at the parliamentary inquiry stage; it was ongoing as the Government moved through the Ken Henry review and responded to it. I acknowledge that stakeholders always want more time, but I am a bit surprised that some members take the view that putting the bill to an inquiry is not ideal and is somehow problematic. It is actually what inquiries into bills are supposed to do. I welcome all of the input and submissions that people made to the inquiry. The amendments that we will soon work through have really been shaped off the back of that inquiry.

I do not think anyone ever said there is a perfect consultation process, but there have been extensive conversations, and my office and my department have welcomed those and the input we have received. Once members have worked through those amendments, the bill will be better as a result of the effort. The Government has listened closely to the issues raised in that process and will be proposing some minor amendments to the bill. It has worked through several amendments proposed by members across the Parliament, and I welcome that. The Government notes that the issues that have been raised in the debate include the need to reduce the complexity of the scheme, the need to improve environmental protection and provide limits to the scheme's application, the need at the same time to provide flexibility to allow appropriate development in regional areas, and the need to support regional housing. That is exactly what this bill is attempting to do.

I do not think anyone is suggesting that it is a perfect response, because I do not think there can be a perfect response. As many members have indicated, there are issues to balance as we work through these matters, and some of us will draw lines in different ways. This bill is trying to deal with the Act that was put in place in 2016, off the back of much criticism from a range of different agencies and stakeholders over time. It is attempting to do all of that. I acknowledge there is more work to do, and the Government will do that work. This is just the beginning. These are not easy matters to deal with, but they are extremely important for the health and wealth of our communities and the health of our environment and the ecosystems that sustain us. We know that we cannot manage slow decline; we need to turn around loss and protect and restore biodiversity in this State.

We also need to be able to do that while we are still building things. That is where the challenge lies, and it is one the Government will continue to work through. I thank members from across the Parliament. Yet again we have shown that we can work through many of these issues and come up with a better response together, where no one person has all of the solutions. I thank everyone for their contributions, and I thank those who made submissions. I will work through the issues as they arise and as we work through the 61 proposed amendments. I commend the bill to the House.

The DEPUTY PRESIDENT (Ms Abigail Boyd): 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 Government amendments Nos 1 to 4 on sheet c2024-198D, The Greens amendments Nos 1 to 5 on sheet c2024-185F, The Greens amendments Nos 1 to 24 on sheet c2024-182J, Opposition amendments Nos 1 to 24 on sheet c2024-226D, Animal Justice Party amendments Nos 1 to 3 on sheet c2024-227C, and Legalise Cannabis Party amendment No. 1 on sheet c2024-205G. We will work through the amendments according to their order in the bill.

Ms SUE HIGGINSON (14:48): By leave: I move Greens amendments Nos 1, 3 and 4 on sheet c2024-185F in globo:

No. 1 Climate resilience is a biodiversity value

Page 3, Schedule 1. Insert after line 5—

[1A] Section 1.5 Biodiversity and biodiversity values for purposes of Act

Insert after section 1.5(2)(b)—

- (b1) climate resilience—being the degree to which the environment is able to adapt to a changing climate,

No. 3 Biodiversity development assessment report

Page 7, Schedule 1. Insert after line 6—

[22A] Section 6.12 Biodiversity development assessment report

Insert "and on climate change" after "land" in section 6.12(b).

No. 4 Concurrence of Minister administering *Biodiversity Conservation Act 2016*

Page 13, Schedule 1. Insert after line 45—

[43A] Section 7.11(6)

Insert after section 7.11(5)—

- (6) A requirement under subsection (2) or (3) to consult with the Minister administering this Act is a requirement to obtain the concurrence of the Minister administering this Act if the Minister concerned considers the development or activity is likely to result in a significant increase in greenhouse gas emissions.

These amendments seek to embed climate resilience and other climate considerations into the Biodiversity Conservation Act to recognise the now inextricable relationship between the changing climate and biodiversity in New South Wales. The inclusion of climate resilience as a biodiversity value in the Act would ensure that all mentions of biodiversity values throughout the Act would be cognisant of how those values are vulnerable to the changing climate. I am now reminded by so many people to not refer to it as "climate change", but instead as "climate breakdown". The amendments require that biodiversity development assessment reports consider the impact of a proposed development on the climate. This is something that is inextricably linked to the impact a project will have on biodiversity.

Finally, these amendments will require that the Minister who is administering the Biodiversity Conservation Act must be consulted with, and give concurrence to, projects where there is likely to be a significant increase in greenhouse gas emissions. Taken together, these bold amendments are a required and much-needed recognition of the interconnectedness of the planning system, biodiversity and climate change. It is difficult to encapsulate all of the links that exist, but if we ignore those links then we cannot understand or respond to the consequences of the actions that we are taking. There is some degree of thinking that, if we do not do this, it is a moment lost. I am the chair of Portfolio Committee No. 7 – Planning and the Environment, which has just tabled its report on the relationship between climate change, the planning system, biodiversity and communities.

The report found in no uncertain terms that we need to link all of these things together. One important way that we do that is by referencing all of the things that we are grappling with when we make decisions. With the greatest respect to the member who said it, I find it difficult to sit in this place and hear things like, "biodiversity is a roadblock to development," and, "biodiversity is red tape for development". If members think that biodiversity is a roadblock for development, they should go to places like Lismore, which has been literally smashed by climate impacts. What we should be doing here and now is working out how we take current knowledge, current understanding and lived experience and address climate change and resilience.

These amendments are a way towards biodiversity and biodiversity conservation right in the very place where we can actually make a positive difference in the State, in terms of the decisions that we are making, as we allow, consider or refuse development in certain places in the landscape. We need to do this when we are talking

about significant things like climate resilience and biodiversity. Some of the members in this place paint such a drab picture about what it would mean to do this properly. Having a thriving ecosystem where we are also thriving is the picture which is put before the Committee by all of the amendments that I will move today. I will continue to put that picture in front of everyone. These black words on this white paper which we are proposing is the pathway to achieving that.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (14:52): The Government does not support these amendments. Consideration of biodiversity values currently requires consideration of impacts to vegetation integrity and habitat suitability. Adding climate resilience to this will mean that all stewardship agreements, assessment reports and other processes under the offsets scheme would need to consider how climate resilience is impacted. That is not a bad thing in and of itself, but this is a substantial change which could bring uncertainty to the current agreements.

It may also lead to perverse outcomes where the resilience of an ecosystem may reduce its credit liabilities. These amendments also propose a concurrence power for projects with significant greenhouse gas emissions. I understand why The Greens have moved these amendments, but this is not how the Government has chosen to deal with this. We are dealing with the impact of greenhouse gas emissions through the planning system, through the work of the Environment Protection Authority and its climate action plan, and through the licences provided to a variety of emitting industries. The member and I fundamentally disagree about the way this is put into the process and where it sits in planning.

We know how dire the situation is from reports that have been submitted, including Dr Ken Henry's review and the State of the Environment report. The Government does not believe that the way to fix this is by making sure that the Minister for the Environment has to tick off every single thing that is going through the planning system. We need a robust planning system that weighs these issues up and takes them into account. This Parliament has supported and signed up to meet emission reduction targets. I appreciate that my view on this is different to The Greens. We do not support the amendments.

The Hon. SCOTT FARLOW (14:54): The Opposition opposes the amendments moved by Ms Sue Higginson for similar reasons to the Government. As the Minister outlined, most amendments and legislation have good intentions. The challenge is that the ever-amounting compliance requirements slow down the system entirely. For these reasons, we do not support the amendments.

Ms SUE HIGGINSON (14:55): I understand and appreciate that the Minister has very clearly stipulated that this is a genuine disagreement. I say to all members: If not now, when? It is important that we see how the law really is. Yes, one piece of legislation may intersect with another, but it does so when it says so. Right now we are failing to take the opportunity, in our centrepiece biodiversity conservation legislation, to make any reference whatsoever to one of the greatest existential crises we will ever face. What biodiversity faces is next level. I urge members to consider that having climate change and climate resilience in the Biodiversity Conservation Act is a sound, reasonable and quite conservative approach to the laws of New South Wales.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 1, 3 and 4 on sheet c2024-185F. The question is that the amendments be agreed to.

The Committee divided.

Ayes6
Noes29
Majority.....23

AYES

Boyd
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst (teller)

NOES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin

Jackson
Kaine
Lawrence
MacDonald
Maclaren-Jones
Merton
Mitchell
Mookhey

Murphy
Nanva (teller)
Primrose
Rath (teller)
Ruddick
Sharpe
Suvaal
Tudehope

NOES

Graham
HoussosMoriarty
Munro

Ward

Amendments negatived.

The Hon. SCOTT FARLOW (15:04): By leave: I move Opposition amendments Nos 1, 3, 7, 12 to 14, and 22 to 24 on sheet c2024-226D in globo:

No. 1 Power of Environment Agency Head to give directions

Page 4, Schedule 1[6], lines 8–13. Omit all words on the lines.

No. 3 Power of Environment Agency Head to give directions

Page 4, Schedule 1[10], lines 30–35. Omit all words on the lines.

No. 7 Power of Environment Agency Head to give directions

Pages 6 and 7, Schedule 1[22], lines 25–43 on page 6 and lines 1–6 on page 7. Omit all words on the lines.

No. 12 Power of Environment Agency Head to give directions

Page 7, Schedule 1[26], lines 41–45. Omit all words on the lines.

No. 13 Power of Environment Agency Head to give directions

Page 8, Schedule 1[27], lines 11–27. Omit all words on the lines.

No. 14 Power of Environment Agency Head to give directions

Page 8, Schedule 1[27], lines 36–40. Omit all words on the lines.

No. 22 Power of Environment Agency Head to give directions

Page 12, Schedule 1[35], lines 17–23. Omit all words on the lines.

No. 23 Power of Environment Agency Head to give directions

Page 18, Schedule 1[56], lines 18–23. Omit all words on the lines.

No. 24 Power of Environment Agency Head to give directions

Page 22, Schedule 2[1], lines 12–18. Omit all words on the lines.

As foreshadowed, the Opposition is putting forward several amendments that we believe will improve the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024 both in its ability to conserve and protect the environment and to simplify the scheme to ensure fairness for proponents. These amendments have been informed by feedback from a wide variety of shareholders ranging from conservation groups to rural and regional mayors and councils, industry stakeholders such as the Urban Development Institute of Australia NSW and the NSW Minerals Council, and by evidence heard in the public inquiry into the scheme. I will not foreshadow what the Hon. Penny Sharpe might say, but the Opposition thanks the Government for having an open mind with respect to our amendments to remove entirely the power of the new environment agency head to direct accredited assessors. I commend the amendments to the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:05): This is an example of where the bill is going to be better as a result of the work that was done during the inquiry. The Government supports these amendments. During the inquiry several stakeholders, including accredited assessors and the industry, raised concerns that the power would remove the independence of the assessment process and would create unnecessary stress and uncertainty for an already highly regulated industry. It was acknowledged that there are differences in the way that assessors apply the rules; however, it was broadly agreed that these powers are not the right solution to that. The Government has listened to this feedback and we accept the Opposition's amendments to remove the power. My department will work more closely with assessors to ensure consistency and that those who are doing the wrong thing are held to account so that we can get a better system. We rely heavily on the assessors within this system, so we need to get it right. These are sensible amendments and the Government is happy to support them.

Ms SUE HIGGINSON (15:06): This is a really interesting issue and The Greens pivoted quite a lot in our consideration of these amendments. There were some bends and twists and turns. We heard views that the power is not the right way to address the issue. It is quite clear that what was intended was to make sure that independent accredited assessors comply with the rules and meet the best standard. But I strongly suspect the real intention was to make sure there is a safety net so that if there is some anomaly, if something has gone a little bit astray, then the agency head has the power to fix that up or to direct a better outcome. On balance, the reality is

that these are independent accredited assessors and, rather than needing powers to direct them, the agency head should be able to work with them, as the Minister has outlined, to achieve the best outcome.

Perhaps for future consideration, if experts and members of the community do have a fear of that power, then non-regressive provisions could be drafted. That is, the agency head would have a direction power, but could not use it to lessen any impacts on conservation and biodiversity values reported in the biodiversity assessment. Quite frankly, I think the evidence given at the inquiry was a strong enough basis for us to say, "We have a system. It is reliant on the independence of accredited assessors. We're developing tools that they will comply with and apply under the biodiversity assessment methodology. Therefore, let's stick with that." No agency head should have the power to override that, ultimately. The Greens do not oppose the amendments.

The CHAIR (The Hon. Rod Roberts): The Hon. Scott Farlow has moved Opposition amendments Nos 1, 3, 7, 12 to 14 and 22 to 24 on sheet c2024-226D. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. SCOTT FARLOW (15:09): I move Opposition amendment No. 2 on sheet c2024-226D:

No. 2 Variation of biodiversity stewardship agreements

Page 4, Schedule 1[8], lines 26 and 27. Omit ", or been consulted about,".

While I thank the Government for agreeing to the previous amendments, there is some movement required on biodiversity stewardship agreements as well. Many stakeholders have been calling for amendments such as this one. It amends the powers in the bill for the Minister to increase a biodiversity stewardship agreement. We have heard from stakeholders that that is an area of concern. The Opposition does not think that should still be required within the bill.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:10): The Government does not support the amendment. I understand some of the concerns that were raised by stakeholders in relation to this, but the way that the amendment is written would change the consent and consultation requirements of biodiversity stewardship agreements. Those agreements are held on private land. The amendment would require all parties with an interest in the land to give consent before a stewardship agreement is varied. That could mean that a farmer who wants to benefit from the offsets scheme would need permission from other interest holders—from mining and other development companies—in relation to their own land and their biodiversity stewardship agreement.

The requirement at the moment is that interest holders only have to be consulted, rather than give consent. The Government thinks that the consent has the ability to overturn that and cause a lot of uncertainty. We want people to work together, and most people do work together. For other people to have to give consent before someone can change a biodiversity agreement on their own land is a bridge too far. Consultation is the way to go forward. The Government does not support the amendment.

Ms SUE HIGGINSON (15:11): The Greens agree with the Government's position on the amendment. The Greens oppose the amendment. It amends the new powers in the bill for the Minister to increase the biodiversity stewardship area. The bill requires consent or consultation to occur with the landowner. As the Minister said, the amendment would restrict it to consent only. It is likely to have unintended negative consequences for landholders. That is categorically the last thing we want in a biodiversity offsets system of any sort. The landholders that are taking on the stewardship agreements are carrying the burden of the entire system. It is important that the power remains as is.

The CHAIR (The Hon. Rod Roberts): The Hon. Scott Farlow has moved Opposition amendment No. 2 on sheet c2024-226D. The question is that the amendment be agreed to.

Amendment negated.

Ms SUE HIGGINSON (15:13): I move The Greens amendment No. 2 on sheet c2024-185F:

No. 2 Strategy to transition biodiversity offsets scheme to net positive

Page 5, Schedule 1[15], proposed section 6.2A. Insert after line 22—

- (5A) The Minister must not amend the strategy unless satisfied the amendment will not reduce the effectiveness of the biodiversity offsets scheme by—
 - (a) making the targets for the transition to delivering net positive biodiversity outcomes under the scheme less ambitious, or
 - (b) extending the time frames for the transition to delivering net positive biodiversity outcomes under the scheme.

This amendment is about the strategy to transition the Biodiversity Offsets Scheme to net positive. The promise is net positive and nature positive. Net positive moves us from where we have been since 2016, a kind of "no net loss". The amendment is part of how we get to net positive. It seeks to require that the strategy to transition the offsets scheme to deliver net positive outcomes will not be amended once that strategy is made, unless the Minister is satisfied that the amendment will not reduce the effectiveness of the scheme by making any targets of the transition less ambitious or by extending any time frames for the strategy to deliver net positive outcomes. In effect, that is what is referred to as a non-regression clause.

Non-regression is a principle that is now embedded in international environmental and biodiversity conservation law. It is important that we embrace the concept if we are to go forward into the positive world and the positive vision that I keep talking about, where nature can not only recover but thrive. I said in my second reading debate contribution that I wish we were not "transitioning" to an offsets system that delivers net positive outcomes; I wish that we were just introducing one. That is the fact. We are capable of introducing a positive scheme. That is what we do when we make laws: We introduce them and make things happen. Instead, the Government sees that it is best to create a strategy to transition the Biodiversity Offsets Scheme to become net positive. It will be an incredibly important strategy. It will be a make-or-break strategy. When creating a strategy with this level of promise and this much waiting involved, it is fundamental that the promise of the Government is that once the strategy is set out, we will never regress from the targets in it.

It is also important to put on record that the strategy will have targets for how to get to net positive. There is a fear that the targets within the strategy may not be a true science; they may be administrative targets. That is a genuine concern. I hope that putting a non-regression clause within the Act, tied to the strategy, is a signal to not make the strategy less ambitious than what it would be or than is required to make the system net positive. That is really important. That is the signal that needs to be sent loud and clear to those good people generating a transition strategy. It is a hard job. It is a big task. But it has to be as scientific as it possibly can be and not just be targets based on administrative outcomes that are associated with scientific outcomes. The amendment is ultimately a non-regression clause that is limited to the transition strategy. It will ensure that once the strategy is made, the strategy can only ever be amended to make more ambitious targets and shorter time frames for the achievement of net positive biodiversity outcomes.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:17): The Government is happy to support the amendment. The point of the amendment, as outlined, is the idea of a non-regression clause for the net positive strategy. The Government has been clear about where it is going and its ambitions in relation to moving to net positive and turning the dial. A lot more work needs to be done, though. Net positive is a relatively new concept and there are not that many definitions of how to work that and what that means. There is more consultation to be had. The Government looks forward to progressing with that. The amendment sort of says, "We do not really trust you, so we are going to try to put this in here." I am happy to live with that, because the Government is determined on net positive and has been clear about that. I understand that Ms Sue Higginson wants to bind me and any future Ministers to this. The Government is okay with that. We are fortunate that there is a high degree of general multi-party agreement on the need for us to turn the dial back because we cannot afford to lose more biodiversity.

The Hon. SCOTT FARLOW (15:19): The Opposition will not support the amendment.

Ms SUE HIGGINSON (15:19): This is about the long term and the future, and I hear the Minister. The very Act we are talking about—the Biodiversity Conservation Act 2016—was a massive wind back in real effect from the Threatened Species Conservation Act that the former Labor Government introduced in 1995. I am in this Parliament now, and I remember '92, '93, '94 and '95. I watched the introduction of the Threatened Species Conservation Act, and I could not believe the regression in threatened species conservation that took place in so many ways under the Biodiversity Conservation Act 2016. The amendment is categorically not about not trusting this Minister. It is not even about not trusting the Minister in the next term of Parliament—we cannot know who that will be. It is about the long term.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 2 on sheet c2024-185F. The question is that the amendment be agreed to.

Amendment agreed to.

Ms SUE HIGGINSON (15:21): By leave: I move The Greens amendments Nos 1, 9 and 24 on sheet c2024-182J in globo:

No. 1 **Prescribed biodiversity conservation measures as alternative to retirement of biodiversity credits**

Page 3, Schedule 1[2], lines 14–16. Omit all words on the lines. Insert instead—

prescribed biodiversity conservation measure means an action prescribed under section 6.4(2)(b) as an action that qualifies as a biodiversity conservation measure for the offset rules.

No. 9 **Like-for-like biodiversity credits**

Page 6, Schedule 1[19], lines 6 and 7. Omit all words on the lines. Insert instead—

[19] **Section 6.4(4)**

Omit the subsection. Insert instead—

- (4) The regulations may provide for the circumstances in which the ordinary rules for determining the number and class of biodiversity credits required as biodiversity offsets may be varied for the purposes of the Biodiversity Conservation Trust applying amounts from the Biodiversity Conservation Fund under section 6.31 (the *variation rules*).

No. 24 **Like-for-like biodiversity credits and offsetting principles**

Page 21. Insert after line 15—

Schedule 1A Amendment of Biodiversity Conservation Regulation 2017

Clause 6.2 Offset rules under biodiversity offsets scheme (section 6.4)

Omit clause 6.2(2)(b). Insert instead—

- (b) for the Biodiversity Conservation Trust—the retirement of the required biodiversity credits in accordance with the variation rules,

These amendments are all about proponent-led variations. It is important to put on record that the reality of the Biodiversity Offsets Scheme—and, as many experts explain, the reason for the system's failure to prevent the further decline of biodiversity, and for the facilitation of the further decline of biodiversity in New South Wales—is that the system is built on variations. There are variations and then there are more variations. There are legislated variations. The amendments propose an end to proponent-led variations. They will mean that proponents of developments will not be able to use the variation rules contained in the regulations to vary the number or class of credits required or to take other conservation actions to fulfil their obligations to offset the loss of biodiversity as a result of their development.

The amendments have been discussed with various stakeholders and with the Government. The way the amendments now read is that there is still a way for variations to be made. The Biodiversity Conservation Trust may still use the same variation rules contained in the regulations but only under the circumstances permitted in those regulations. Functionally, the amendments will mean that the Biodiversity Conservation Trust will have a central understanding of the number of variations that may be required as a result of certain credits being unavailable in the market or for other reasons.

There is also the issue of trust in the Biodiversity Conservation Trust. With that oversight and the single use of that variation power, it will be better managed. It is very sensible to limit variations to that extent. Frankly, it would be great to have a system with no variations. I hope that one day that is where we will move to. But the practice right now where proponents can lead the variations is not delivering the right outcomes. That is precisely what Ken Henry found in his comprehensive review of the way the system is working. Those issues are at the centre of his conclusion that the Act is not meeting its objects.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:24): The Government will support the amendments, which go to like-for-like credits. It is incredibly challenging to deal with like-for-like credits in the system. When Labor members went to the election last year, we said that we wanted to limit the variations that can be made. I disagree with Ms Sue Higgs: There will always be a need for variations because there are some cases that we cannot deal with. We need flexibility in the system. But this minor amendment removes the pathway for some like-for-like offset variations, which we agree with.

Flexibility is also built in, in that the Biodiversity Conservation Trust would retain the power to vary credits within the fund. The planning Minister retains other discretionary powers to ensure flexibility. This is the tricky, pointy end of how we deal with offsets within the planning system, particularly in areas where the credits are like-for-like and close to home. But, as Minister, I have learned that we cannot always acquit them that way. We are trying to limit it. The whole reform plan is to try to move some of the decision-making earlier so that it is clear and able to be dealt with in a very transparent manner. That is a very long way of saying that we are okay with the amendments.

The Hon. SCOTT FARLOW (15:26): In a very short way, we are not okay with the amendments. We will not support them.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 1, 9 and 24 on sheet c2024-182J. The question is that the amendments be agreed to.

Amendments agreed to.

Ms SUE HIGGINSON (15:26): By leave: I move The Greens amendments Nos 2 and 21 on sheet c2024-182J in globo:

No. 2 Restrictions on variations of biodiversity stewardship agreements

Page 4, Schedule 1. Insert after line 27—

[8A] Section 5.11(3) and (3A)

Omit the section 5.11(3). Insert instead—

- (3) The Minister must not agree to a variation of a biodiversity stewardship agreement if the variation will have a negative impact on the biodiversity values protected by the agreement.
- (3A) If the Minister agrees to a variation of a biodiversity stewardship agreement under subsection (3), the Minister must prepare a written statement setting out the reasons for the Minister's decision to agree to the variation.

No. 21 Restrictions on variations of biodiversity stewardship agreement

Page 18, Schedule 1. Insert after line 36—

[59A] Section 9.7 Registers to which Division applies

Insert "and the Minister's statement of reasons relating to any variations of the agreements prepared under section 5.11(3A)" after "agreement" in section 9.7(1)(c).

These amendments are also about variations. They seek to remove the variations in relation to biodiversity stewardship agreements. They would prevent variations if the variation would have a negative impact on the biodiversity values protected by the agreement. They require the Minister to publish reasons when the agreement is varied. Once again, we are forced to recognise that some variation may be required and that flexibility in the system is important.

If we do need variations, the reality is that they must improve biodiversity outcomes. Otherwise, we are in the Henry territory and will stay there and, the next time we review the Biodiversity Conservation Act, we will say that it is still not meeting its objectives. We have to stop the slip and draw that line. The amendments would prevent any variations. But in the event that the agreement has a negative impact on values, then reasons should be published so we can understand how that has affected the biodiversity stewardship agreement and, therefore, the guarantee of protection under the offset system.

Biodiversity stewardship agreements are likely to form a significant part of protecting biodiversity in New South Wales if we are going to introduce this system, rely on it more, build its integrity, and if the provisions are made to put stricter guardrails around these agreements. I know there was some feedback, and I take it onboard, that maybe this does not happen very much as it is and it is not really a concern of the Biodiversity Conservation Trust [BCT] at the moment. But we are talking about building a system, relying on the system and applying it more and more. Just because something has not happened in the past or been a problem, does not mean it cannot be looked at. This amendment is specifically designed to look forward and work in with the system in the best way we possibly can for the benefit of biodiversity.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:29): The Government does not support the amendments. Sometimes a variation to a biodiversity stewardship agreement is needed. These are infrequent and usually for things like road adjustments or transmission lines. As the Minister, I am already required to be satisfied that the variation does not have a negative impact on the biodiversity values protected by the agreement. If the variation does have a negative impact, other measures are required to offset that impact. In terms of reporting on the variations, the Department of Climate Change, Energy, the Environment and Water [DCCEEW] maintains a map of biodiversity stewardship agreements with information about the credits and management actions. As a result of the conversation and input from stakeholders in relation to this, we have now committed to DCCEEW including information about variations to agreements on this map. We do not believe these amendments are necessary.

The Hon. SCOTT FARLOW (15:30): In the interests of brevity, I indicate at this stage that the Coalition will not support any of The Greens amendments.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 2 and 21 on sheet c2024-182J. The question is that the amendments be agreed to.

Amendments agreed to.

Ms SUE HIGGINSON (15:31): I move The Greens amendment No. 5 on sheet c2024-182J:

No. 5 Offsetting principles

Page 5, Schedule 1. Insert after line 8—

[14B] Section 6.2AA

Insert after section 6.2—

6.2AA Principles underpinning biodiversity offsets scheme

- (1) The following principles underpin the biodiversity offsets scheme—
 - (a) biodiversity offsets should be used as a last resort and only after consideration of all available measures to avoid or minimise the impacts of the relevant action on biodiversity values,
 - (b) the use of biodiversity offsets should achieve biodiversity benefits in perpetuity and deliver net positive outcomes for biodiversity in New South Wales,
 - (c) legislation and Government policy should set clear limits on the use of biodiversity offsets,
 - (d) biodiversity offsets should supplement, and not be used as a substitute for or to discharge, other legal obligations relating to the protection, conservation and management of biodiversity,
 - (e) arrangements relating to biodiversity offsets must be legally enforceable,
 - (f) frameworks relating to biodiversity offsets should include mechanisms to respond to climate change and stochastic events.
- (2) In this section—

biodiversity offsets means the biodiversity conservation measures available under the biodiversity offsets scheme to offset or compensate for impacts on biodiversity values after any steps taken to avoid or minimise those impacts under the avoid, minimise and offset hierarchy.

This amendment is about the principles underpinning the Biodiversity Offsets Scheme.

The Hon. Penny Sharpe: Mr Chair, I have made an error. The Government did not support the previous amendments. I apologise if there was confusion about the previous amendments that were committed. I am sorry. I was reading ahead.

Ms SUE HIGGINSON: I was just getting to my favourite amendment.

The Hon. Penny Sharpe: You will get to do it again.

Ms SUE HIGGINSON: No, the next one is my favourite.

Ms Abigail Boyd: Point of clarification: Can we have some clarification from the Clerks as to what happens when an amendment has already been passed and members are asked to go back on that? What does that mean? What other procedural possibilities are there?

The Hon. Penny Sharpe: We can always do it again. We just need to get leave. Can we just seek leave to recommit that amendment again? That is what I am asking. Sorry, that was my fault.

The CHAIR (The Hon. Rod Roberts): We are going to try something here. The intention here is for the betterment of the Committee and completion of the bill. If the Committee grants leave, we will re-put that question. Is leave granted to put the question on The Greens amendments Nos 2 and 21 again?

Leave granted.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson, please move your amendments again. You do not need to speak to them.

Ms SUE HIGGINSON: By leave: I move The Greens amendments Nos 2 and 21 on sheet c2024-82J in globo:

No. 2 Restrictions on variations of biodiversity stewardship agreements

Page 4, Schedule 1. Insert after line 27—

[8A] Section 5.11(3) and (3A)

Omit the section 5.11(3). Insert instead—

- (3) The Minister must not agree to a variation of a biodiversity stewardship agreement if the variation will have a negative impact on the biodiversity values protected by the agreement.
- (3A) If the Minister agrees to a variation of a biodiversity stewardship agreement under subsection (3), the Minister must prepare a written statement setting out the reasons for the Minister's decision to agree to the variation.

No. 21 Restrictions on variations of biodiversity stewardship agreement

Page 18, Schedule 1. Insert after line 36—

[59A] Section 9.7 Registers to which Division applies

Insert "and the Minister's statement of reasons relating to any variations of the agreements prepared under section 5.11(3A)" after "agreement" in section 9.7(1)(c).

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 2 and 21 on sheet c2024-182J. The question is that the amendments be agreed to.

The Committee divided.

Ayes6
Noes26
Majority.....20

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin
Graham

Houssos
Kaïne
Lawrence
MacDonald
Maclaren-Jones
Merton
Mitchell
Moriarty
Munro

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

Amendments negatived.

The CHAIR (The Hon. Rod Roberts): I ask Ms Sue Higginson to move amendment No. 5 on sheet c2024-182J.

Ms SUE HIGGINSON (15:43): I move The Greens amendment No. 5 on sheet c2024-182J:

No. 5 Offsetting principles

Page 5, Schedule 1. Insert after line 8—

[14B] Section 6.2AA

Insert after section 6.2—

6.2AA Principles underpinning biodiversity offsets scheme

- (1) The following principles underpin the biodiversity offsets scheme—
- (a) biodiversity offsets should be used as a last resort and only after consideration of all available measures to avoid or minimise the impacts of the relevant action on biodiversity values,
 - (b) the use of biodiversity offsets should achieve biodiversity benefits in perpetuity and deliver net positive outcomes for biodiversity in New South Wales,
 - (c) legislation and Government policy should set clear limits on the use of biodiversity offsets,
 - (d) biodiversity offsets should supplement, and not be used as a substitute for or to discharge, other legal obligations relating to the protection, conservation and management of biodiversity,
 - (e) arrangements relating to biodiversity offsets must be legally enforceable,

- (f) frameworks relating to biodiversity offsets should include mechanisms to respond to climate change and stochastic events.
- (2) In this section—
- biodiversity offsets** means the biodiversity conservation measures available under the biodiversity offsets scheme to offset or compensate for impacts on biodiversity values after any steps taken to avoid or minimise those impacts under the avoid, minimise and offset hierarchy.

I am more than fond of this amendment and I think it is vital to the scheme. It is about the principles underpinning the Biodiversity Offsets Scheme and having those principles expressed in the legislation. The amendment would insert new science-based principles that state when and how biodiversity offsets should be used. Firstly, they should be used as a last resort and only after consideration of all available measures to avoid or minimise the impacts of the relevant action on biodiversity values. Secondly, the use of offsets should achieve biodiversity benefits in perpetuity and deliver net positive outcomes for biodiversity in New South Wales. Thirdly, legislation and government policy should set clear limits on the use of biodiversity offsets and they should supplement, not be used as a substitute or to discharge other legal obligations relating to the protection, conservation and management of biodiversity. Finally, the arrangements relating to biodiversity offsets must be legally enforceable and the frameworks relating to biodiversity offsets should include mechanisms to respond to climate change and stochastic events.

Again, we can say, "This is what the offset system seeks to achieve," but unless we have those express values written and embedded in the law, we lose so much of how we do it and what we are actually doing. I feel as if we are moving away from the notion of what is good drafting in laws and what good laws look like so having the principles spelled out provides interpreting tools, application guidance and the very basics. If anybody in the universe actually picks up the legislation, it will allow them to read and understand the principles behind the law of biodiversity in New South Wales. It would have the impact of helping communities to understand precisely what this State requires for biodiversity conservation in relation to a biodiversity offsets system.

At the moment, the biodiversity offsets system is a big, complex beast. It is a system that has been criticised as a failure. It is not working and people misunderstand it. People talk about it as a system that creates roadblocks to development but that is not what a biodiversity offsets system is. A biodiversity offsets system is meant to enable certain developments to go ahead in certain circumstances. When principles are provided in the law that make it really clear what the intended effect is, it is so beneficial to not only the people who are interacting with the scheme or implementing the scheme, or responsible for driving the scheme, but every single person who may want to read and understand the scheme. The principles are clear, they provide legislative certainty to the operation of the scheme. They are important and valuable, and would have a meaningful impact. To put in place a scheme without expressing its underpinning principles "because it will be achieved anyway" does not explain why the principles should not be put into the legislation.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:47): The Government does not support the amendment. The amendment introduces a set of new principles to the offsets scheme. In the first instance, most of the concepts are already embedded into the way the scheme operates, things like the hierarchy of avoid and minimise, for example. If there is going to be an approach of inserting principles, we believe it requires further consideration. We do not support the amendment.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 5 on sheet c2024-182J. The question is that the amendment be agreed to.

The Committee divided.

Ayes5
Noes25
Majority.....20

AYES

Boyd (teller)
Cohn

Faehrmann
Higginson (teller)

Hurst

NOES

Barrett
Buttigieg
Carter

Houssos
Kaine
Lawrence

Munro
Murphy (teller)
Primrose

NOES

D'Adam
Donnelly
Fang
Farlow
Franklin
Graham

MacDonald
Maclaren-Jones
Merton
Mitchell
Moriarty

Rath (teller)
Sharpe
Suvaal
Tudehope
Ward

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): It is likely that we will shortly have another division with the opportunity for a short bell, so it may be of assistance if members stay close to the Chamber.

Ms SUE HIGGINSON (15:56): I move The Greens amendment No. 6 on sheet c2024-182J:

No. 6 **Net positive biodiversity outcomes**

Page 5, Schedule 1[15], proposed section 6.2A. Insert after line 26—

(7) In this section—

net positive biodiversity outcomes means the achievement of net gains in biodiversity in New South Wales delivered by biodiversity conservation measures taken in relation to each development or activity that exceeds the biodiversity offsets scheme threshold for the purposes of Part 7 for each impacted species, community or habitat.

The amendment defines net positive biodiversity outcomes. There is currently no definition, in the Act or otherwise, for net positive biodiversity outcomes. That seems strange given the promise to move to a net positive system. The amendment would sensibly correct that. It defines net positive biodiversity outcomes so that it would be applied to each entity and each impacted entity. The amendment is sensible. It is a way to put the meaning of what we are doing into the Act. The amendment recognises that we will have a strategy to get the system to net positive. It is about having a definition to hold ourselves to account and have clarity and certainty about what net positive is.

It seems almost antithetical to say that we will have a net positive system without a clear definition that will achieve the outcome for each entity and each impacted entity, as this definition is designed to do. To suggest that is not necessary or important would be the antithesis of the legislation. At the moment, I can compare it to the definition of "like for like", which determines that biodiversity offsets are not truly like for like because they are interpreted the way they are defined, which is not truly like for like. When we talk about the transition to net positive, we cannot simply suggest that we will get there; we need a clear and certain definition to assist in the application of the Act and the scheme.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (15:59): The Government does not support the amendment. The net positive strategy will also identify ways for the scheme to achieve net gain biodiversity outcomes. The process is significant and we should not underestimate that. It requires further work, options analysis and consultation, which have not been done to date. We do not want to get ahead of the process of consultation.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 6 on sheet c2024-182J. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.**The Committee divided.**

Ayes6
Noes24
Majority.....18

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett

Houssos

Munro

NOES

Carter	Kaine	Murphy (teller)
D'Adam	Lawrence	Primrose
Donnelly	MacDonald	Rath (teller)
Fang	Maclaren-Jones	Sharpe
Farlow	Merton	Suvaal
Franklin	Mitchell	Tudehope
Graham	Moriarty	Ward

Amendment negated.

The CHAIR (The Hon. Rod Roberts): I ask the Hon. Penny Sharpe to move Government amendment No. 1 on sheet c2024-198D.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:03): I seek guidance from the Chair. The Government has four amendments that relate to issues of terminology. I had intended to seek leave to move amendments Nos 1 and 2 in globo, but it looks a bit complicated on the sheet.

The CHAIR (The Hon. Rod Roberts): It does.

The Hon. PENNY SHARPE: I will move them separately to make it easier.

The CHAIR (The Hon. Rod Roberts): That would be great.

The Hon. PENNY SHARPE: I move Government amendment No. 1 on sheet c2024-198D:

No. 1 Reasonable measures under avoid, minimise, offset hierarchy

Page 5, schedule 1 [16], line 36. Omit "steps". Insert instead "measures".

This is a simple amendment to update terminology in response to feedback from the inquiry into the bill. People sought clarity about what we meant in relation to the avoid, minimise and offset hierarchy. This amendment tidies that up. References to "steps" will be replaced with "measures" to ensure that there is consistency throughout the bill. It applies to the avoid, minimise and offset hierarchy where the proponent takes all reasonable measures to minimise impacts that cannot be avoided. We are using the word measures instead of steps because that is consistent and well understood in terms of the operation of the scheme.

The Hon. SCOTT FARLOW (16:05): The Opposition supports the Government's amendment.

Ms SUE HIGGINSON (16:05): The Greens support the Government's amendment, which is just about ensuring consistency in terminology.

The CHAIR (The Hon. Rod Roberts): The Hon. Penny Sharpe has moved Government amendment No. 1 on sheet c2024-198D. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Rod Roberts): We have dealt with some of the easier amendments and now we are getting down into the weeds. I ask members to bear with me as work our way through the remaining amendments. I ask Ms Sue Higginson to move The Greens amendment No. 7 on sheet c2024-182J.

Ms SUE HIGGINSON (16:06): I agree; it is always wise to agree with the Chair. I move The Greens amendment No. 7 on sheet c2024-182J:

No. 7 Like-for-like biodiversity credits

Page 6, schedule 1 [17], lines 1–3. Omit all words on the lines. Insert instead—

[17] Section 6.4 Biodiversity conservation offsets under scheme

Omit section 6.4 (1). Insert instead—

- (1) For the purposes of the biodiversity offsets scheme, the biodiversity conservation measures to offset or compensate for impacts on biodiversity values after any measures taken to avoid or minimise those impacts under the avoid, minimise and offset hierarchy are the retirement of like-for-like biodiversity credits.

This amendment is about like-for-like credits, and would ensure that only like-for-like biodiversity credits being retired would satisfy an obligation to biodiversity offsets. It should be seen as the simplest, clearest and most honest way to fix the biodiversity crisis in New South Wales. If it cannot be effectively offset and protected then

it should not be destroyed. This is what it is all about. It is the first principle of biodiversity offsetting as set out in all international conventions. If we are going to have an offset system, there are four fundamental rules, and this is one of those. Biodiversity offsets should be like for like. If they are not like for like, we are losing, smashing and driving the extinction crisis. I indicate that The Greens feel very strongly about the platform of like-for-like credits, and we are prepared to divide on this amendment.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:08): The Government does not support the amendment. We are working to improve like-for-like offsets. The Government believes there was a way to deal with like-for-like offsets in the amendment it previously supported, but there is more work to do. We cannot accept this amendment because we need some level of flexibility, whether we like it or not. I am not thrilled that a huge number of hard-to-find credits were put into the Biodiversity Conservation Trust for which there are no like-for-like offsets, but that is the reality we must face.

With the reforms in the bill, we are trying to avoid such problems in the future. The Biodiversity Conservation Trust has to manage this liability, and will only be able to acquit historical offsets through variations in management actions. Otherwise, the credits remain in a fund as lost biodiversity and we cannot do anything with them. For that reason, the Government does not support this amendment. It removes conservation actions as an option to acquit offsets, and the Government intends to retain that option. Conservation actions are applied when buying an offset credit will not help the impacted species. That is important to retain. I understand what Ms Sue Higginson is trying to do. We have some historical issues that we need to tidy up, but this amendment would make those worse and not better.

The Hon. JEREMY BUCKINGHAM (16:09): I make a brief contribution in support of the amendment. It is an excellent amendment that goes to the fundamental principle of what offsets should be. As Ms Sue Higginson said, they must be like for like. I remember the case of the Warkworth Sands Woodland. That was a disgraceful situation in which the offsets were created, the expansion of the Mount Thorley Warkworth mine was approved, when it certainly should not have been, and the Warkworth Sands Woodland was destroyed. That was an ecosystem and an ecotone that was unique to the world and to the history of the universe. It is now gone. It could not be offset because there is nothing like it in the world. That whole ecosystem has been destroyed and it is gone forever. We should not be destroying habitats when there are no similar habitats to offset, because that means they are unique, and should be preserved if we are to save our biodiversity and our planet for future generations. I support the amendment because it is fundamental to what a rational offsets scheme should be.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 7 on sheet c2024-182J. The question is that the amendment be agreed to.

The Committee divided.

Ayes6
Noes25
Majority.....19

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin
Graham

Houssos
Kaine
Lawrence
MacDonald
Maclaren-Jones
Merton
Mitchell
Mookhey

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

Amendment negatived.

The CHAIR (The Hon. Rod Roberts): It is likely we will have another division shortly, and we may be able to avail ourselves of a short bell. I ask that members remain close to the Chamber.

Ms SUE HIGGINSON (16:19): I am finding it very hard to concentrate because Rising Tide has just won its court case in the Supreme Court. By leave: I move The Greens amendments Nos 3, 4, 8, 12 and 23 on sheet c2024-182J in globo:

No. 3 Like-for-like biodiversity credits

Page 4, Schedule 1. Insert after line 39—

[12A] Section 6.1 Definitions: Part 6

Insert in alphabetical order—

Biodiversity Conservation Fund means the Biodiversity Conservation Fund established under section 10.16.

Biodiversity Conservation Trust means the Biodiversity Conservation Trust of New South Wales established under section 10.1.

like-for-like biodiversity credit means a like-for-like biodiversity credit prescribed by the regulations under section 6.4(2) for the purposes of the application of the offset rules.

No. 4 Like-for like biodiversity credits

Page 4, Schedule 1. Insert after line 39—

[14A] Section 6.2 Biodiversity offsets scheme

Insert after section 6.2(f)—

(f1) In relation to the trading or retirement of biodiversity credits under the scheme—that the trade or retirement be of like-for-like biodiversity credits.

No. 8 Like-for-like biodiversity credits (alternative to No. 7—only to be moved if No. 7 is not successful)

Page 6, Schedule 1[17], lines 1–3. Omit all words on the lines. Insert instead—

[17] Section 6.4 Biodiversity conservation offsets under scheme

Insert after section 6.4(1)—

(1A) For subsection (1), the retirement of biodiversity credits must represent at least 90 per cent of the biodiversity conservation measures to offset or compensate for the impacts.

No. 12 Declared biodiversity credits for which payment into Biodiversity Credit Fund must not be made

Page 10, Schedule 1[33], proposed section 6.30(3), lines 22–24. Omit all words on the lines. Insert instead—

(3) Subject to subsections (1A) and (2), if the person pays the amount determined in accordance with the offsets payment calculator established under this division into the Fund under subsection (1), the requirement to retire biodiversity credits is satisfied when the Biodiversity Conservation Trust has applied all of the amount to retire biodiversity credits or secure biodiversity offsets under section 6.31.

No. 23 Like-for-like biodiversity credits and offsetting principles

Page 21. Insert after line 15—

Schedule 1A Amendment of Biodiversity Conservation Regulation 2017

[1] Clause 6.2 Offset rules under biodiversity offsets scheme (section 6.4)

Insert after clause 6.2(1)—

(1A) The determination of the biodiversity conservation measures under the offset rules are to reflect the principles underpinning the biodiversity offsets scheme set out in the Act, section 6.2AA.

[2] Clause 6.2(2)(b)

Omit the paragraph.

[3] Section 6.3 Like-for-like biodiversity credits (section 6.4)

Omit clause 6.3(2)–(4). Insert instead—

(2) A ***like-for-like biodiversity credit*** means a biodiversity credit that represents—

(a) in relation to impacts on threatened ecological communities—

(i) the same threatened ecological community located in—

(A) the same Interim Biogeographic Regionalisation of Australia subregion as the impacted site or an adjoining Interim Biogeographic Regionalisation of Australia subregion, or

- (B) another Interim Biogeographic Regionalisation of Australia subregion that is within 100 kilometres of the outer edge of the impacted site, and
 - (ii) if the threatened ecological community contains hollow bearing trees—vegetation that contains hollow bearing trees, or
- (b) in relation to impacts on the habitat of threatened species that are ecosystem credit species or other native vegetation, other than impacts on threatened ecological communities—
 - (i) the same plant community type located in—
 - (A) the same Interim Biogeographic Regionalisation of Australia subregion as the impacted site or an adjoining Interim Biogeographic Regionalisation of Australia subregion, or
 - (B) another Interim Biogeographic Regionalisation of Australia subregion that is within 100 kilometres of the outer edge of the impacted site, and
 - (ii) if the impacted habitat contains hollow bearing trees—vegetation that contains hollow bearing trees, or
- (c) in relation to impacts on threatened species that are species credit species—the same threatened species located in—
 - (i) the same Interim Biogeographic Regionalisation of Australia subregion as the impacted site or an adjoining Interim Biogeographic Regionalisation of Australia subregion, or
 - (ii) another Interim Biogeographic Regionalisation of Australia subregion that is within 100 kilometres of the outer edge of the impacted site.

[6] Clause 6.7(2)(e)

Omit "replaceable." from clause 6.7(2)(d). Insert instead—

replaceable, or

- (e) the impacted species is at risk from climate change.

These amendments relate to like-for-like credits, offsetting and taking actions. They create a stricter definition of "like for like" and ensure that most biodiversity offsets are satisfied by the retirement of like-for-like credits. It just sounds so straightforward. Additionally, it would require that, when payment is made into the Biodiversity Conservation Fund in lieu of retiring credits, a person's obligation to satisfy an obligation is not complete until the fund has required and retired the relevant credits for which the payment was made.

We talked about the fund during the second reading debate. The fund is a massive problem. Koala blood money goes into it and pays for something which is not related to koalas. In fact, it could go towards paying for a fact sheet on why we should be protecting koalas and their habitat. Amendment No. 3 inserts definitions into the Act for the purposes of the other amendments which relate to the Biodiversity Conservation Fund, the Biodiversity Conservation Trust and like-for-like biodiversity credits. Amendment No. 4 makes clear that the trading or retirement of biodiversity credits under the scheme must be conducted on the basis of like-for-like credits which accord with the definition as outlined in the regulations.

Amendment No. 8 requires that the retirement of biodiversity credits must represent at least 90 per cent of the biodiversity conservation measures to offset or compensate for projects. This allows some room for other actions, such as fact sheets, but requires the majority of an obligation to be satisfied through the retirement of like-for-like credits. Amendment No. 12 would mean that a person's obligation to offset impacts is not satisfied by payments into the biodiversity fund until the trust requires and retires the relevant like-for-like credits. This means that a person cannot take an action to impact biodiversity under a consent until the trust had retired the biodiversity credits.

Amendment No. 23 seeks to amend the regulations to make certain that like-for-like biodiversity credits are a core component of the system. Where an impact on biodiversity is necessary, the best and closest credits will be identified and used to satisfy the obligation to offset their impact. These amendments speak for themselves. I strongly suggest that, without these amendments, we will simply continue to drive the extinction crisis despite currently having the power to change this.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:23): I thank the member for moving these amendments. The government does not support these amendments. I understand that the member is trying to ensure that offsets are like for like. It is the government's position that like-for-like offsets should be strengthened. However, we need to

maintain some of the existing flexibility. I touched on this during the debate on the previous amendments. Parts of these amendments have merit, but a more thorough analysis of the impact is required. When a lever is pulled on one side of the market, we need to make sure that there are not unintended consequences elsewhere, particularly for landholders with stewardship agreements. We disagree with The Greens on conservation actions. We need them. We want them as an option for quick offsets, and we intend to retain this option.

Conservation action required when buying an offset credit will not actually help the impacted species like, for example, a species impacted by myrtle rust. Conservation actions are not used extensively, primarily because the cost is the same as putting money into the fund. The Department of Climate Change, Energy, the Environment and Water must agree to each action, and there is an ancillary rule that restricts the use of conservation actions to listed species where credits would not improve the outcome for that species. I turn now to the amendment which narrows the trading of species credits to a geographic region. While this is quite attractive, there would be substantial impacts on the market that need much more thorough consideration. We are willing to give it more consideration, but we are not willing to support the amendments at this time.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 3, 4, 8, 12 and 23 on sheet c2024-182J. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes6
Noes23
Majority.....17

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett
Buttigieg
D'Adam
Donnelly
Fang
Farlow
Franklin
Graham

Houssos
Kaine
Lawrence
MacDonald
Maclaren-Jones
Merton
Mitchell
Moriarty

Munro
Murphy
Nanva (teller)
Primrose
Rath (teller)
Sharpe
Suvaal

Amendments negatived.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:28): I move Government amendment No. 2 on sheet c2024-198D:

No. 2 Reasonable measures under avoid, minimise, offset hierarchy

Page 6, Schedule 1[17], lines 2 and 3. Omit all words on the lines. Insert instead—

Omit "steps taken to avoid or minimise those impacts" from section 6.4(1).

Insert instead "measures taken to avoid or minimise those impacts under the avoid, minimise and offset hierarchy".

This is the same type of amendment, accepted by members before, to tidy up the terminology. We replace "steps" with "measures". This relates to the avoid, minimise and offset hierarchy where a proponent takes all reasonable measures to minimise impacts that cannot be avoided.

The Hon. SCOTT FARLOW (16:28): The Opposition supports this amendment.

Ms SUE HIGGINSON (16:28): The Greens support this amendment, which is a drafting correction for consistency of terminology, which we must have in legislation.

The CHAIR (The Hon. Rod Roberts): The Hon. Penny Sharpe has moved Government amendment No. 2 on sheet c2024-198D. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. EMMA HURST (16:29): By leave: I move Animal Justice Party amendments Nos 1 and 2 on sheet c2024-227C in globo:

No. 1 Serious and irreversible impacts—climate change

Page 5, Schedule 1. Insert after line 8—

[14A] Section 6.2(i)

Omit "principles prescribed by the regulations under this Act of serious and irreversible impacts on biodiversity values".

Insert instead "principles of serious and irreversible impacts on biodiversity values set out in section 6.5 and prescribed by the regulations".

No. 2 Serious and irreversible impacts—climate change

Page 6, Schedule 1. Insert after line 7—

[19A] Section 6.5 Serious and irreversible impacts on biodiversity values

Insert "this section and the" after "with" in section 6.5(1).

[19B] Section 6.5(1A)

Insert after section 6.5(1)—

- (1A) An impact must be regarded as serious and irreversible if it is likely to contribute to the risk of a threatened species or ecological community becoming extinct because the species or community is at particular risk of extinction due to climate change.

These amendments seek to ensure that species at particular risk due to climate change are factored into considerations about serious and irreversible impacts under the Biodiversity Offsets Scheme. There are very few provisions anywhere in the Biodiversity Conservation Act 2016 or the Biodiversity Offsets Scheme that require consideration of the impacts of climate change on animals and plants. While the regulations reference small and rapidly declining population sizes, limited geographic distribution and the inability of a species to be replaced, there is no reference to the overarching impacts of climate change.

Climate change can and does have a dramatic and irrevocable impact on animal species. Over the past five years Australia has experienced record-breaking droughts, bushfires, floods and heatwaves. Animals must contend with all of those events, which not only pose threats of immediate harm, injury and death for individual animals and local populations but also reduce the availability and quality of habitat, sometimes forcing species to move towards unsuitable or less ideal environments.

Water scarcity is an ongoing issue, while hotter temperatures also impact breeding seasons and may even prevent some species from procreating. Those kinds of factors and the broader impacts of climate change must be factored into determinations about the impacts of an action on a species of animal or an ecological community. Take koalas, for example—it is astounding that the koala is not included on the department's list of threatened entities at risk of serious and irreversible impacts in New South Wales. The koala is on the endangered species list and is at grave risk from climate change, yet it is not explicitly identified as a species at risk of serious and irreversible impacts.

We know that koalas are struggling and, with fewer viable habitats and increasing fragmentation, any action that further impedes koala populations must be treated with the utmost seriousness and categorised as a serious and irreversible impact. In damning news, the Australian Conservation Foundation reported that the koala was the animal impacted by the most approvals across Australia in 2023. That is hardly commendable behaviour in relation to an endangered animal.

Countless other species are impacted too. In fact, a record number of species were added to the list of threatened species in 2023. The addition of 144 species and ecological communities represents five times the average number of species usually added to the list each year. The most common theme behind those species being threatened is the impact of climate change. We cannot afford to keep ignoring climate-affected species. Amendment No. 1 simply seeks to ensure that section 6.5 of the Act is applied when determining serious and irreversible impacts. Amendment No. 2 then amends section 6.5 of the Act to ensure that any further impact on a species at particular risk due to climate change is regarded as serious and irreversible.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:32): I thank the Hon. Emma Hurst for moving the amendments, but the Government does not support them at this time. The regulations list the principles that determine whether a species or ecosystem has experienced serious and irreversible impacts. The Government is not willing to sign

up to amendments to the concept of serious and irreversible impacts in this tranche of changes, as the application and the way it is dealt with is highly contested.

We will review the impending application of the concept of serious and irreversible impacts to ensure that it is meeting its intention and the intention of the Government. The Government intends to do that in its response to Ken Henry's review of the Plan for Nature and will work with stakeholders on that process. I understand where the Hon. Emma Hurst is going with this issue. It is challenging and we do need to tackle it, but the Government is not planning to do so through this mechanism. The Government does not support the amendments.

The Hon. SCOTT FARLOW (16:33): In the interest of brevity, I indicate that the Opposition will not support the Animal Justice Party amendments.

Ms SUE HIGGINSON (16:33): The Greens absolutely support these Animal Justice Party amendments. Again, I refer back to matters raised in the second reading debate. If a species or an ecosystem is at risk of extinction due to climate change—and that is happening in New South Wales—then the law should broach that. It is not a case where we do not know what we should be doing. We do know. The suggestion for the amendments has come from people who are watching the system more than anyone, who are critical of it but who want so much for it to work better. People both outside and within the system are saying, "We need to do better when it comes to serious and irreversible impacts." It does not get any clearer.

We need to amend the legislation to make it work in relation to the things that we already know are the serious and irreversible impacts of climate change. The amendments are one way that we could make the law better. We could bolster the powers of the people who administer the laws so that they can better deal with the things that they have to manage. Surely, they are struggling to administer a system that they know is continuing to ignore the fact that there are serious and irreversible impacts at this level. These very good amendments offer a way for the law to require, going forward, that an impact be considered serious and irreversible when it is exactly that.

The CHAIR (The Hon. Rod Roberts): The Hon. Emma Hurst has moved Animal Justice Party amendments Nos 1 and 2 on sheet c2024-227C. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. EMMA HURST (16:36): I move Animal Justice Party amendment No. 3 on sheet c2024-227C:

No. 3 Biodiversity assessment method—animal welfare considerations

Page 6, Schedule 1. Insert after line 18—

[20A] Section 6.7 Minister may establish biodiversity assessment method

Insert ", amending or replacing" after "establishing" in section 6.7(3).

[20B] Section 6.7(3)(a1)

Insert after section 6.7(3)(a)—

- (a1) have regard to the welfare of animals, and

[20C] Section 6.7(3)

Omit "This subsection does not affect the validity of a biodiversity assessment method established by the Minister."

This amendment seeks to ensure that animal welfare is a mandatory consideration in the establishment of the biodiversity assessment method. The biodiversity assessment method itself does have some provisions that relate to the welfare of animals. That said, there is no mandatory requirement to adopt practices such as pre-clearance surveys, to apply appropriate codes of practice such as those that relate to relocation, or to require centralised reporting of harm to wildlife. Those straightforward and reasonable measures should be mandatory. By amending the Act to ensure that animal welfare is a mandatory consideration in the establishment of the biodiversity assessment method, we expect to see those kinds of measures put in place.

I also point out that welfare is very different to considerations around the existence, population size or habitat of an animal. Those considerations are also vital, but they do not consider the wellbeing and treatment of individual animals. Considering the welfare of animals will require measures to be put in place to minimise negative impacts on the experience of individual animals. That includes sensitive handling and transport, provision of treatment and care if animals are injured or otherwise in need, ensuring that family groups are kept together, and minimising loud or distressing disturbances. Welfare is not adequately provided for in the Act or regulations, but it is an essential part of responsible management and environmental stewardship and should be a mandatory consideration.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:38): The Government does not support this amendment. I place on record that the biodiversity assessment method considers animal welfare during survey and assessment, through survey guides and protocols, and during actual clearing. Measures are required such as pre-clearing surveys, having a wildlife handler on site during clearing and timing the clearing so it does not coincide with breeding. I understand what the Hon. Emma Hurst meant when she talked about what happens to the animals that are picked up during the process and how are we dealing with that. The Government does not support the amendment, but it is happy to work with the Hon. Emma Hurst and the Animal Justice Party on measures that can be put in place to protect wildlife in the development process.

Ms SUE HIGGINSON (16:39): The Greens support the amendment. As usual, the Animal Justice Party is raising something that we have to grapple with: the welfare of animals. I recount one harrowing memory that I have about the application of this system. I was part of litigation where the proponent of a project had permission and was engaging in the destruction of biodiversity. As part of the litigation, we were provided with a spreadsheet of all of the wildlife that was destroyed, and we heard the evidence of wildlife scientists who witnessed wildlife dispersing as bulldozers moved forward and machines shook the trees. There was no consideration of that. The system provided the approval for that, and then there was nothing on site about what was happening. To this day,

I find it harrowing. I looked at the spreadsheets, and they painted a picture of what we are talking about when we enable the destruction of biodiversity on sites. How does the biodiversity assessment method, how does any part of the system, consider those impacts? The fact is that it does not. We destroy living, rare, unique, iconic wild animals through the system. The Animal Justice Party's amendment seeks to go some way to having regard to that gruelling fact.

The CHAIR (The Hon. Rod Roberts): The Hon. Emma Hurst has moved Animal Justice Party amendment No. 3 on sheet c2024-227C. The question is that the amendment be agreed to.

Amendment negated.

Ms SUE HIGGINSON (16:42): I move The Greens amendment No. 10 on sheet c2024-182J:

No. 10 Biodiversity assessment method to adopt standard of net positive biodiversity outcomes

Page 6, Schedule 1. Insert after line 18—

[20A] Section 6.7 Minister may establish biodiversity assessment method

Omit section 6.7(3). Insert instead—

- (3) When establishing the biodiversity assessment method, the Minister must—
 - (a) have regard to the purpose of this Act, and
 - (b) having regard to the targets and time frames set out in the strategy for the transitioning of the biodiversity offsets scheme to deliver net positive biodiversity outcomes under section 6.2A(2)—
 - (i) during the transition of the scheme—adopt a standard that, in the opinion of the Minister, will result in no net loss of biodiversity in New South Wales, and
 - (ii) as soon as practicable after the strategy is made—adopt a standard that, in the opinion of the Minister, will result in a net positive biodiversity outcomes in New South Wales.

This amendment requires the biodiversity assessment method to adopt the standard of net positive. It requires that when the Minister establishes the biodiversity assessment method with regard to the targets and time frames set out in the strategy to transition to net positive biodiversity outcomes, the method must result in no net loss during the transition period. As soon as practicable after the strategy is made, the Minister must adopt a standard that will result in net positive biodiversity outcomes for New South Wales. That is important to ensure that biodiversity outcomes are prioritised in the biodiversity assessment method while the transition to net positive outcomes is achieved. We have had a lot of interactions with the Minister's office. I know that that interaction backwards and forwards is a big burden. I understand that there is perhaps some agreement on this amendment. If so, it would make a serious, material and good impact on the way that the State transitions to net positive biodiversity outcomes.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:44): This is the second last Greens amendment that the Government will be supporting. The change from a standard of no net loss to net positive for the biodiversity assessment method is something that the Government has indicated it is intending to do through changes to the Plan for Nature. Members may be aware that it is already within my power to make the biodiversity assessment

method at a higher standard, but I appreciate that this is a signal that the Government is raising the ambition for the scheme and that it fits with what has been talked about. It also signals a move back to the former standard of "maintain or improve" that was in place before the 2016 laws. The Government supports that, as it committed to moving towards it during the election and when it was in fierce disagreement during that 2016 law reform.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 10 on sheet c2024-182J. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Rod Roberts): There is a conflict between Government amendment No. 3 on sheet c2024-198D and Opposition amendment No. 15 on sheet c2024-226D. The Government amendment takes precedence.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:45): I move Government amendment No. 3 on sheet c2024-198D:

No. 3 Regulations relating to biodiversity assessment reports

Page 9, Schedule 1[28], lines 1–7. Omit all words on the lines.

This is another amendment that deals with terminology in response to stakeholder feedback during the inquiry. Section 6.16 (1A) of the bill provides that the regulations can determine both principles and assessment standards that need to be met to demonstrate genuine measures to avoid and minimise impacts. That was considered onerous and impractical. The requirement to set principles will be removed and will stay with assessment standards for consistency of terminology.

The Hon. SCOTT FARLOW (16:46): The Opposition supports the Government's amendment.

Ms SUE HIGGINSON (16:46): The Greens support the amendment and understand that it will assist in the consistency of terminology throughout the legislation.

The CHAIR (The Hon. Rod Roberts): The Hon. Penny Sharpe has moved Government amendment No. 3 on sheet c2024-198D. The question is that the amendment be agreed to.

Amendment agreed to.

Opposition amendment No. 15 lapsed.

The Hon. SCOTT FARLOW (16:47): By leave: I move Opposition amendments Nos 4 to 6, 8 to 11, 17 and 18 on sheet c2024-226D in globo:

No. 4 Reasonable measures and genuine measures

Page 5, Schedule 1[16], line 33. Insert "and practicable" after "reasonable".

No. 5 Reasonable measures and genuine measures

Page 5, Schedule 1[16], line 35. Insert "and practicable" after "reasonable".

No. 6 Reasonable measures and genuine measures

Page 5, Schedule 1[16], line 36. Insert "and practicable" after "reasonable".

No. 8 Reasonable measures and genuine measures

Page 7, Schedule 1[23], line 11. Insert "and practicable" after "genuine".

No. 9 Reasonable measures and genuine measures

Page 7, Schedule 1[23], line 15. Insert "and practicable" after "genuine".

No. 10 Reasonable measures and genuine measures

Page 7, Schedule 1[24], line 23. Insert "and practicable" after "genuine".

No. 11 Reasonable measures and genuine measures

Page 7, Schedule 1[24], line 28. Insert "and practicable" after "genuine".

No. 17 Reasonable measures and genuine measures

Page 9, Schedule 1[28], line 10. Insert "and practicable" after "genuine".

No. 18 Reasonable measures and genuine measures

Page 9, Schedule 1[28], line 14. Insert "and practicable" after "genuine".

These amendments seek to include "and practicable" with "reasonable measures and genuine measures". "Reasonable" is not defined within the bill as it stands. Taking reasonable and practicable steps is often involved with projects such as State significant development and State significant infrastructure. It provides further clarity and is well understood by stakeholders in particular. "Practicable measures" means what is possible in the circumstances. As such, the Opposition thinks that the amendments would provide further clarity to the bill. I commend the amendments to the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:48): The Government does not support the amendments. They are likely to result in a lower standard for avoiding and minimising impacts. That is not what the bill is about. The Government wants offsetting to be a genuine last resort. The purpose of the bill is to require proponents to demonstrate how they have genuinely avoided and minimised impacts. The Government will not be weakening that requirement.

Ms SUE HIGGINSON (16:48): I speak on behalf of The Greens to indicate that we do not support the amendments or the idea that we would do anything to weaken the system. Again, it is the notion of the flexibility required so that we can continue to destroy biodiversity. We cannot do that. We need to draw the line. The Greens do not support the amendments.

The CHAIR (The Hon. Rod Roberts): The Hon. Scott Farlow has moved Opposition amendments Nos 4 to 6, 8 to 10, 11, 17 and 18 on sheet c2024-226D. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. SCOTT FARLOW (16:49): By leave: I move Opposition amendments Nos 16, 19 and 20 on sheet c2024-226D in globo:

No. 16 Assessment standards

Page 9, Schedule 1[28], lines 8 and 9. Omit "standards (*assessment standards*) against which the following must be assessed". Insert instead "guidelines (*relevant guidelines*) in relation to the following".

No. 19 Assessment standards

Page 9, Schedule 1[28], lines 19–27. Omit all the words on the lines. Insert instead "demonstrating the relevant guidelines have been considered."

No. 20 Assessment standards

Page 9, Schedule 1[28], lines 28–30. Omit "assessment standards may prescribe higher assessment standards against which the matters referred to in that subsection must be assessed in the following circumstances". Insert instead "relevant guidelines may set out higher standards in relation to the following".

This is the last amendment I will move. However, one more will be moved by my colleague the Hon. Sarah Mitchell. This amendment replaces the requirement for assessment standards with assessment guidelines. We believe that that is a clearer term and something that would benefit the bill.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:50): We are basically having a disagreement over standards versus guidelines. We believe that the amendments would remove the power in the bill to make standards for how impacts should be avoided and minimised, and how that process should be set out in the assessment report. The amendments propose to replace that process with a guideline. One thing we are trying to do through the reforms is provide more clarity about what is required to submit those reports so that we have greater consistency. That also means we have greater certainty so people can get early yeses and noes through the processes. The Government has undertaken and will continue to undertake consultation with industry and accredited assessors on the avoid and minimise assessment standards and process before they are finalised. Broadly, our intentions are the same; there is just a disagreement about whether it is a standard or a guideline. We are going with a standard.

Ms SUE HIGGINSON (16:51): The Greens also oppose the amendments. Realistically, given the way that the whole bill is unfolding, what the Government has done is more workable. It is the preferred way forward. The Greens do not support the Opposition's amendments.

The CHAIR (The Hon. Rod Roberts): The Hon. Scott Farlow has moved Opposition amendments 16, 19 and 20 on sheet c2024-226D. The question is that the amendments be agreed to.

Amendments negatived.

Ms SUE HIGGINSON (16:52): I move The Greens amendment No. 11 on sheet c2024-182J:

No. 11 Declared biodiversity credits for which payment into Biodiversity Credit Fund must not be made

Page 10, Schedule 1[33], proposed section 6.30(2)–(4), lines 17–21. Omit all words on the lines. Insert instead—

- (2) The regulations may prescribe circumstances in which, including classes of credits in relation to which, a person must not satisfy a requirement under this Act or another Act, including under an instrument, approval or agreement, to retire biodiversity credits by instead paying the amount into the Biodiversity Conservation Fund under subsection (1).

The amendment is about declared biodiversity credits for which payment into the Biodiversity Conservation Fund must not be made. It would provide a clear power for the regulations to prescribe classes of credits where payment into the fund will not satisfy a person's obligation to retire biodiversity credits. There is a much clearer path for the Government and the Minister to prevent biodiversity damage becoming a cost of doing business and preventing payments being made for species that are on the brink of extinction. I understand that there is support for the amendment. It is really important. Imagine if we did not have a very clear pathway to say, "We cannot accept the money for this because, if we did, that would be the end of the road." That would be a perverse consequence. This is a sensible amendment providing clarity for the Government and Minister to do that.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:54): The Government accepts the amendment, which reflect what was always our intention. We see the amendment as making very clear in the legislation what we want to do. The amendment responds to the feedback from the bill's inquiry. People have eagle eyes in relation to those things, and we appreciate that. Stakeholders expressed uncertainty that the bill as drafted allows regulations to list classes of credits that cannot be transferred into the Biodiversity Conservation Fund. We think this is a sensible terminology tidy up and we support it.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 11 on sheet c2024-182J. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. SARAH MITCHELL (16:55): I move Opposition amendment No. 21 on sheet c2024-226D:

No. 21 **Calculation of amount payable as alternative to retiring credits**

Page 12, Schedule 1. Insert after line 10—

[34A] Section 6.32 Calculation of amount payable as alternative to retiring credits

Insert after section 6.32(4)—

- (5) Despite any other provision of this Act, the amount to be paid into the Biodiversity Conservation Fund under this division must not exceed 5% of the value of the land subject to the proposed development or activity, determined by the Valuer-General, if—
- (a) the land is in a regional area of New South Wales, and
 - (b) the proposed development or activity is related to housing or associated infrastructure.

The amendment is in line with what I spoke about in my contribution to the second reading debate. Effectively, the Opposition is trying to ensure that any amount paid into the Biodiversity Conservation Fund under this division does not exceed 5 per cent of the value of the land, using the land value as determined by the Valuer General. It is about making sure that we have the right balance and that those costs do not end up stifling critical community infrastructure. In paragraph (b) of the amendment, we have limited it by providing that the proposed development or activity must be related to housing or infrastructure. Water supply infrastructure would be an obvious one.

As I said in my second reading contribution, my view is that it could extend further to community infrastructure. Commercial buildings in places like Bourke also have a community benefit. However, for the purposes of this bill and the amendment, we will start with housing. Housing is supposed to be a priority of the Government. It is certainly much needed in regional areas. It is a sensible start to look at the 5 per cent limitation, ensuring that we have the housing developments we need in the regions. We hope that the Government and crossbench will support this amendment.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (16:56): I acknowledge that this is a genuine issue. It has been raised throughout the inquiry. Country mayors have knocked down my door, as they have for everyone else, and made a persuasive case. The country mayors have highlighted the disproportionate impact of the scheme on regional projects. There are projects that have not gone ahead for a variety of reasons but, partially, as a result of those costs. We do not want to see that happen. The country mayors proposed a cap on offset costs, which is reflected in the Opposition's amendments. The Government will not accept a cap on costs. However, we genuinely want to continue working with the country mayors and local government on a range of options to make sure that the scheme and its processes are not unintentionally holding up the delivery of regional housing and other projects.

A cap on offset costs would have substantial impacts on the market and create inequities in the scheme. Without proper consideration, it may also pose significant integrity issues as the cap is attached to land value. Importantly, the cap will significantly impact on regional landholders who engage in the scheme through an agreement on their land. We will continue to work with the country mayors by identifying key projects and assisting them with their biodiversity assessment process and credit sourcing. We are concerned that there are often uncertainties in the assessment process, which has been deterring proponents as a result of overblown offset cost estimates. We want to provide support to country mayors and local government so that they can work with our department on some of those issues to ensure that projects are not being knocked out by offset costs that are simply not true and unlikely to be realised. We want to continue to identify ways the scheme can acknowledge legitimate revegetation and landscape rehydration efforts.

The bill introduces flexibility for regional development that currently is not there. The bill as a whole is seeking to address that issue by lifting the application of the scheme for some local development and by introducing a new exemptions power for the Minister to stop the scheme applying for local development in certain circumstances. The Government does not support the amendment but agrees that there has been a problem with this. The Government will continue to work through it with local councils as we get a workable system that works all across the State.

Ms SUE HIGGINSON (16:59): The Greens do not support the amendment. The reality is that this is about biodiversity conservation, front and foremost. That is actually what it is about. I cannot believe I am saying this, but this is the reality. It is about creating a market based on the destruction and then, hopefully, the protection of biodiversity. This is not about people's land values, or how this is so hard for people, or how this is so hard for the bottom line of people who may want to profit from land deals or from development. That is just not what this is about. There is so much embedded in the system right now—favouring and facilitating—that it is the pathway forward. If projects are refused because the cost of doing those projects is too high, then the fact and the reality is the system is working because, clearly, the development should not be able to destroy the biodiversity that is unavailable to trade elsewhere because the cost is too high. That is actually the way it is.

To try to pervert the market through these economic constructs is just not right. We do not get to do that in any other economic market. We do not get to do it in any other market, so why do we think that we can just do that on the blood of the biodiversity of this country? Enough is enough. We have to call that out for what it is. I totally understand why the member has brought this to the Committee. It is because that is the view of some constituents out there in the community. I understand that view, but it has got to change. It absolutely has to change. We have to stop thinking, "It is all too expensive to care for the environment and destroy it at the same time." We have to start speaking the economic truth and reality of biodiversity loss.

Right now it is costing us millions and millions of dollars in losses, and guess what? The accumulation of those millions grows every year. That financial burden will rest on the future generations. It will not just be able to be compensated by money alone. We are talking about the very things that indicate whether we can go forward as a healthy society in a healthy environment where our children have a chance.

The CHAIR (The Hon. Rod Roberts): The Hon. Sarah Mitchell has moved Opposition amendment No. 21 on sheet c2024-226D. The question is that the amendment be agreed to.

The Committee divided.

Ayes11

Noes20

Majority.....9

AYES

Barrett
Carter
Fang (teller)
Farlow

Franklin
MacDonald
Maclaren-Jones
Merton

Mitchell
Munro
Rath (teller)

NOES

Boyd
Buckingham
Buttigieg
Cohn
D'Adam
Donnelly

Graham
Higginson
Houssos
Hurst
Jackson
Kaine

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

Faehrmann

Lawrence

NOES

PAIRS

Farraway

Mookhey

Amendment negated.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:09): I move Government amendment No. 4 on sheet c2024-198D:

No. 4 Delivery costs of BCF offset credits

Page 12, Schedule 1[34], lines 9 and 10. Omit all words on the lines. Insert instead—

offsets in relation to the BCF offset biodiversity credit.

Again, this amendment is not controversial. It is a correction to a drafting error in the definition of "delivery costs" on page 12 of the bill. A part of the price that a proponent pays into the Biodiversity Conversation Fund covers the risk that the cost of credits fluctuates and may change between when the money goes into the fund and when the Biodiversity Conservation Trust [BCT] buys the credits. The current drafting means that the risk management costs could not be pooled for the BCT overall credit trading, but that was not the intention. Clarifying that the risk management costs can be pooled will put the BCT in the strongest position to secure the best available offsets. That is, if some credits are secured for lower prices, the leftover money can be put towards securing other credit obligations that have higher costs.

The Hon. SCOTT FARLOW (17:10): We are on a unity ticket when it comes to drafting errors, and we support the amendment.

Ms SUE HIGGINSON (17:10): The Greens absolutely support the fixing up of drafting errors around the definition of the BCT pooling funds.

The CHAIR (The Hon. Rod Roberts): The Hon. Penny Sharpe has moved Government amendment No. 4 on sheet c2024-198D. The question is that the amendment be agreed to.

Amendment agreed to.

Ms SUE HIGGINSON (17:11): By leave: I move The Greens amendments Nos 13 and 14 on sheet c2024-182J in globo:

No. 13 Exemptions of particular developments from scheme

Page 12, Schedule 1[37] and [38], lines 28–36. Omit all words on the lines.

No. 14 Natural disasters

Page 13, Schedule 1[41], proposed section 7.7(3)(a), line 17. Omit "disaster,". Insert instead—

disaster in relation to which a Natural Disaster Declaration has been made for the purposes of the Natural Disaster Relief and Recovery Arrangements jointly administered by the Commonwealth and the States and Territories,

These amendments will omit the exemption that the bill provides to certain developments and create a clearer definition of natural disasters so that there is a clear standard that must be applied before the Minister can approve activities without applying the biodiversity protection system. At the moment—

The Hon. Sarah Mitchell: Point of order: It is really noisy.

The CHAIR (The Hon. Rod Roberts): Members will keep the noise down so we can hear Ms Sue Higginson and get through the debate as quickly as we can.

Ms SUE HIGGINSON: At the moment the definition of natural disaster is large. It is a very broad notion under the Act, and we do not really know what it means.

The Hon. Jeremy Buckingham: The Hon. Wes Fang.

Ms SUE HIGGINSON: I hear the interjection that the Hon. Wes Fang is a natural disaster. We are not allowed to say that, apparently.

The Hon. Wes Fang: Point of order: It is already almost 5.10 p.m. on Thursday. If the Hon. Jeremy Buckingham and Ms Sue Higginson want to continue to play childish games and put childish entries into *Hansard*, then we will have a very long night. I suggest that both of them should withdraw their comments and apologise.

Ms SUE HIGGINSON: To the point of order: I am very happy to withdraw my comment, but I ask that the Hon. Wes Fang stop calling the kettle black.

The CHAIR (The Hon. Rod Roberts): I ask the Hon. Jeremy Buckingham to withdraw his last comment, in the interest of harmony.

The Hon. Jeremy Buckingham: Yes, I am happy to withdraw it.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson is right that the coin has two sides. We may well be in for a long evening, and everybody knows I have little patience. If members start playing up, I will have no hesitation in calling them to order so we can get through the evening. Members should bear that in mind.

Ms SUE HIGGINSON: The amendments are about the definition of "natural disaster", and right now the definition in the bill is very broad. All the amendments seek to do is to make that definition more realistic so that it is in accordance with other definitions of "natural disaster" that are used in New South Wales, because the bill gives the unfettered capacity to destroy biodiversity based on the current definition. When we pass laws, it is important that we do it clearly and in a restrained manner, so that the excesses of power in the legislation are restrained.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:15): The Government does not support the amendment because it removes the ability of the Government to better balance the regulatory burden that is placed on low-risk local development. It is about the small end of town, where the regulatory burden of assessing whether the scheme applies often outweighs the biodiversity risk. The Government's position is that the regulatory burden should be reduced where appropriate. The proposed amendment also restricts the natural disaster exemption powers to only declared natural disasters. We believe that is too restrictive and we do not support the amendments.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 13 and 14 on sheet c2024-182J. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes6
 Noes24
 Majority.....18

AYES

Boyd (teller)
 Buckingham

Cohn
 Faehrmann

Higginson (teller)
 Hurst

NOES

Barrett
 Buttigieg
 Carter
 D'Adam
 Donnelly
 Fang
 Farlow
 Franklin

Graham
 Houssos
 Jackson
 Kaine
 MacDonald
 Maclaren-Jones
 Merton
 Mitchell

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

Amendments negatived.

Ms SUE HIGGINSON (17:18): By leave: I move The Greens amendments Nos 15 to 19 on sheet c2024-182J in globo:

No. 15 **Biodiversity development assessment reports for Part 5 activities**

Page 13, Schedule 1. Insert after line 26—

[41A] Section 7.8 Biodiversity assessment for Part 5 activity

Omit section 7.8(3). Insert instead—

- (3) If, under subsection (2), the activity subject of the environmental assessment is to be regarded as an activity likely to significantly affect the environment, the environmental impact statement under the *Environmental Planning and Assessment Act 1979*, Part 5 must include or be accompanied by a biodiversity development assessment report.

No. 16 Requirement to retire biodiversity credits specified in biodiversity assessment reports

Pages 15 and 16, Schedule 1[49], proposed section 7.14(3A)–(3H), line 17 on page 15 to line 26 on page 16. Omit all words on the lines. Insert instead—

- (3A) If the relevant authority is satisfied that it is justified in the circumstances, the relevant authority may increase the number of biodiversity credits of one or more classes that would otherwise be required to be retired under subsection (3), provided the relevant authority does not reduce the number of any other class of biodiversity credits that would otherwise be required to be retired under subsection (3).

No. 17 Biodiversity development assessment reports for Part 5 activities

Page 16, Schedule 1. Insert after line 31—

[50A] Section 7.15 Part 5 activity

Omit "elected under Division 2 to obtain" from section 7.15(1).

Insert instead "obtained".

No. 18 Requirement to retire biodiversity credits specified in biodiversity assessment reports

Page 16, Schedule 1[51], proposed section 7.15(3), lines 37–40. Omit all words on the lines. Insert instead—

approval to carry out the activity, must require the applicant to retire biodiversity credits to offset the residual impact on biodiversity values of the number and class specified in the biodiversity development assessment report.

No. 19 Requirement to retire biodiversity credits specified in biodiversity assessment reports

Pages 17 and 18, Schedule 1[55], proposed section 7.17(2)(e), line 47 on page 17 to line 6 on page 18. Omit all words on the lines. Insert instead—

application—section 7.14(3A) applies as if—

- (i) a further assessment report was required to be submitted with the application for modification, and
- (ii) the relevant authority is proposing to impose a condition to increase the number of biodiversity credits of one or more classes that would otherwise be required to be retired under the original approval or consent,

The amendments aim to bring projects from part 5 of the Environmental Planning and Assessment Act into the Biodiversity Offsets Scheme because those projects are not necessarily included in the scheme at the moment. Part 5 of the Act almost operates like an opt-in, opt-out, self-governing scheme. If you opt into the scheme, it is even possible to get discounts on the credits required because it does not apply equitably to part 5 as it does to the other parts of the Environmental Planning and Assessment Act. In so many ways, it is quite absurd that the Biodiversity Offsets Scheme does not apply to part 5 in the same way that it applies in others, as it should.

It is time to properly integrate part 5 projects into the way the Biodiversity Offsets Scheme is applied. I strongly expect that will happen one day, as it should—and the Government may already be considering that in its plan going forward—but the reality is that part 5 projects already impact the environment. If we are going to have a biodiversity offsets scheme, which is a system designed to destroy biodiversity and hopefully compensate for it elsewhere, it will not have a meaningful effect if it is not applied consistently throughout the State. It is not possible for the Biodiversity Offsets Scheme to protect biodiversity at the landscape, species and project scale if it is not applied to serious projects that may have a significant impact on the environment, including threatened species. Not only should the scheme apply equally to part 5, it is absurd that it does not.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:21): The Government does not support the amendments. The intention of the amendments is for part 5 (a) government projects to be considered under the Biodiversity Offsets Scheme, which applies to national parks, roads, transport and local government projects that are significant enough to trigger the offsets scheme but not classified as State significant development or infrastructure. For such government projects, the process of evaluating an offset pathway is self-determined. If the Government expects the private sector to abide by biodiversity rules, we should do the same. We agree with that part of the amendments. The Government will not accept the amendments. It will instead examine how part 5 (a) projects are considered under the scheme in future.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 15 to 19 on sheet c2024-182J. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes6
Noes24
Majority.....18

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin

Graham
Houssos
Jackson
Kaine
MacDonald
Maclaren-Jones
Merton
Mitchell

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

Amendments negatived.

Ms SUE HIGGINSON (17:25): I move The Greens amendment No. 20 on sheet c2024-182J:

No. 20 **Proposed State significant development or infrastructure that has serious or irreversible impacts on biodiversity values**

Page 17, Schedule 1. Insert after line 11—

[54A] Section 7.16(3)(c)

Omit "granted." from section 7.16(3)(b). Insert instead—

granted, and

- (c) may only grant consent or approval if satisfied that there are exceptional circumstances that warrant the consent or approval because the development or infrastructure will deliver overwhelming public benefit.

The amendment relates to State significant development and infrastructure that have serious and irreversible impacts. The amendment means that consent could only be granted to State significant development or infrastructure that have serious and irreversible impacts in exceptional circumstances when there is an overwhelming public benefit. Therein lies the rub: Members in the Chamber are not even willing to draw the clearest, simplest and most obvious line to provide a safety net against the destruction of biodiversity in New South Wales. The amendment means that consent could only be granted—that is, consent can be granted—for State significant development and infrastructure that have serious and irreversible impacts. Therefore, we can grant consent but only in exceptional circumstances.

I plead with all members to support this sensible amendment. It is not saying that the Government or Independent Planning Commission cannot do it. It is saying that, when there will be serious and irreversible impacts on biodiversity, like critically endangered species on the brink of extinction, they can only be destroyed that bit further in exceptional circumstances when there is an overwhelming public benefit. That is all the amendment means. Members who do not vote to support the amendment are responsible for driving the extinction crisis. That is how the situation plays out. This is a chance for members to set that simple high threshold: exceptional circumstances and when there is an overwhelming public benefit.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:28): Ms Sue Higginson is very sincere about the amendment but will be disappointed that the Government is not supporting it. The amendment aims to allow only State significant projects with serious or irreversible impacts if the project delivers an overwhelming public benefit. While we cannot accept the amendment, I understand why it has been moved. I acknowledge concerns from many

stakeholders that the concept of serious and irreversible impacts is not being applied in a way that gives confidence to communities or industry. That needs more work. Under the current rules, State significant development can proceed if it has serious and irreversible impacts on species and ecosystems, but local development cannot proceed.

Several court cases have disputed local development with serious and irreversible impacts. Its application of requirements for State significant projects is equally contested. The Government needs to thoroughly consider the concept of serious and irreversible impacts in terms of whether it is meeting its intent and whether further reform is required. The Government has flagged that will be considered in the next tranche of work under the NSW Plan for Nature. The proposed amendment will not resolve the problem. However, the Government understands that there is a problem and that more work needs to be done. But that work will not be done through this amendment.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 20 on sheet c2024-182J. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes6

Noes23

Majority.....17

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Graham

Houssos
Jackson
Kaine
MacDonald
Maclaren-Jones
Merton
Mitchell
Moriarty

Munro
Murphy
Nanva (teller)
Primrose
Rath (teller)
Sharpe
Suvaal

Amendment negatived.

The Hon. JEREMY BUCKINGHAM (17:32): I move Legalise Cannabis Party amendment No. 1 on sheet c2024-205G:

No. 1 Register of conditions of planning approvals and vegetation clearing approvals

Page 19, schedule 1 [61], proposed section 9.7 (1) (h1), line 24. Omit "conditions,". Insert instead—

conditions, including the following details—

- (i) whether the conditions have been met, including the number and class of biodiversity credits yet to be retired, and
- (ii) if the conditions have been met—when and how the conditions were met, including the following details—
 - (A) the number of each credit type retired on a like-for-like basis,
 - (B) any variations applied for,
 - (C) the biodiversity stewardship agreements that created the credits,
 - (D) how any other conservation measures were implemented,

The amendment inserts a measure into the bill to introduce end-to-end reporting for biodiversity credits in the register. New sections 9.7 and 9.11 establish a new public register to keep track of commitments made by proponents to avoid and minimise impacts on biodiversity, track offset obligations imposed for projects under the scheme and decisions made to approve serious and irreversible impacts, and track the decisions made to exempt certain developments from the scheme. The Minister has advised that the Government will invest in the digital

systems underpinning the scheme so that the registers are reliable and accessible to the public. Those provisions will improve transparency and increase accountability for biodiversity impact assessors, and the amendment is a further improvement.

In the Portfolio Committee No. 7 - Planning and Environment inquiry into the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024, submissions from the Humane Society International, the Nature Conservation Council of NSW, the NSW Wildlife Information, Rescue and Education Service—or WIRES—and others welcomed the positive moves contained in the bill, including new registers that support accountability and transparency.

The scope of public registers would be enhanced by the amendment proposed by the Legalise Cannabis Party by detailing the number and class of biodiversity credits yet to be retired and, if the conditions have been met, how they were met—including the number of each credit type retired on a like-for-like basis, any variations applied for, the biodiversity stewardship agreements that created the credits, and how any other conservation measures were implemented. Those excellent transparency measures underpin the bill. The information contained in the registers should not be used to simply track extinction but to update settings in the Biodiversity Offsets Scheme. I commend the amendment to the Committee.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:35): The Government supports the amendment. Anyone who has paid attention to anything to do with offsets over the past few years would know that the transparency and accountability of the program have been at the heart of many people's concerns about how it works. It is a complicated market and a complicated scheme. The Government supports anything that provides clarity about what is going on, how the scheme is being managed and how credits are being retired.

Ms SUE HIGGINSON (17:35): The Greens support the introduction of registers that provide end-to-end reporting for biodiversity credits. It is clear that one of the salient findings of the reports that have been tabled that criticise and critique the offsets system is that we are not monitoring it properly. We do not see the full scope. There may well be people sitting somewhere in an office in the Biodiversity Conservation Trust who think they have oversight, but the whole system relies on accountability, and we will only have accountability when there is transparency. We will only get transparency when there is a button we can push in order to see the data. We need clear registers and reporting systems in place. That goes to the heart of integrity.

Earlier, I mentioned the internationally accepted principles that underpin biodiversity offsets systems. One of those principles relates to governance systems. The governance system that is required for any biodiversity offsets system is one of integrity. There must be accountability, transparency and monitoring, or the entire system fails. The Hon. Jeremy Buckingham should be commended for moving this amendment. I recognise that organisations outside Parliament have worked very hard on this fundamental aspect of the legislation. The minute we start to do this properly, we will start to see improvements. We will also see more criticism coming from the people who watch and care about the biodiversity offsets system. The more they can see, the more they can hold the Government to account.

The CHAIR (The Hon. Rod Roberts): The Hon. Jeremy Buckingham has moved Legalise Cannabis Party amendment No. 1 on sheet c2024-205G. The question is that the amendment be agreed to.

Amendment agreed to.

Ms SUE HIGGINSON (17:38): I move The Greens amendment No. 5 on sheet c2024-185F:

No. 5 Requirement to publish maps

Page 20, schedule 1. Insert after line 14—

[63A] Part 9, Division 3

Insert after Division 2—

Division 3 Maps

9.12 Maps

- (1) The Minister must arrange for maps to be made that identify the following areas—
 - (a) the habitat of a threatened species or threatened ecological community,
 - (b) a declared area of outstanding biodiversity value,
 - (c) an area in which particular action or development was not approved or carried out because of the impact of the action or development on biodiversity values.

Note—See also section 5.2, which requires the Minister to map existing public and private biodiversity protected areas.

- (2) The maps must be made available on a government website maintained by the Environment Agency Head.
- (3) The maps are indicative only.
- (4) The Minister may decide not to identify an area required to be identified under subsection (1) if the Minister considers that identifying the area on a map may increase the risk of damage to a threatened species, a threatened ecological community or the area.
- (5) Sections 9.9 and 9.10 apply to a map under this section in the same way as the sections apply to a public register under Division 2.

The amendment requires that maps with certain information be produced and published by the Minister. The Greens understand the criticism of maps as regulatory tools, especially in contested or changing systems like biodiversity. However, maps should be the gateway for proponents of developments and advocates for the environment. Maps are awesome, and we love maps. That is a fact. Daniel Reid in my office is an absolute map nerd, and everything has to involve looking at and referencing the maps. If anybody walks into my office holding a map, they become an instant superstar. The maps we are proposing through this amendment would be indicative maps only. We are not talking about regulatory maps; we are talking about maps that give a clear indication of the habitat of threatened species or threatened ecological communities, declared areas of outstanding biodiversity value, and areas in which particular action or development was not approved or carried out because of the impact of the action or development on biodiversity values.

The reality is that the maps we are proposing could act as powerful tools for public access to and sourcing of information at a preliminary stage of development, and they could deter development applications from commencing where there is a clear indication that development is not appropriate for the biodiversity reasons outlined in the amendment. We are all moving towards the idea of single sources of truth about what is in the environment and its complexity, which is what we are proposing with these public maps. We all know that power lies in knowledge of our lands, and that power is used for good when everybody has the same access to a public resource that helps them understand the idea of advocating to protect the environment and that they can access to learn more and to value biodiversity in New South Wales.

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:41): The Government does not support this amendment. The amendment introduces a requirement for mapping, and it says that the maps would be indicative only. The amendment requires mapping of all threatened species and threatened ecological communities, all avoidance areas and all developments that have been rejected on the basis of biodiversity impacts. The Government cannot support this amendment as it would require substantial resources and would double up on existing maps. In a pure world where everyone is in agreement, maps would be an easy way to solve our conflicts. I have found them to be one of the most highly contentious matters that we deal with when it comes to how a map is done and the way in which it is applied. It is not straightforward, although I know this is of good intent.

Daniel Reid will be happy to know that the Government has committed to developing a high conservation value map that will begin with the mapping of the most important ecosystems first and will expand from there. It will also map ecosystems as part of a shift towards considering ecosystem function and health more holistically rather than species by species. I understand the intention of the amendment, but the Government is not in a position to support it. The Government loves maps, but I do not think anyone should pretend they are never contentious.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendment No. 5 on sheet c2024-185F. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes5
Noes24
Majority.....19

AYES

Boyd (teller)
Buckingham

Cohn
Higginson (teller)

Hurst

NOES

Barrett

Graham

Moriarty

NOES

Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin

Houssos
Jackson
Kaine
MacDonald
Maclaren-Jones
Merton
Mitchell

Munro
Murphy
Nanva (teller)
Primrose
Rath (teller)
Sharpe
Suvaal

Amendment negatived.

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

Motion agreed to.

The Hon. PENNY SHARPE: I move:

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

Moton agreed to.

Adoption of Report

The Hon. PENNY SHARPE: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (17:47): I move:

That this bill be now read a third time.

Ms SUE HIGGINSON (17:47): I indicate that The Greens cannot support the Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024 in its current form. We understand that the bill is much better as a result of the amendments agreed to through the Committee of the Whole, but The Greens cannot support the bill without all of the amendments that we put forward. We understand that the Government did not want to agree to those amendments and the reasons why. But in terms of our obligations to the biodiversity of New South Wales, we should have done better. For that reason, The Greens cannot support the bill.

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

Leave granted.

The House divided.

Ayes24

Noes5

Majority.....19

AYES

Barrett
Buckingham
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow

Graham
Houssos
Jackson
Kaine
MacDonald
Maclaren-Jones
Merton
Mitchell

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

NOES

Boyd
Cohn

Faehrmann (teller)
Higginson (teller)

Hurst

Motion agreed to.**ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (STATE SIGNIFICANT DEVELOPMENT) BILL 2024****Second Reading Speech**

The Hon. MARK BUTTIGIEG (17:52): On behalf of the Hon. Penny Sharpe: I move:

That this bill be now read a second time.

I introduce the Environmental Planning and Assessment Amendment (State Significant Development) Bill 2024, which makes necessary and urgent amendments to support the efficient and orderly assessment and progression of essential development and infrastructure in New South Wales. This bill responds to a recent decision of the New South Wales Court of Appeal in the case of *Bingman Catchment Landcare Group Incorporated v Bowdens Silver Pty Ltd* [2024] NSWCA 205. To be clear, this bill does not seek to overturn that decision.

However, this decision has impacted longstanding planning practices and will likely cause delays. It has caused uncertainty in the assessment and determination of applications for State significant development [SSD] in the planning system. This bill will remove the uncertainty that now exists and restore the certainty that should exist, by clearly clarifying the extent of assessment for SSD applications and reinstating the general approach taken prior to the New South Wales Court of Appeal decision in the Bowdens case.

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

Leave granted.

In the case of Bowdens, on 22 July 2024, the NSW Court of Appeal held that the Independent Planning Commission [IPC], as the consent authority, should have considered the likely impacts of a transmission line because it was "integral" and had a "real and sufficient link" with the development of an open cut silver mine and, therefore, formed part of the "single proposed development" within the meaning of section 4.38(4) of the Environmental Planning and Assessment Act 1979.

The NSW Court of Appeal decision meant that the transmission line could not be assessed under an alternative planning pathway that was available.

The precedent established in the Court of Appeal's Bowdens case affects both current SSD applications awaiting determination and those applications which have already been determined.

I emphasise to the House that the significance of this decision cannot be understated and the primary reason why this bill is necessary.

In the absence of legislative amendment, up to 60 applications currently under SSD assessment and which are critical to the State may be at risk of significant delay or worse.

For the benefit of the House, I note that offsite enabling infrastructure can include, among other things, electrical transmission lines, road and intersection upgrades, water supply works, worker accommodation and public domain works.

These types of infrastructure are typically necessary to support the proper operation of many proposed SSDs and are often carried out by public authorities, including schools, hospitals, housing, energy and other projects.

Before the decision of the NSW Court of Appeal in the Bowdens case, it was general practice for offsite enabling infrastructure to be assessed under an appropriate alternative planning pathway, including, for example, as development without consent or, as complying or exempt development.

It was also the case that offsite enabling infrastructure could be the subject of a subsequent approval process, whereby its impacts were assessed in more detail, when the precise location and proper information about the development is known.

This practice was beneficial because it enabled SSD applications to be more efficiently assessed, even where the details of the offsite enabling infrastructure were still uncertain.

However, as a consequence of the decision of the NSW Court of Appeal in the Bowdens case, offsite enabling infrastructure may need to be assessed as part of the proposed SSD application and not via an alternative planning pathway that would otherwise be available.

This approach presents many practical difficulties, particularly in circumstances where the precise details of the offsite enabling infrastructure required to support a particular development are not known at the time the SSD application is made.

The impracticalities of this approach are apparent when considering a hospital or school where a traffic intersection upgrade is necessary to enable the hospital or school to operate, and the full details of the road intersection may not be known at the time the SSD application is being assessed.

It is not practical to undertake a robust assessment of those works when details about the nature, size, location and other critical elements of the offsite enabling infrastructure are still being determined.

It may also be impractical to assess works which are geographically remote or being delivered by a third party.

This bill will seek to restore them to provide greater clarity to all applicants and consent authorities.

More importantly the NSW Court of Appeal did not provide any **clear** guidance as to when offsite enabling infrastructure may be considered "integral" to the operation of a particular SSD - making the precedent established by this case difficult for those assessing proposals to apply in practice with certainty.

To make sure there is absolute clarity, my remarks in the context of this bill should not be perceived, in any way, as a criticism of the Court of Appeal's decision.

Rather it is just a reflection on what the practical and impractical impact of the decision now imposes on the planning system, and requires this Parliament to resolve.

As a consequence, of the Court of Appeal decision each SSD project involving offsite enabling infrastructure will need to be considered on a case-by-case basis.

I am sure the House will appreciate, the time, effort and expense - especially for the taxpayer, as public authorities are responsible for delivering much of offsite enabling infrastructure - required to consider how "integral" offsite enabling infrastructure is to a proposed SSD on a case-by-case basis will cause significant uncertainty and delays in the assessment and determination of SSD applications.

This will undermine the Government's key objectives and efforts to cut development timeframes and improve the delivery of important infrastructure across the State.

As I mentioned earlier there are up to 60 SSD applications that are currently under assessment, and a further 21 SSD projects, which have already been determined, that may be affected by the decision of the NSW Court of Appeal in the Bowdens case.

It is important to strongly emphasise what is at stake here.

SSD involves development that is critically important to New South Wales for economic, environmental or social reasons. SSD is a long-standing planning pathway within the planning system.

It can and does include, new education facilities, hospital and correctional centres, manufacturing facilities, mining and extraction operations, waste management facilities, and energy generating facilities.

The risk of delay or legal challenge to delivery or operation of SSD projects is therefore substantial and one which cannot be overlooked by the Parliament.

Many of those applications seek approval to carry out development involving renewable energy facilities and large-scale housing projects – projects necessary to confront the housing crisis and achieve our shared and legislated target of net zero emissions.

A delay in the assessment and determination arising from the uncertainty caused by the NSW Court of Appeal decision in the Bowdens case also now potentially affects the construction of these projects and is an undesirable outcome for the State at a time where this Government has been working to increase certainty, reduce uncertainty in assessment timeframes, and improve State significant development outcomes in the planning system.

Perhaps more importantly it should be noted that uncertainty and delays in the assessment and determination of these applications risks future investment in critical development across the State.

I am advised that the applications that are under SSD assessment which may be affected by the decision in the Bowdens case could amount to approximately \$50 billion worth of direct investment.

This is an enormous investment sum by any measure – not to mention the number of homes and jobs created, directly and indirectly from this investment.

It is important that the Government and this Parliament provide proponents of SSD and the public authorities undertaking essential public infrastructure with certainty to facilitate the delivery of critical development in New South Wales without unnecessary delay.

I want to make it clear to the House that there is also a risk to recent SSD applications that have already been determined, on the basis that the offsite enabling infrastructure will be assessed via alternative planning pathway under the EP&A Act, rather than as part of the "single proposed development" that is SSD.

Those consents arising from a determination of those applications may be at risk of legal challenge, thereby jeopardising the future construction and/or operation of those developments and the offsite enabling infrastructure.

The bill's validation provision is intended to protect and validate any SSD consents and offsite enabling infrastructure, which have not been challenged on the basis of the NSW Court of Appeal decision in Bowdens, before the commencement of this bill, if made.

As I have explained this bill seeks to address the issues arising from the decision of the NSW Court of Appeal in the Bowdens case, and thereby restores confidence in the processes related to the assessment and determination of all SSD applications.

I now turn to the provisions of the bill.

Schedule 1, item [1] to the bill provides that the Secretary of the Department of Planning, Housing and Infrastructure may determine that particular development does or does not form part of a single proposed SSD for the purposes of certain development consent requirements.

At a high level, this means that the "single proposed development" will be determined based on the particulars included in the development application for SSD, subject to any determination made by the Planning Secretary.

In other words the amendments proposed at schedule 1, item [1] allow the Planning Secretary to clarify by exception, when offsite enabling infrastructure is "integral" or has "a real or sufficient link" to the operation of a proposed development such that it should form part of the "single proposed development" within the meaning of section 4.38(4) of the EP&A Act.

Schedule 1, item [1] also provides that where the Planning Secretary has determined that a particular development does not form part of a "single proposed development" within the meaning of section 4.38(4) of the EP&A Act, section 4.38(4) of the EP&A Act does not apply with respect to that development.

This means that the development can be assessed via an appropriate alternative pathway, including, for example, as development without consent, or as exempt or complying development.

Equally, where necessary or appropriate, the development may be assessed via a separate development application in accordance with part 4 of the EP&A Act.

I emphasise to the House that this amendment is necessary to allow such development to be assessed via an alternative pathway, thereby reducing timeframes related to the assessment and determination of the development the subject of the SSD application.

Schedule 1, item [1] also provides that regulations be made to provide for one or more of the following:

The form and way in which a determination of the Planning Secretary must be made, thereby ensuring transparency and accountability in the decision-making process and reassuring stakeholders that the power to make a determination will be exercised in a consistent and appropriate manner.

The procedure for making a determination, including requirements for consultation, thereby ensuring that a determination is made having regard to the interests of all affected parties, not just the proponents of SSD,

The circumstances in which the Planning Secretary may make a determination, including for example, when a determination is to be made, and whether more than one determination can be made with respect to a particular development.

The regulation making power is vital to make sure that the process of making determination is clear and transparent.

Schedule 1, item [2] validates SSD consents and offsite enabling infrastructure granted before the commencement of the bill, in relation to the operation of the Act, section 4.38(4).

A validation provision of this kind is necessary to provide certainty for development consents that were granted before the commencement of the amending Act and makes sure they can be validated.

The bill aims to reinstate the approach taken prior to the decision of the NSW Court of Appeal in the Bowdens case.

It also aims to protect past development consents from legal challenge on administrative law grounds.

Importantly, I want to reassure the House that the proposed amendments do not mean that the likely impacts of offsite enabling infrastructure do not need to be considered during the assessment and determination of an application for SSD.

Consideration of the likely impacts of offsite enabling infrastructure will still be required where appropriate, having regard to the requirements in section 4.15 of the EP&A Act.

In particular, there will still be a requirement under section 4.15 (1)(b) of the EP&A Act, for the consent authority to consider the likely impacts of offsite enabling infrastructure when assessing and determining an application for SSD.

This process is consistent with existing case law and guidance material published by the Department of Planning, Housing and Infrastructure.

I reinforce my earlier remarks about the need to address the implications of the Court of Appeals decision in the Bowdens case on an **urgent basis**.

As I am sure the House can by now appreciate, without an immediate legislative response:

- SSD applications may take longer to be assessed and the uncertainty and associated legal risk established by the precedent in the Court's Bowdens case affects determination of these proposals,
- planning pathways such as exempt or complying development, or part 5, division 5.1 that would otherwise have been considered appropriate for offsite enabling infrastructure may no longer be available, and
- there will be a strategic risk to the efficient functioning of the New South Wales planning system and the orderly progression of essential development, including, amongst other things, development involving infrastructure, energy generation and housing.

The planning system is vital in helping to design and create thriving communities, towns and cities for the people of New South Wales and determine the use of land.

It helps to deliver the housing, renewable energy, economic and social infrastructure projects, as well as the private sector projects we need, in a way that is both practical, timely, sustainable and viable.

The efficient operation of the planning system is of the highest importance to the Government - particularly in relation to significant development projects across the State.

The amendments proposed by the bill are proportionate and balanced in addressing the legal uncertainty posed by the Court of Appeal's decision.

The amendments will restore much needed certainty to make sure the planning system can continue to work as effectively as possible delivering the infrastructure we need for over 60 SSD projects worth around \$50 billion in direct investment.

These SSD projects include renewable energy, health, education, data centres, warehouse and distribution centres, mining and minerals, housing and mixed-use developments.

These SSD projects are crucial to New South Wales, and it is vitally important that this bill passes the Parliament as soon as possible.

I commend this bill to the House.

Second Reading Debate

The Hon. SCOTT FARLOW (17:54): I speak in support of the Environmental Planning and Assessment Amendment (State Significant Development) Bill 2024 on behalf of the Coalition. This bill responds to recent legal developments which have cast significant uncertainty over how major projects are assessed and approved in New South Wales. By addressing the implications of the *Bingman Catchment Landcare Group Incorporated v Bowdens Silver Pty Ltd* case, this bill restores clarity and efficiency to the State significant development [SSD] pathway. It ensures that vital projects can proceed with confidence while maintaining robust environmental and planning standards.

State significant development projects include large-scale infrastructure, critical public services and major industrial undertakings that are essential to the economic and social fabric of the State. Examples range from renewable energy projects and mining operations to new hospitals, schools, data centres and, of course, housing. The SSD pathway is an important part of the planning framework of New South Wales. It is designed to expedite approvals for projects that are of critical importance due to their size, complexity or economic value. By providing a clear, legislatively-supported mechanism for determining the scope of SSDs, this bill upholds the original intent of the pathway, which is to ensure that major projects can be assessed and approved efficiently.

However, recent developments in the judiciary have created a significant roadblock. The decision in the *Bowdens Silver Pty Ltd* case has altered longstanding planning practise by requiring the inclusion of all associated offsite infrastructure as part of a "single proposed development" for State significant development applications. This decision has far-reaching implications. It adds new layers of complexity and risk to the State significant development assessment process.

I seek leave to have the balance of my remarks incorporated in *Hansard*.

Leave granted.

The bill amends section 4.38 of the Environmental Planning and Assessment Act 1979 to allow the planning secretary to determine what constitutes a "single proposed development" for SSD applications. By enabling the secretary to decide which components of a project form part of a single SSD, this bill provides clarity and flexibility, allowing separate assessment pathways for distinct project elements where appropriate. This approach maintains rigorous environmental assessment standards while reducing unnecessary duplication and delays.

The bill also validates SSD consents granted prior to the commencement of this legislation, ensuring that projects currently in the pipeline are not subject to protracted legal battles or retrospective assessments.

The court's interpretation of what constitutes a "single proposed development" has resulted in ambiguity and uncertainty, which this legislation seeks to address by clarifying the intent and application of section 4.38 of the Act. This amendment is necessary to provide certainty for future SSD applications and to validate previous consents that may now be called into question due to the ruling.

Prior to this ruling, it was common practice for offsite enabling infrastructure [OEI], such as power lines, access roads, or water supply systems, to be assessed under separate planning pathways (including, for example, as development without consent or as complying or exempt development).

The *Bowdens* decision, however, requires that all such components be included in a single SSD application if they are considered integral to the project. We have learnt that this decision was surprising to the department as it has significantly changed decades of previous practice.

This approach allowed major projects to move forward through SSD while separate approvals for OEI were handled by other planning pathways. The *Bowdens* decision disrupted this practice, creating uncertainty as to which pathway was appropriate and increasing the legal risk for developers.

The Court of Appeal decision requires the transmission line to be assessed as SSD as part of the broader application, rather than under division 5.1 of the EP&A Act.

Because the judgement in *Bowdens* did not provide any guidance as to when OEI may be considered "integral" or when it has a "real or sufficient link" to the operation of a particular SSD, there is a concerning lack of certainty for industry. Where an explanation is lacking is in "why" the common practice of OEI being assessed separately is no longer allowed. This gives rise to a requirement for a legislative solution to ensure certainty and not upend crucial projects to the economy of our State.

Several organisations in New South Wales have sophisticated arrangements for off -site enabling infrastructure to support major developments, including Transport for NSW and a number of utility companies. These pathways have been successful and should be maintained.

An implication of the judgement is where the precise details of OEI are not known, it is unclear to what extent (if any) the likely impacts of the OEI must be assessed as part of the "single proposed development" within the meaning of section 4.38(4) of the EP&A Act.

As a result of the judgement, the now required assessments for SSD projects will be more time-consuming, upending the intention of the SSD pathway to provide quicker decisions for major projects, increasing the legal risk of new and existing SSD projects and will have a major economic impact and risk future investment.

I note, with great importance, there still exists the requirements under section 4.15 of the EP&A Act for the consent authority to consider the likely impacts of offsite enabling infrastructure. Consent authorities still need to consider the impacts in their assessments. We do not envisage a reduction in the impact assessment of OEI because of the important provisions in section 4.15.

This ruling has significant implications for numerous other SSD projects across the State, potentially impacting projects worth over \$50 billion in direct investment. The Opposition have been advised that every time the department tallies up the impact—they find more impacted projects, so the real figure is likely higher.

The Coalition supports the use of the SW pathway as a means of facilitating large-scale developments and reducing pressure on local councils. With local planning authorities already stretched thin in managing standard development applications, it is crucial that we maintain a separate and robust process for SSDs. This bill ensures that we can continue to leverage the SSD pathway to support growth while preserving local councils' capacity to focus on other local developments.

We must maintain and strengthen confidence in our planning system, particularly as New South Wales suffers through a housing crisis. Developers need certainty, not only about what is required of them but also about the timelines and outcomes of their applications.

It provides a mechanism to fast-track critical projects, cutting through unnecessary red tape while ensuring proper environmental and community safeguards. These developments often bring jobs, investment, and essential services to our regions and cities. It is our responsibility to ensure that this pathway remains effective, efficient, and certain.

SSDs typically involve large-scale projects with substantial economic benefits. Whether it is a new hospital, a renewable energy facility, a major residential development, educational facilities, or a transportation hub, these projects inject billions of dollars into the State's economy.

Mining projects, renewable energy initiatives, and agricultural developments classified as SSDs bring vital investment to areas that might otherwise struggle to attract large-scale economic activity. These projects not only provide employment opportunities for local residents but also improve infrastructure in rural areas, including roads, schools, and healthcare facilities, as part of their development footprint.

By restoring clarity to the definition of "single proposed development," this bill ensures that the SSD pathway continues to function as an efficient and effective mechanism for assessing and approving large-scale projects. It provides developers with the assurance that ancillary infrastructure can be assessed through separate processes where appropriate, thus reducing unnecessary duplication and delays.

The Coalition raise with great concern that home builders are facing difficult circumstances in New South Wales at present, due to the increased taxation burden under the Minns Labor Government.

Industry analysis has found that typical greenfield and infill developments are now unviable under the Minns Labor Government's taxation policies, with viability becoming even worse as Labor's housing taxes continue to rise.

It is no wonder that dwelling approvals in New South Wales have hit 12-year lows under the Minns Labor Government.

Industry projections show that Labor will leave 150,600 families in New South Wales languishing in the housing crisis over the next five years because of higher taxes, militant unionism and a lack of funding for supporting infrastructure.

To enable the build of more homes to address the housing crisis—we need to see the supporting infrastructure. We are supporting through this bill the important offsite enabling infrastructure to support State significant developments. We also support the announcement by the Federal Coalition of \$5 billion in funding to unlock the essential infrastructure that is holding back 500,000 new homes across the country. Hopefully a Dutton Coalition government is elected next year to make this a reality.

I acknowledge the broad support of this bill from stakeholders including Transgrid, Urban Taskforce, UDIA, the Property Council, the NSW Minerals Council and the Climate Council.

In conclusion, the Environmental Planning and Assessment Amendment (State Significant Development) Bill 2024 is a necessary and timely response to the uncertainties created by the Bowdens decision.

Without this legislative intervention, the State faces a concerning effect on investment in critical sectors, including housing, mining, renewable energy, health, and education.

The Coalition applaud the department for their quick action, in particular Mr David Gainsford, DPHI, Deputy Secretary, Development Assessment and Sustainability for his work on the legislation. I also acknowledge the always constructive engagement with the Opposition of Mr Gino Mandarino and Mr Jake Nicol from the planning Minister's office.

This bill strikes the right balance between ensuring robust environmental assessments and facilitating timely approvals for projects that are crucial to the future of New South Wales. It provides certainty for developers, safeguards the integrity of our planning laws, and ultimately benefits the people of this State by enabling the continued delivery of essential infrastructure and services.

I commend this bill to the House.

Ms SUE HIGGINSON (17:55): The Environmental Planning and Assessment Amendment (State Significant Development) Bill 2024 has been introduced in response to the New South Wales Court of Appeal decision in *Bingman Catchment Landcare Group Incorporated v Bowdens Silver Pty Ltd* this year. This case was brought in the Land and Environment Court by the community. The Land and Environment Court ruled against the community in this case. The community clearly saw a genuine problem with the way that the Environmental Planning and Assessment Act was being applied in New South Wales. They could see that the Land and Environment Court was clearly under the impression that the practice that was being applied throughout New South Wales for the assessment of projects was to omit essential components of the projects from being required to be assessed upfront or early and being connected to other parts of development.

They saw that the problem was entrenched in the planning system and its legal system. The department got it wrong, the Independent Planning Commission got it wrong, and then the Land and Environment Court upheld the errors in the way that the Act was being applied. The community then went to the Court of Appeal of New

South Wales. Going to the Court of Appeal is no small feat, and it was done in the face of consistent and entrenched errors in the way the law is applied in New South Wales. Their case was upheld by three justices of the New South Wales Court of Appeal. The justices looked at all of the evidence, and at the way that the planning system is being administered, and said, "Actually, the community is right." That is no small event to happen in law in New South Wales.

The New South Wales Court of Appeal identified serious errors in the administration of the laws of New South Wales. To then come to the House and say, "Nah, we'll just do it the way we have been doing it, even though it's wrong, and we'll change the law now to make it right," is just not good politics and it is definitely not good for the integrity of the environmental planning system of New South Wales. The court in that case determined, in no uncertain terms, that the transmission line was integral to the mine. We know it is because it had a real and sufficient link to the development. There was a logical interpretation and it was grounded in reality and truth. It was also grounded in a case brought by an affected community that could see how harmful the administration of the planning system is.

In essence, today this Parliament is being asked to introduce laws that entrench the lowest common denominator and race us to the bottom. That is what is in front of us. Rather than accepting the decision of the New South Wales Court of Appeal decision and understanding the journey it took to make its determination that integral components must be assessed as part of the main development, regardless of the approval pathway, we are being asked to say, "Let's just do bad planning and bad environmental assessment." We ought to be following a court ruling that would make our planning laws and system in New South Wales better. Instead, the Government is seeking to introduce a new law that gives the planning secretary the power to constitute what a single proposed development is, rather than what a single proposed development actually is.

It is a construct to say that part of a development project that is essential for the project does not have to be part of the project. This is where you see politicians, Ministers and people who administer the law bending over backwards and doing gymnastics to preserve a system for the convenience of the proponents of development. It is not good law. Sadly, it is what we do to the planning system in a brutal way. We say it is all too hard to do it like that, all so proponents do not have to provide the certainty of the assessment of the components of the development that would be required to make the development what we are told it is—namely, the power that services the mine. The mine cannot be without the power, but we are told not to worry about the impacts of those things.

We are seeing that now with the Hunter Gas Pipeline. A giant gas project has been approved in the middle of the Pilliga, across the Liverpool Plains, that will have an enormous negative impact not just on the climate but on biodiversity and farmland. That development has caused so much grief over so much time, yet in reality it is a white elephant. It cannot do anything without a pipeline, but the pipeline has not even been assessed. The pipeline has not even got a route yet, let alone an assessment or approval. This bill is asking the Parliament to enable the system to keep doing that kind of nonsense planning in this State, which causes grief and harm to the citizens of New South Wales—the landowners, the farmers, the First Nations communities, and the people who advocate for good laws and a cohesive planning system.

Frankly, it is a bit rich that the Government has said, "The community identified a real problem." The community fought an uphill battle taking that case to the NSW Court of Appeal. It took on all the associated cost risks and won hands down—and here we are. As a planning lawyer who has operated in this State for decades, I have seen that this is what happens to the planning system. It does not do any good for the State, nor the integrity of the legal or planning systems. Realistically, if there is honestly a case to be made—and I think there is—that there are likely to be particular projects this kind of system would benefit, and those projects are in the State's interest, then we should do that. I foreshadow that I will be moving an amendment in the Committee stage around that. But for the purpose of this second reading debate, it is so important to put on the record that we are doing law badly.

The one thing that the planning system is always called upon to do for the sake of developers and proponents is to provide certainty and consistency, so that developers know what is required of them. Surely a mining company that wants to mine needs to know that it will get a powerline or a gas pipeline approved too, if it needs one. Reverse engineering all of this does not provide certainty. It does not provide the clarity that investors and developers need to operate within the planning system. If this bill were to pass, it would all just be up to the discretion of the planning secretary.

The Greens do not support this bill, not just on the principle that it is bad law but because it is not going to generate good planning outcomes. Bad laws do not generate good planning outcomes. The court found that the longstanding planning policy to assess offsite enabling infrastructure separately under alternative pathways is bad practice and contrary to the current law, yet members are being asked to entrench that practice in our laws. The Government's move might be convenient, but The Greens cannot support it. We do not think it has integrity. We

do not think it will drive the right outcomes. We do not think it is good for the planning system. We do not think it is good for communities, the environment or even developers. I am not sure why the Government is pressing ahead with this bill and is so insistent on amending the Environmental Planning and Assessment Act to weaken the planning system in this way.

The Hon. ROD ROBERTS (18:05): I contribute to debate on the Environmental Planning and Assessment Amendment (State Significant Development) Bill 2024. I support the bill and thank the Government for its prompt reaction to the New South Wales Court of Appeal's decision in *Bingman Catchment Landcare Group Incorporated v Bowdens Silver Pty Ltd*. That unfortunate outcome threatens over 60 State significant development projects and creates a cloud of uncertainty across this State. The bill will unclog the State significant project pipeline and ensure that offsite enabling infrastructure returns to being assessed at the accepted level. It is already far too difficult to build anything in New South Wales. We cannot allow urgently needed infrastructure and regional development to be further tied up with more needless "green tape".

The Bowdens Silver Project promised to create jobs for over 200 families and invest hundreds of millions of dollars into the Central West region of New South Wales. We need to ensure that this planning failure is not repeated in regard to other vital projects. The Greens constantly say they are worried about the impacts that planning decisions will have upon vulnerable communities. I am concerned about vulnerable communities too—the people who reside in some of these areas. Vulnerable communities in regional Australia rely upon State significant development projects to prevent their demise. Vital employment opportunities and essential services are necessary to ensure that communities in regional areas remain liveable into the future.

The Court of Appeal's decision has affected both infrastructure and industry. However, of particular concern is the effect upon the New South Wales mining sector. I am unashamedly a big supporter of the mining industry in New South Wales, which employs around 40,000 people, with several thousand more employed to support the sector. Mining projects contribute approximately \$5.8 billion a year to the New South Wales Government, helping to fund the Government's ability to provide schools, hospitals and other essential services. To ensure that jobs and revenue continue into the future, the planning pathway needs to be cleared of this judicial debris and returned to the established norm. Instead of roadblocks, we need guiderails. This amendment is a worthwhile solution for State significant project planning in New South Wales.

The Hon. MARK BUTTIGIEG (18:08): On behalf of the Hon. Penny Sharpe: In reply: I thank the Hon. Scott Farlow, Ms Sue Higginson and the Hon. Rod Roberts for their contributions to debate on the Environmental Planning and Assessment Amendment (State Significant Development) Bill 2024. It is worthwhile summarising why this bill is critically important to the people of New South Wales and the State significant development [SSD] projects that will be delivered with restored certainty by the passage of this bill. Without the bill, around \$50 billion worth of direct investment across 60 State significant development [SSD] applications with offsite enabling infrastructure currently under assessment is at risk of administrative law challenge arising from the Court of Appeal decision in the Bowdens Silver case. It also puts at legal risk over 20 other State significant development projects that have already been determined.

The bill will help New South Wales build the homes and create the jobs that it needs to address the housing crisis by supporting the Government's key objectives of faster, efficient and robust decision-making in relation to large-scale housing projects that might otherwise be delayed due to uncertainty arising from the court's decision in the Bowdens Silver case. SSD renewable energy projects, including solar and wind farms, will facilitate the development of the State's renewable energy resources, consistent with the Parliament's shared and legislated vision for a secure, reliable, affordable and clean energy future for the State. Warehouses, distribution centres and data centres can progress. Mining and minerals projects that are particularly important to implementing the Government's *Critical Minerals and High-Tech Metals Strategy 2024-35* can move on. SSD hospitals and schools across New South Wales will be built.

The bill provides for the continued use of appropriate longstanding planning pathways under the Environmental Planning and Assessment Act, known as the EP&A Act, for the assessment and approval of infrastructure that is necessary to enable the delivery of SSD proposals and projects. The bill's validation provision is necessary to provide certainty for SSD project consents that were granted before the commencement of the bill that relate to the operation of section 4.38 (4) of the EP&A Act. The bill provides the Secretary of the Department of Planning, Housing and Infrastructure [DPHI], the planning secretary, with the authority to determine that a particular development does or does not form part of a single proposed development—that is, a State significant development—within the meaning of section 4.38 (4) of the EP&A Act.

It is appropriate that this authority sits with the planning secretary, who has overall responsibility for planning and for the administration of the provisions of the EP&A Act. The bill will allow the planning secretary to clarify when offsite enabling infrastructure does or does not form part of a single proposed development within the meaning of section 4.38 (4) of the EP&A Act. The intention is for that power to be used by exception. The

planning secretary will exercise that authority in a transparent manner, in accordance with any regulations that are to be made. To be clear, a decision from the planning secretary on whether offsite enabling infrastructure does or does not form part of a single proposed development does not mean that the likely impacts of that offsite enabling infrastructure will not need to be considered.

The requirements under section 4.15 of the EP&A Act to consider the likely impacts of the development will continue to apply to the offsite enabling infrastructure where appropriate. The bill's validation provision is an important measure to minimise the likelihood of legal challenge on administrative grounds against prior SSD consents relating to the operation of section 4.38 (4) of the EP&A Act. A validation provision of that kind is necessary to provide certainty for SSD consents that were granted before the bill's commencement. It aims to protect past SSD consents from legal challenge on administrative law grounds relating to the operation of section 4.38 (4) of the EP&A Act. Without the validation clause, around 20 recent SSD consents could potentially be impacted by the court's decision in the Bowdens Silver case.

The bill does not in any way change the existing and established community consultation processes under relevant planning pathways. The community has an important role in the planning process. Consultation opportunities where the community can comment on proposals are maintained. The bill does not change or limit the community's ability to have its say on SSD applications. The bill simply clarifies that alternative planning pathways under the EP&A Act may be available for offsite enabling infrastructure, as they were before the court's decision in the Bowdens Silver case. I also clear up for the record that the bill does not, as has been asserted in some media commentary, overturn the Court of Appeal's decision on the Bowdens Silver project. Any such assertion is inaccurate and untrue. Those assertions were made about the bill before it had even been tabled. To be clear, in the Bowdens Silver judgement, the Court of Appeal did not refuse the SSD application of the project. Instead, it found that the consent was void and of no effect.

The SSD application for the project remains on foot, to be determined by the Independent Planning Commission [IPC] as the relevant consent authority. If the proponent seeks to have the application redetermined, the consent authority will apply the law as it stands at the date of the determination. The bill does not seek to relitigate the IPC application on the floor of the Parliament, as some others may wish to do. The bill only seeks for the Parliament to resolve a dilemma created by the lack of clear guidance provided by the Court of Appeal as to when offsite enabling infrastructure may be considered integral to the operation of an SSD project. As the court decision did not provide sufficient clarity, it falls on the Parliament to do so. Had it done so, relevant consent authorities would be able to apply with certainty the standard determined by the court, and the bill would not have been necessary. That is not a criticism of the court but a reflection of the circumstances that the Parliament has been asked to address in the bill.

I acknowledge the cooperation of the shadow Minister for Planning and Public Places, the Hon. Scott Farlow, and his adviser, Mr William Olive, in their discussions and briefings on the bill. I acknowledge the member for Manly, Mr James Griffin, for leading in debate on the bill on behalf of the Opposition in the other place. I acknowledge the Hon. Mark Banasiak for his cooperation and recent advocacy on the Agriculture Commissioner Bill 2024, making sure that the Agriculture Commissioner has the scope to provide advice on SSDs. While the Government does not agree with the contributions of The Greens, it understands that they are politically giving voice to their constituency. I acknowledge the discussions that the Minister's office and DPHI officials have had with Ms Sue Higginson and her adviser, Mr Dan Reid. I also acknowledge DPHI Deputy Secretary, Development Assessment and Sustainability, David Gainsford, and his team for their work on drafting the bill. I commend the bill to the House.

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

The House divided.

Ayes28
Noes5
Majority.....23

AYES

Barrett
Buckingham
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow

Jackson
Kaine
MacDonald
Maclaren-Jones
Mitchell
Mookhey
Moriarty
Munro

Nanva (teller)
Primrose
Rath (teller)
Roberts
Ruddick
Sharpe
Suvaal
Tudehope

	AYES	
Graham	Murphy	Ward
Houssos		

	NOES	
Boyd (teller)	Faehrmann	Hurst
Cohn (teller)	Higginson	

Motion agreed to

The PRESIDENT: I advise members that there is likely to be another division soon. If members are of a mind to stay in their places, we could do that with a short bell if that is the wish of the House.

In Committee

The CHAIR (The Hon. Rod Roberts): There being no objection, the Committee will deal with the bill as a whole. I have one sheet of amendments: The Greens amendments Nos 1 and 2 on sheet c2024-228C.

Ms SUE HIGGINSON (18:25): By leave: I move The Greens amendments Nos 1 and 2 on sheet c2024-228C in globo:

No. 1 Consent for State significant development

Page 3, Schedule 1[1], proposed section 4.38(4A), line 5. Insert "associated with renewable electricity generating works" after "development".

No. 2 Consent for State significant development

Page 3, Schedule 1. Insert after line 17—

[1A] Section 4.38(7)

Insert after section 4.38(6)—

(7) In this section—

renewable electricity generating works means a building or place used for the following purposes—

- (a) making or generating electricity from a renewable source,
- (b) storing electricity generated from a renewable source.

The amendments are important to assist with the rollout of the renewable transition in New South Wales. We recognise that there are certain major projects in the system. We also recognise that it is important that the renewable energy transition happens in this State. There is no way on this planet that The Greens would try to get in the way of that. We want to see it happen sensibly and in the constraints of the natural environment. We recognise that State significant development can be broken down into certain components. The amendments seek to maintain the integrity of the environment and planning law system as the Court of Appeal has determined it, in its proper way. The amendments also seek to exempt the renewable electricity generating works so that they could be considered, in whatever components, for the purpose of being State significant development. They are simple and pragmatic amendments.

The Hon. MARK BUTTIGIEG (18:27): The Government will not support the amendments. The reason is that they create inconsistencies. To illustrate the inconsistency, take as an example a transmission line—the very offsite enabling infrastructure that was the subject of the court's decision in the Bowdens case. Under The Greens amendments, the secretary could determine that the transmission line should not form part of the single proposed State significant development [SSD] and could be assessed and delivered via an alternative planning pathway such as part 5, division 5.1, if it enabled a renewable electricity generating State significant development project.

However, if that same transmission line with the same environmental impacts enabled a mine, school, hospital, data centre, warehouse and distribution centre, or new housing project, the secretary would not be able to make such a determination. Similarly, if a new dedicated access road was required for a wind farm project, the secretary could determine that it should not form part of the single proposed development. But if a similar road upgrade was integral to the operation of a new hospital, housing project, school, mine, warehouse and distribution centre, or data centre, it would form part of the State significant development application and must be assessed under that pathway, therefore jeopardising those very real and tangible projects that would benefit the community. Furthermore, by restricting which types of SSD applications the proposed secretary's power applies to, it may

prevent offshore enabling infrastructure [OEI] from being brought into the single proposed development and assessed as SSD where that would otherwise be appropriate.

The inconsistency The Greens amendments would create does not appear to be based on sound planning principles of efficient and robust assessment appropriate to the level of impacts. While the Government acknowledges and fully supports the need for cleaner energy, the people of our State also need certainty that their schools and hospitals will be built, that major new housing developments will not be delayed, and that important projects that create and support jobs will be delivered. For this reason, the Government will not support the amendments.

The Hon. SCOTT FARLOW (18:29): For the reasons outlined by the Parliamentary Secretary, the Opposition also will not be supporting the amendments. I would just say that this is a bizarre situation in which renewables would trump absolutely everything else. While renewables are warranted and good, they should not come at the expense of schools, hospitals and every other piece of infrastructure, particularly housing, that we need in our State.

Ms SUE HIGGINSON (18:30): The Greens are moving these amendments precisely because they will not create inconsistency. This is literally a carve out that would not generate inconsistency. The Government's position on this is technically incorrect. The amendments do not do that. If we are talking about certainty, to say that it will not apply in relation to schools, hospitals or other infrastructure, if those structures require powerlines, then absolutely the certainty is they have powerlines. The Government suggesting that this legislation is better than what The Greens are suggesting is just wrong. Through this law, the Government will create more uncertainty and less consistency, which is precisely what this amendment to the Environmental Planning and Assessment Act will do.

The Greens amendments are literally carving out electricity generating works for the purpose of renewable energy. It is a sensible carve out that will not create inconsistency. The point about the rest of what The Greens have said generating inconsistency is exactly what the Government's bill will do. We may now have a school, we may now have a mine, but we will not have any way to power them, or the other infrastructure. I commend these amendments to the Committee because they would make the Government's bill a heck of a lot better.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 1 and 2 on sheet c2024-228C. The question is that the amendments be agreed to. Is leave granted for a short bell?

Leave granted.

The Committee divided.

Ayes5
Noes28
Majority.....23

AYES

Boyd (teller)
Cohn

Faehrmann
Higginson (teller)

Hurst

NOES

Barrett
Buckingham
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin
Graham

Houssos
Jackson
Kaine
MacDonald
Maclaren-Jones
Mitchell
Mookhey
Moriarty
Munro

Murphy
Nanva (teller)
Primrose
Rath (teller)
Ruddick
Sharpe
Suvaal
Tudehope
Ward

Amendments negatived.

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

Motion agreed to.

The Hon. MARK BUTTIGIEG: 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. MARK BUTTIGIEG: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. MARK BUTTIGIEG: On behalf of the Hon Penny Sharpe: I move:

That this bill be now read a third time.

Motion agreed to.

The PRESIDENT: I shall now leave the chair. The House will resume at 7.30 p.m.

Documents

LAND AND WATER CONTAMINATION

Variation of Order

The PRESIDENT: According to standing order, I advise the House that on Monday 18 November 2024 the Clerk received a request from the Cabinet Office to vary the scope of an order for papers. An agreement has been reached between Ms Cate Faehrmann and the Cabinet Office, which I have certified. The varied due date and scope of the order is as follows:

- (a) for documents in the possession, custody or control of Sydney Water Corporation, Water NSW or Hunter Water Corporation, "all documents" be read as to exclude:
 - (i) all raw data including laboratory results, sampling confirmation reports, chain of custody reports and accompanying emails and spreadsheets;
 - (ii) all spreadsheets containing PFAS testing results for raw water, drinking water, biosolids and soils;
 - (iii) all draft versions of documents produced;
 - (iv) all papers, reports, meeting minutes and agendas where there is reference to testing results that are negligible (where there is PFAS below the detection limit);
 - (v) all project plans, detailed design reports or detailed site investigations regarding new infrastructure where there are incidental references to PFAS as a possible known contaminant (however the level of contamination is unknown); and
 - (vi) all internal commercial documents, including quotes, invoices, tenders, commercial, customer agreements (including trade waste agreements) which reference PFAS but do, not contain analysis or results.
- (b) for documents in the possession, custody or control of the Environment Protection Authority, in paragraph (a) and (b) "all documents" be read as:
 - (i) all final briefing notes to the EPA Executive, the EPA Chief Executive Officer or the Minister for the Environment;
 - (ii) all final papers considered by the EPA Executive or the EPA Board;
 - (iii) all meeting papers and minutes of official working groups;
 - (iv) all final research reports, final investigation reports, and final technical reports;
 - (v) all EPA incident alerts;
 - (vi) all letters to and from the EPA;
 - (vii) all media enquiries, photos and education program materials;
 - (viii) all emails to coordinate the delivery of work (not substantive decision); and
 - (ix) all exemptions under the PFAS ban regulation.
- (c) that documents in the possession, custody or control of the Environment Protection Authority, relating to paragraph (c) and (d) of the order be due by 13 December 2024.

I table the agreement. The question is that the varied terms of the order for papers be agreed to.

Motion agreed to.

*Bills***CRIMES AMENDMENT (OBSTRUCTING A RAILWAY) BILL 2024****Second Reading Speech**

The Hon. DANIEL MOOKHEY (Treasurer) (19:34): I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Amendment (Obstructing a Railway) Bill 2024. The bill responds to concerns about recent actions on railway lines that put people's safety at risk by enabling the Local Court to impose a fine of up to 200 penalty units for the offence in section 213 of the Crimes Act of obstructing a railway. Section 213 makes it an offence for a person to intentionally, and without lawful excuse, cause the passage or operation of a locomotive or other rolling stock on a railway to be obstructed. Those who knowingly assist another person to obstruct a train or rolling stock on a railway will also commit an offence under the proposed changes to section 213. The offences in section 213 are punishable by up to two years imprisonment. Section 213 does not specify a penalty amount, which means that the default maximum fine amount the Local Court can impose is 100 penalty units.

In recent months there have been instances of people seriously obstructing railway lines for long periods. The Government is alarmed by this conduct. Such dangerous actions pose a threat to the safety of the persons themselves, commuters and railway staff. I note that section 214A of the Act, which contains offences for damaging or disrupting a major facility, provides for penalties of up to 200 penalty units or two years imprisonment. The obstruction of railway lines does not fall within section 214A, as railway lines are not major facilities.

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

Leave granted.

To deter dangerous conduct on railways, this bill will effectively double the available penalty in the Local Court for the offence in section 213 of the Act. When sentencing a person for a 213 offence the Local Court will now be able to impose a sentence of up to 200 penalty units (\$22,000), or two years imprisonment, or both.

By doubling the fine that can be imposed, this signifies to the Local Court that the Government and the community takes this offence seriously.

This amendment will bring the penalty for section 213 in line with the penalty for the offence in section 214A of the Act for damaging or disrupting a major facility, and also the penalty for the offences in section 144G of the Roads Act 1993 of damaging, disrupting or obstructing the Sydney Harbour Bridge or other major bridges, tunnels or roads—both of which are summary offences.

This increased penalty will better reflect the seriousness of the 213 offences, and will send a strong message to the Local Court and the community that such dangerous and disruptive conduct on railway lines is unacceptable.

I now turn to the detail of the bill.

Schedule 1 [1] to the bill replaces the current penalty in section 213 with subsections (a) and (b) and (2) which together:

- provide that the Local Court can impose a fine of up to 200 penalty units or imprisonment for two years, or both; and
- confirm that if the offence comprises very serious conduct and is dealt with by a higher court on indictment, that court can also impose a sentence of imprisonment for up to two years and can continue to impose a fine of up to 1,000 penalty units (\$110,000). Our amendments intentionally retain the ability for this fine to be imposed.

Clause 2 of the bill provides that these amendments will commence on assent.

The amendment to section 213 to double the available financial penalty in the Local Court for obstructing a railway line will send a strong message that dangerous and disruptive behaviour on railway lines will not be tolerated.

This amendment will discourage individuals from putting their own and others' lives at risk and blocking essential rail lines that members of the community rely upon for public transport and for delivery of goods and services to the people of New South Wales.

I commend the bill to the House.

Second Reading Debate

The Hon. SUSAN CARTER (19:36): I speak on behalf of the Opposition in debate on the Crimes Amendment (Obstructing a Railway) Bill 2024. It is interesting to note that the name of the bill is almost as long as the bill itself, standing as it does at a brief 18 lines, a quarter of which are the Government's own amendments, passed in the other place. This is yet again an example of the Government's tendency to fragment legislation so that it seems busy passing lots of little bits of legislation despite doing very little. The bill does not introduce a new offence; it simply adjusts the penalty for blocking train lines by increasing the maximum possible penalty to 200 units, or \$22,000. The bill is designed, we are told, to address recent and planned protests that block train lines. The Attorney General in the other place said:

The Government is alarmed by this conduct. Such dangerous actions pose a threat to the safety of the persons themselves, commuters and railway staff.

This is to say nothing of the significant economic and personal impact such delays have on our State and the people of New South Wales. The Attorney General also noted in his second reading speech that the bill does not represent new thinking by this Government. Rather, it recognises the former Government's work to protect major facilities from disruptive protests and extends its coverage to railway lines. It aligns the penalty under section 213 of the Crimes Act with the penalties we introduced for damage or disruption to a major facility. It is pleasing to see that the Minns Government recognises the necessity of this legislation and the balance between the competing rights it provides. The right to protest is important, but so too is the ability of the community to go about their business and for the economic life of New South Wales to continue uninterrupted.

The Attorney General highlighted an increase in protests by environmental activists obstructing railway lines as the reason the bill is required. While the Government's intent to modify penalties is commendable, legislation alone is impotent. As I have said, the bill does not create a new offence; it only strengthens the existing one. This is significant because it means that already some members of our community are not respecting the existing law. I commend the Government for responding to this through legislation, but we also need to see real follow-through.

Effective enforcement requires the support of the Executive Government, particularly the police Minister. This Government has a regrettable track record of talking a big game but doing absolutely nothing to make an ounce of difference in the real world. I note that, for example, in 2023—over a year ago now—the Government doubled the penalties for knife crimes, yet not once have the increased penalties been sought, let alone handed down. Like the ostrich, this Government reacts to threats by sticking its head in the sand and asking Parliament to pass legislation that the Government has no intention of ever using.

The unwillingness of the Government to enforce its legislation is exposed by the amendments it has already moved in the other place. I note, in the first place, the slapdash approach to governance of amending one's own legislation before it has even passed through the first House of Parliament. In the second place, the amendments are illogical because they contradict not only the intention of the bill but also the very words of the Attorney General himself, the Minister with carriage of the legislation. In essence, the amendments create a "get out of fines free" card in that they ensure that the legislation does not apply to industrial action. If, as the Government has said, the safety of workers, protesters, commuters and the community as a whole is threatened by somebody blocking a railroad or damaging an engine as part of a climate protest, surely that safety is just as threatened by the same action undertaken as part of a strike or industrial dispute.

This legislation, as amended, is hypocritical and illogical. It is frankly shameful to see such blatant self-interest being displayed by the Government. It is as clear a signal as possible that the Minns Government has absolutely no intention of enforcing or using these laws because it is too afraid to do anything that might make a real difference or that would upset its union mates. I am pleased that the Government has recognised the need to prevent protests having undue impact on the people of New South Wales, but the Opposition will be watching very closely to see whether this legislation is nothing more than another fig leaf applied in a desperate attempt to cover the impotence of the Minns Government.

Ms SUE HIGGINSON (19:40): On behalf of The Greens I contribute to debate on the Crimes Amendment (Obstructing a Railway) Bill 2024, which we absolutely cannot support. I acknowledge the contributions of my colleagues in the other place on the bill, which represents a *deja vu* moment for this Parliament. In 2022 the former Coalition Government rushed through extraordinarily controversial amendments to section 214A of the Crimes Act and section 144G of the Roads Act 1993 with the full support of the current Labor Government, then in opposition. My Greens colleagues were some of the only members who stood firmly against the gross overreach and penalisation of protesters' rights and called it out as an attack on the cornerstone of our democracy and our fundamental right to come together and dissent peacefully. Today, under this Labor Government, the circumstances are eerily similar. Once again, the government of the day is rushing through legislation without any form of proper consultative process with the single guiding mission of further criminalising peaceful protesters and those who choose to engage in nonviolent civil disobedience.

The bill amends the Crimes Act 1900 to increase the maximum penalty available for the offence under section 213 of the Act, that of obstructing a railway, to include the maximum penalty of a fine of 200 penalty units, which is \$22,000, or two years imprisonment, or both. That draconian measure smacks of overreach, bringing section 213 of the Act into line with the anti-protest legislation rushed through in 2022. One would expect a Labor government that was built on the back of the union movement and that claims to care about democracy, justice and the environment to concern itself with winding back the 10-year creep of anti-protest legislation that has gripped this State under the Coalition, not with hammering that legislation further and more solidly into the law books. If you blink, you might miss it—it is getting harder and harder to tell where the law-and-order agenda

of the Coalition ended and that of this Government started. It clearly does not make a difference which of the major parties is in power these days, because both seem hell-bent on introducing legislation that targets and criminalises anyone who dares to speak out against the power of the day.

This bill, just like the Roads and Crimes Legislation Amendment Bill 2022, has been produced by a government with no real agenda to genuinely address any of the issues faced by our society. Instead of listening to the will of the people, the Government would rather slap grandmothers and high schoolers with out-of-proportion penalties that threaten to sink them into debt and throw them behind bars. That is the legislation. Here we are again, with more laws and suppression that is intended to paralyse the people who are desperately trying to change the dangerous trajectory that our planet, and life as we know it, is hurtling towards.

Let us make no mistake. We are talking about climate protesters, and this state of protest has been under sustained attack from the Government for months now. The bill is a harsh and excessive crackdown, again on one group in particular—climate protesters. By further targeting protesters who take a stand, whether it is on railways or trains, Labor is continuing in the footsteps of the Coalition and declaring war on climate protesters. These laws do nothing more than produce more penalties to criminalise and scare climate protesters, particularly those taking essential action where the Government has thrown its hat in with the fossil fuel industry.

Who would be affected by these changes? Overwhelmingly it is young people, whose futures are being stolen from them because we do not do what we need to do. We are still exporting millions of tonnes of dirty coal across the world out of the largest coal port in the world, the Port of Newcastle. It is also the grandparents. Instead of enjoying a peaceful retirement, they are forced to lock on to or suspend themselves above railways. They are doing anything they can to protect the future of our planet. No matter how they are judged, it is what they believe they have to do with the time they have left. One does not take this kind of action lightly. No-one in their seventies and eighties would sit around in their retirement and think, "I might just chain myself to heavy machinery and endure the cold and wet and dark for 24 hours."

Teenagers with their whole lives ahead of them do not wake up at the crack of dawn to put their bodies on a railway line to stop a train just for the hell of it. They do it because they have tried every single other avenue available to them: They have written the letters, called their MPs and marched in the streets as global temperatures soar over the 1.5-degree threshold for a safe, liveable planet. They do it because our cities are choked with smoke and our bushland is burning out of control. They do it because they voted for a change of government in the hope that, as promised, it would do something to change the terrifying reality. But not enough is happening. They do it because they know what they are facing is a catastrophe. They are desperate because they know the decision-makers—the same ones who pull the levers to penalise them—could just as easily legislate changes to correct the terrifying future they will either inherit or leave to their grandchildren.

Members know what we need to do to change the trajectory. We must urgently get off fossil fuels, and we sure as hell should stop the export of coal. We must commit to no new coal or gas projects. Instead, we are increasing penalties. Those brave people are protesting in the only way left available to them to do so because they are filling the vacuum of inaction left by the Government. They do not deserve to be suppressed or have their actions criminalised, as the Premier and the Attorney General continue to assert.

When announcing the bill, the Attorney General said that this was all about striking a balance. Then in the debate that took place in the other place on Tuesday, various Government members asserted that concerned citizens have countless other ways at their disposal to protest these important issues that do not significantly disrupt the flow of goods or infrastructure. Ms Maryanne Stuart, member for Heathcote, went so far as to say, "There are so many ways that concerned citizens can make their voices heard," and that Labor encourages "individuals to channel their energies towards safer and more effective avenues for communication". It is of critical importance that this false narrative be challenged. Even if it were true, the fact that multiple forms of political communication exist should never form the basis of alienating other equally valid forms of political expression.

The bill is in direct response to the protest that occurred in the Hunter earlier this year, which disrupted train lines for many hours, in a bid to raise awareness about the harm of coal to our environment. The residents of the Hunter are in disbelief that this Government continues to export coal out of Newcastle like there is no tomorrow and that it is using rail infrastructure help it do so. Protest groups have not only targeted train lines to protest against the continued exporting of coal. In fact, many members of the Hunter community have attempted to channel their rage and grief at their region's part in the climate crisis in every other available manner.

Let us take a look at how this Government has responded to Hunter locals' other avenues for communication. In recent weeks, members of Rising Tide, a Newcastle-based, community-led grassroots climate movement, have been silenced in those "other forms" of political communication. For months now, the wonderful organisers of Rising Tide have been diligently planning their peaceful, family-friendly "protestival", the people's

blockade of the world's largest coal port, to protest the relentless export of coal from their local port and its direct link to the global climate crisis that we now find ourselves in. They have followed the letter of the law and have attempted to work in good faith with the police, council and Government through each and every step.

Despite all of that—and all for the crime of daring to oppose fossil fuels' grip on the Hunter through a peaceful, multi-day camping event and a paddle-out—they have endured attack after attack from every angle of government. It has shocked even members of the Premier's own caucus. By attempting to assert themselves through multiple avenues of communication, such as civil assembly, information sharing, workshops, banner drops and a peaceful blockade, organisers of Rising Tide have been dragged through the Supreme Court by the Commissioner of Police, vilified by the police Minister on national radio and forced to move their entire campground under direction from Transport for NSW.

I even read a letter this morning that Transport for NSW wrote yesterday to the organisers of Rising Tide saying, "Move your blue barrels and your pieces of wood off our car park." These are young people who are trying to organise an amazing event. Someone in Transport for NSW—while the union is literally threatening to stop trains for the whole weekend and there are industrial negotiations—actually hit the keyboards and wrote a letter to two young people who are trying to organise an incredible, positive event about climate change, saying, "Remove your two blue barrels." What is happening in this State is unbelievable. It is actually ludicrous. And the State is being emboldened by actions to increase penalties and introduce ridiculous anti-protest laws. It is a war on the young people who care about climate. I read it in their letters. But they are fighting back and they will win because it is their future.

After seeking approval, at the eleventh hour—just days before their event was scheduled to begin—they were then notified about sweeping marine exclusion zones being put in place, which effectively attempted to render their entire protest illegal. The exclusion zone meant that not one person—not just protesters but anyone—could get in the waters of New South Wales at that beach and cool down and play. That is what laws like the bill being introduced today embolden the State to do. But, in a final effort to walk back this draconian overreach, 21-year-old Rising Tide organiser and 2020 Newcastle Young Citizen of the Year, Alexa Stuart, commenced proceedings today in the Supreme Court—just across the road—against Jo Haylen and Transport for NSW. By 3.30 today, she had won. That young person went to court and single-handedly took on this State because it engaged in serious overreach.

What did the Government do? It acted above the law. There is a rule of law in this State and the Government acted beyond its powers. Fortunately, we still have one bastion of democracy left: the Supreme Court, which held this Government to account today. It took the courage of a 21-year-old, the 2020 Newcastle Young Citizen of the Year—a young woman who is back in Newcastle tonight, celebrating her win in the water with everybody else who is fighting for their voices to be heard in the fight for more climate action. With this case today, she has made a serious difference. It is a sad state of affairs when the Government is so emboldened that it engages in administrative acts beyond its power to engage in and signs documents beyond its power to sign. It is dangerous and it is draconian.

The Government keeps enacting these laws that increase penalties and target specific groups of people, particularly peaceful, nonviolent protesters, who are trying to exercise their hope and positivity. I do not know what else could be more symbolic of this fight for justice than seeing a 21-year-old standing in the Supreme Court dressed in a black suit, playing by the rules and holding this Government to account. I hope that every member takes this on board and hears this loud and clear: Just stop it. Stop this relentless attack on young people who are standing up for their future with the Knitting Nannas and others. Here we are again, passing another law under the guise of "wanting the laws to be consistent". That is a lie.

We are seeking to amend a law that, as it stands, imprisons people for two years and punishes them with a penalty. We are going to double it. There is already an \$11,000 fine. Labor should know that is enough. They do not need any more than the \$11,000. Frankly, this is outrageous. Members should remember that we are the jurisdiction with more anti-protest laws on the law books than any other jurisdiction in this country. The Human Rights Law Centre has made that clear in its report, *Protest in Peril: Our Shrinking Democracy*. One of the two reviews conducted into the amendments was made in 2022 and has been made public. Where is the other report that is due? The Government has not tabled it yet.

Ms Abigail Boyd: Any day now.

Ms SUE HIGGINSON: Don't worry; Alexa is in the court trying to hold up the rule of law in this State. The Government cannot even table its own reviews. This Chamber ruled that they had to do this, but this Government thinks it does not have to obey its own rules and that it is above the law. This must be a strong, resounding message to the Cabinet of this Labor Government that it needs to pull its socks up and get its act together. They should be prioritising responding to over 1,400 community submissions that have called for the

urgent repeal of the 2022 laws. What have we seen instead? We have seen a blind denial of the dangerous territory we are entering on the ship that Labor has taken over from the Coalition and is now steering.

In introducing this bill, the Government is attempting to bring the penalty for this offence in line with other offences. We know that is not needed. I remind the Government that the law it is seeking consistency with was held to be partly invalid by the Supreme Court in *Kvelde v State of New South Wales*. The Government knows this, but it is making more laws and penalties to match laws that it rushed through in collaboration with the old mob that was previously in government. The Government needs to take a look at what it is doing. I am concerned that it is dragging its feet on conducting the review of these unconstitutional laws.

The Premier and Attorney General think it is appropriate to ram more laws through. They have sought a declaration of urgency, and they will get their way because they are in lockstep with the other mob. In its review of this bill, the Legislation Review Committee said:

As the Bill seeks to match the penalty provided for by section 213 with the penalty for offences ... the amendment proposed by the Bill may impact on freedom of movement and assembly.

It added that these fundamental rights are "contained in Articles 21 and 22 of the International Covenant on Civil and Political Rights (the ICCPR). The right to freedom of assembly protects the freedom of individuals and groups to meet and engage in peaceful protest." This concerns the liberties of every single person in this State. Therefore, any changes that this Government brings forward in an attempt to erode these rights is a concern for all of us. The Government cannot hide behind the fact that this is about interfering with rail lines. I get that it might seem dramatic and I get that it might seem reasonable and balanced, but it is not. It has a terribly chilling effect. The Government could introduce so many other bills during this late night sitting in Parliament, but it chooses this bill. It is just ridiculous.

This critical aspect of law making was asserted by the Australian Democracy Network shortly after this bill was announced, which, in an open letter to the Premier and the Attorney General signed by 13 different civil society organisations, once again raised its collective concerns about the nature of the bill and its supposed urgency. In that letter, over 13 human rights groups and civil society organisations such as the NSW Council for Civil Liberties, Australian Lawyers for Human Rights, the Justice and Equity Centre, and the Human Rights Law Centre called for a pause to the introduction of the proposed laws and requested a meeting to discuss the proper process of public consultation. They are yet to receive any response from either the Attorney General or Premier Minns. They should have gone on 2GB and maybe then they would have been heard and the Premier would have responded to them.

Laws that have a significant impact on human rights should not be rushed through Parliament. We know this already. The Greens also knew this in 2022 when the Roads and Crimes Legislation Amendment Bill 2022 was rammed through in almost identical circumstances. The bill that sits in front of us today is pre-loaded to enact the same types of chilling suppressions that the now partially invalid 2022 amendments have been found to create. The expansion of laws and penalties that in any way seek to bring further penalties against political modes of expression is another deadly nail in the coffin of our fundamental democratic rights. That is a job, I am sad to say, Labor has diligently taken over from the Coalition. That is why The Greens cannot and will not support the bill. We will seek to improve the bill by moving a number of amendments. I will deal with those in Committee of the Whole.

Our communities should feel empowered to engage in peaceful protest, especially peaceful climate protest that highlights the negligent and, frankly, dangerous inaction of those in power. They should not be bullied or singled out and have all forms of political communication available to them picked off, one by one. I know that many Government members do not condone these laws and have spoken against the Premier's continued crackdown against protesters of late. I know that these members joined Labor because of a pride in the party's roots in industrial action and organising grassroots action. I know they joined Labor to do good in this State and to protect its citizens from attacks such as these. I know that many in Labor right now are disappointed with the chilling direction the party is taking. It is no secret that Premier Chris Minns is finding it harder and harder to silence those voices or control the growing dissent in his own party.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): The Hon. Wes Fang will cease interjecting. This is an important debate and I want to hear the member's contribution.

Ms SUE HIGGINSON: The Premier says that his crackdown on protest, including this most recent bill, is about social cohesion and community harmony. To that I say his efforts would be better spent tending to the social cohesion in his own party. I beg the Premier to hold back on any more crackdowns and targets on those people who exercise their hope each day in the way they see is best. Rising Tide and other protest movements and grassroots climate organisations come together and, yes, sometimes it is disruptive. But the Rising Tide event saw people come together in colour, music, celebration, learning, and intellectual capacity in science and health.

They come together in fear of what is happening to this wonderful, magnificent, living planet. Today The Greens continue to stand on the side of experts, the community and those standing up to protect our environment, like young Alexa, who just hours ago challenged the draconian creep and won for the benefit of us all. The Greens will continue to stand with Alexa, even at the expense of disruption, because the disruption of the climate catastrophe will be much more dire and inconvenient than a few potentially delayed trains. Premier Minns and the Attorney General would be wise to take a good hard look at what Alexa has done, and at themselves. The Premier needs to do better. This is not the way we need to be going.

The Hon. ROD ROBERTS (20:05): I make a short contribution to debate on the Crimes Amendment (Obstructing a Railway) Bill 2024. I will tone down the rhetoric just a bit. At the outset, I indicate that I will support the bill and I commend the Government for closing a legal loophole by ensuring that section 213 now has a prescribed financial penalty. Protesting is an important part of democracy and should not be stifled, but it must be done safely and lawfully, without endangering the protesters and others. There are those who say that the activists need to be heard, but the place to be heard is at the ballot box. If people do not like what a government is doing, or a particular policy or platform of a government, they can exercise their right at the ballot box to vote that government out—and guess what? If enough people agree, that government will be removed. That is how to interact in democracy in Australia. People cannot take it upon themselves to block rail lines to make a point.

The issue we are debating today is not new, and it has been a problem for a number of years. I take the liberty to quote my own words from *Hansard*, recorded on 31 March 2022 when this House was debating the then Government's Roads and Crimes Legislation Amendment Bill 2022. I said:

There have been incidents in the Hunter, like people pushing cars onto the train lines and blocking the train lines.

That was 2½ years ago. It has taken a long time to get anything done in that regard, but we finally have something. Since then the protests have become more frequent, with larger interruptions to our rail network. Between 26 June and 15 July of this year, masses of feral illegal protesters caused havoc on the Hunter rail network. In the name of the protection of the environment, the great unwashed caused the cancellation of 758 passenger rail services and about 250 bulk and freight rail services, caused millions of dollars in economic damage and forced commuters to emit more CO₂ by driving to work. Already-stretched police resources were wasted and the courts were clogged. That needs to be nipped in the bud. The bill sends a signal that the people of New South Wales will not tolerate such behaviour and disruption to their lives. A \$22,000 fine and two years imprisonment will go a long way towards that aim. I support the bill and commend it to the House.

Ms ABIGAIL BOYD (20:07): I make a brief contribution to debate on the Crimes Amendment (Obstructing a Railway) Bill 2024. It feels very much like groundhog day. Firstly, I thank and congratulate my colleague Ms Sue Higginson for her continued tenacity on this topic. I also acknowledge the efforts of all of my Greens colleagues in both Houses who have worked on this issue for decades. The Greens are the party that supports protest, because it is a fundamental part of our democracy. I reflect on what we think about the democratic process and the idea we often hear that there is an election day every four years when people vote, apparently with perfect knowledge—perhaps mimicking the way that some people think about the markets—of what a government is going to do, whether it is being honest and all of those other things. We make a decision at the ballot box and that is apparently it.

For four years, you get what you get. There is no way to come back and say, "Please, Government, things have changed—a lot changes." But also, "Please, Government, you are not doing things quite as you said you would. We would like you to do it a different way." For some people, typically those on the right and those who embrace the authoritarian view of things—I am not suggesting that is the view of the Hon. Rod Roberts, but there are people on the right who think like that—they have the authoritarian idea that we are told what to do for the next four years by the government of the day because it has some sort of authority over us and we can just wait until the next election and vote it out. That also assumes that there is equal choice or other options when we get to the ballot box in four years and we are not faced with two major parties that are basically the same party without much to distinguish them.

But putting that to one side, let us look at the Labor Party. It is fitting because we have come to the end of another year of the Labor Party in government. There have been a lot of scraps at the State and Federal levels between the Labor Party and The Greens. One of the major issues we face is that a lot of members of the Labor Party simply do not understand what The Greens are doing. I think our upper House Labor colleagues do understand us a little better than their lower House colleagues. But we have heard the talking points from members of the Albanese Government. They love to talk about The Greens political party. They desperately want to make us just like Labor, but Labor is a party that is only interested in votes. Anyone who has worked with The Greens in the upper House understands full well that we are in this place because we care.

It might be hard for other members to stomach that we do not care about how popular a thing is; we are just doing the thing that is right. But that is why we are here. That is why I am not in my previous career, where I was having a much more jolly time, to be honest; that is why Ms Sue Higginson is not in her former career; and that is why the amazing Dr Amanda Cohn has left her patients, at great sacrifice both to herself and her patients in Albury. She has come to this place because she genuinely cares. We are not criticising the Labor Government for votes or political pointscoring; it is because we think Labor is wrong and it has erred.

When it comes to the right to protest and the assault on our democratic rights as a society and a drift towards authoritarianism and fascism, that is a very serious issue. We have seen that across the board. For example, my office has heard a lot from people who have been told by schools, as a result of the Department of Education's policy, that they cannot wear cultural items to school because it has been determined by the Minns Government that it is somehow divisive to embrace one's own culture from one's homeland, particularly when one's homeland is under attack and they have to watch pictures of dead countrymen being taken out of schools and camps and other places because they have been bombed.

The Hon. Susan Carter: Like the hostages.

Ms ABIGAIL BOYD: I acknowledge the interjection from the Hon. Susan Carter. She seems to think that decades of killing people is somehow excusable because something also happened to the people who are doing the killing.

The Hon. Susan Carter: Point of order: That is mischaracterisation of what I said. I was referring to the hostages. I did not refer to decades and decades of killing people. The member entirely mischaracterised what I said.

Ms ABIGAIL BOYD: I am very glad to hear that the Hon. Susan Carter did not dismiss the pain and murder of millions—

The Hon. Susan Carter: Point of order: The member has simply reinforced her mischaracterisation. I ask her to withdraw her remarks.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): All interjections are disorderly. The Hon. Susan Carter has taken a point of order. I ask Ms Abigail Boyd to think carefully about whether she believes what she has said was appropriate. Ms Abigail Boyd has the call.

Ms ABIGAIL BOYD: I do believe it was appropriate, but I will stick to the subject matter. When we are talking about protest—

The Hon. Greg Donnelly: Shame.

Ms ABIGAIL BOYD: I am not sure the Hon. Greg Donnelly wants to get into that with me tonight.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): This is a complicated debate. There is a diverse range of opinions. The role of the Chair is to maintain order and civility. Before I exercise the power of the Chair, I ask all members to continue the debate in a civil fashion and in a way that is within the standing orders. The member has the call.

Ms ABIGAIL BOYD: My office is inundated with people talking about how they are being silenced in their everyday lives because of policies and laws of this Government. That is a real problem. The Greens are trying to help Labor to not lose the next election. We do not want another conservative government for New South Wales. The Greens would like the Labor Government to continue. I say to those Labor members who are as concerned as I am: Labor is coming away from its roots as a social justice party and a party for workers' rights and struggle. Labor is now sitting on the wrong side of history instead of embracing those people who are struggling to find climate justice. Instead, the Government is trying to silence them and stop them from exercising their democratic rights. That is fundamentally against what the Labor Party stands for. It is not what people voted for; it is not what people expect.

The Government has time to turn it around. If Government members were proud of what they are doing, they would have introduced the bill one or two months ago. They would not have rushed it through under the cover of a last-minute affair on the last sitting day of the year. If they were proud, they would have given us the chance to interrogate it. They keep introducing laws like this that they know are shameful. They know it causes division in their caucus. They bring bills to Parliament on the last sitting day of the year because they think that is the only way that they can get them through. It cannot continue like that. Labor should stop this race to the bottom of being as authoritarian as it can. Labor should come back to its roots, allow people to express their dissent and properly listen to them so that we can restore our democracy.

The Hon. WES FANG (20:16): I make a brief contribution to debate on the Crimes Amendment (Obstructing a Railway) Bill 2024. I listened to the contributions of other members before deciding to speak. Some perspective needs to be given to debate on the bill and to the amendments that might be moved. In effect, the upper House is a bit of a mishmash of political parties. The Labor Government has its left and right factions. The Liberal-Nationals Opposition has left-leaning members and right-leaning members. There is a mix of conservative and left-wing parties on the crossbench. That is great. It takes all types to rule the world. Ultimately, there is a mix of people in this place.

The Greens are rubbishing the bill and acting in a superior manner as if they are somehow better than everybody else because they are presenting the green global view that they are saving the planet and that people are sacrificing their liberty and freedom in order to fight the good fight. It is a load of rubbish. I note the contribution of the Hon. Rod Roberts. He referred to the great unwashed. He might as well have called those people the great unemployed as well, because most of the people who are chaining themselves up likely have not got a job and have not made a contribution to society. All they know how to do is complain and whinge. That is what we are seeing from The Greens tonight. They are employed whingers who have come into this place to rubbish the bill. The majority of people in this State are simply worried about trying to pay their electricity bill or their rent—that is if they can get a place to rent at all. Most people are focused on just trying to survive. Now The Greens are coming into this place, trying to tell the Labor Government and the Opposition that they know better, that we have this extinction—

Ms Sue Higginson: Crisis.

The Hon. WES FANG: Crisis—I thank the member. That is the language they are using this week. We have the climate crisis. Most people just want to go about their day, go to work, go to school. If they have a medical appointment, they want to be able to go to the doctor. They do not want to be stuck because the trains are not running. It is likely the trains will not be running anyway, because the Labor Government cannot get the unions on side at any time. But people do not want to be stuck on a bridge or a train because of a protester, someone who probably never had a job, who never made a contribution to society, who just wants to have a whinge. They are not protesters; they are anarchists. People have had an absolute gutful of it. They have had a gutful of people tying themselves to trains, to metro stations or to tractors and of people floating out on the water to try to stop coal barges. Most people just want to get on with their lives.

This rubbish The Greens go on with is trying to hold up this House tonight and trying to hold up these laws that are to make sure that people can go about their daily lives. It shows exactly what The Greens are. I have been listening to the interjections they have been making. I will not acknowledge any, because I do not want them in *Hansard*. But it is interesting that they will cry foul when any of us interject on them. The interjections they have been making throughout my whole speech prove the exact point I wanted to make: that they will protest and proclaim one thing but then do another. It is exactly how The Greens operate. It is exactly who they are. What they are doing tonight is an absolute disgrace. The Government has actually introduced a decent bill. This House should support it.

The Hon. Bob Nanva: Hear, hear!

The Hon. WES FANG: I acknowledge the interjection of the Hon. Bob Nanva. The Government does not often bring a bill of substance to this place. As the Hon. Susan Carter noted in her contribution, it is only a few lines, but it is probably better than most of the bills the Government has brought before the House this year. I conclude my remarks by putting on record that The Greens are not representative of the majority view in this place. Their numbers in this House indicate that. No doubt, their support outside of this place indicates that as well. Most people want to get on with their lives. This bill will make sure that they can do that.

The Hon. DANIEL MOOKHEY (Treasurer) (20:22): In reply: I thank members for their contributions to debate: the Hon. Susan Carter, Ms Sue Higginson, the Hon. Rod Roberts, Ms Abigail Boyd and the Hon. Wes Fang. I briefly address some of the matters raised in debate on the bill. Ms Sue Higginson suggested that the bill erodes the right to protest—

Ms Abigail Boyd: It does.

The Hon. DANIEL MOOKHEY: I appreciate that remark. That is the member's view. I will stick to my remarks, if the member does not mind. *Legislation Review Digest No. 23/58* raised concerns about the impact to freedom of movement and assembly. The Government is not eroding the right to peaceful protest. Every week, people conduct peaceful protests in our State. This Government recognises the importance of freedom of assembly and freedom of speech. Those rights are foundational to our democracy. However, international law, constitutional law and the common law recognise that the right to peacefully protest and assemble can be restricted for public interest reasons, including the protection of the rights and freedoms of others. The Government is therefore

required to strike a balance between the rights to freedom of expression and peaceful assembly and the rights of other members of the community to freedom of movement and to not be unduly obstructed from going about their lawful activities.

The bill does not create any new offences; it merely increases the financial penalty that the Local Court may impose for a section 213 offence. Section 213 of the Crimes Act does not criminalise protests. It criminalises persons disrupting railway lines, which can be extremely dangerous and significantly detrimental to the communities, the businesses and the economy of the State. It poses a threat to the safety of those persons and of commuters and railway staff. It also disrupts the lives of members of the community who rely on public transport to get to work, attend school and go about their daily activities. This Government supports the right to peaceful protest but does not support illegal actions that risk safety and lives. We make no apology for taking action to strengthen the financial penalties for dangerous and disruptive behaviour on railway lines.

The Government moved amendments to the bill in the Legislative Assembly to make it clear that a person does not commit an offence under section 213 if their conduct forms part of an industrial action, dispute or campaign. Section 213 of the Crimes Act 1900 provides for longstanding offences that relate to the obstruction of railways. Those offences date back over a century in one form or another in New South Wales. Earlier versions can be found in English legislation from the 1800s. Those offences are not designed to impact on industrial action; instead, they are directed at the safety of our railways.

For the avoidance of doubt, the Government responded to suggestions from members of The Greens in the Legislative Assembly and other stakeholders by including an exemption to the offences in section 213 for persons engaging in an industrial action, dispute or campaign. That is based on the exemption in section 214A (3) of the Crimes Act. The exemption is also found in section 144G of the Roads Act. The exemption in section 214A exists because of amendments moved by the Labor Party in 2022, when in opposition. Even though section 213 targets different conduct to section 214A, this Government considered it important to make it clear that the offences in section 213 also do not apply to such conduct.

Ms Sue Higginson suggested that the Supreme Court in *Kvelde* held that section 214A of the Crimes Act was unconstitutional. *Kvelde v State of New South Wales* was a challenge to the constitutional validity of section 214A of the Crimes Act and clause 48A (1) of the Roads Regulation 2018. The Supreme Court in *Kvelde* did not consider section 213 of the Crimes Act. It ruled that section 214A (1) (a), (b) and parts of (c) relating to full closures of facilities were all constitutionally valid. The Supreme Court held that those aspects of section 214A did not impose a burden on the implied constitutional freedom of political communication because those provisions covered conduct that was already unlawful under other laws, including the common law.

The Supreme Court held that section 214A (1) (d), concerning redirection of persons to use a major facility, and the parts of section 214A (1) (c) that relate to partial closures of facilities were invalid. The Supreme Court held that those subsections imposed a burden on the implied freedom. While the purpose behind those subsections was legitimate, the court considered that targeting lawful conduct that causes part of a major facility to be closed or causes people to be redirected went beyond what was necessary to achieve those aims.

The effect of Supreme Court's judgement in *Kvelde* is therefore that only section 214 (1) (d) and part of section 214A (1) (c) are inoperable. That is likely to have no bearing of the practical operation of the offence, as any conduct that causes the partial closure of a major facility or causes persons attempting to use that facility to be redirected and, as a result, seriously disrupts or obstructs persons attempting to use the major facility will still be caught by subsection (1) (b). Importantly, the Supreme Court held that the core aspects of section 214A—that is, the prohibitions on conduct that causes damage to a major facility, seriously disrupts or obstructs persons attempting to use the major facility or causes the facility to be closed—are valid and do not burden the implied freedom of political communication. Ms Sue Higginson referred to the statutory review of part 4F of the Crimes Act. The amendments in the bill are entirely separate to the work of the statutory review. Part 4AF of the Crimes Act contains section 214A, which prohibits damaging or disrupting a major facility. Section 213 is not contained in part 4AF.

Section 214B of the Crimes Act requires that the Attorney General review part 4AF as soon as possible after 2 April 2024, which is two years after the commencement of that part. The Attorney General asked the Department of Communities and Justice to conduct the statutory review of part 4AF of the Crimes Act on his behalf. The review commenced in April 2024. The statutory review was required to consider whether the policy objectives of part 4AF remain valid and whether the terms of the provisions in the part remain appropriate for securing those objectives. The scope of the review did not include reviewing section 213 of the Crimes Act. The Government has moved swiftly to introduce tougher financial penalties for the very dangerous conduct that some people engage in on railways. These amendments do not pre-empt the findings of the statutory review in any way because that review is not considering section 213. The Government is carefully considering the statutory review, and the report will be tabled shortly.

In conclusion, this bill will help to deter people from engaging in reckless behaviour on railway lines. Doubling the maximum fine that the Local Court can impose for an offence against section 213 of the Crimes Act reflects the seriousness with which the community and the Government view this offence. The bill further strengthens the laws of New South Wales to address seriously disruptive behaviour which puts members of the community at risk. It aligns the penalty for section 213 with the penalty for the other key offences that target disruptive conduct. This bill sends a strong message that dangerous and disruptive behaviour on railway lines is not acceptable. I commend the bill to the House.

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

The House divided.

Ayes28

Noes6

Majority.....22

AYES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Graham
Houssos
Jackson

Kaine
Lawrence
MacDonald
Maclaren-Jones
Merton
Mitchell
Mookhey
Moriarty
Munro

Murphy
Nanva (teller)
Primrose
Rath (teller)
Roberts
Sharpe
Suvaal
Tudehope
Ward

NOES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

Motion agreed to.

In Committee

The CHAIR (The Hon. Rod Roberts): There being no objection, the Committee will deal with the bill as a whole. I have one sheet of amendments, being The Greens amendments Nos 1 to 3 on sheet c2024-257A.

Ms SUE HIGGINSON (20:39): By leave: I move The Greens amendments Nos 1 to 3 on sheet c2024-257A in globo:

No. 1 Defences and exemptions from offence

Page 3, Schedule 1. Insert after line 13—

(2A) Subsection (1) does not apply in relation to—

(a) a tramway, or

(b) tracks that form part of a light rail system, within the meaning of the *Transport Administration Act 1988*.

No. 2 Defences and exemptions from offence

Page 3, Schedule 1. Insert after line 18—

(4) A person does not commit an offence under this section if the conduct occurs—

(a) at the workplace at which the person works, or

(b) at a workplace owned, occupied, operated or used by an employer of the person.

(5) A person does not commit an offence under this section for anything done or omitted to be done in accordance with the consent or authority of—

(a) the NSW Police Force, or

(b) another public authority, or

(c) for a privately owned railway line—the owner or operator of the railway line.

No. 3 **Review**

Page 3, Schedule 1. Insert after line 18—

[2] Schedule 11 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part and clause numbering—

Provision consequent on Crimes Amendment (Obstructing a Railway) Act 2024**Review of operation of s 213**

- (1) The Minister must review the amended provision to determine whether—
 - (a) the policy objectives of the amended provision remain valid, and
 - (b) the terms of the amended provision remain appropriate for securing the objectives.
- (2) The review is to be undertaken as soon as possible after the period of 12 months from the commencement.
- (3) The review must include—
 - (a) consultation with the public about the matters mentioned in subclause (1)(a) and (b), including an invitation to make submissions about the matters, and
 - (b) publication of any submission made about the review, with the consent of the person making the submission.
- (4) A report on the outcome of the review must be tabled in each House of Parliament within 18 months after the commencement.
- (5) In this clause—

amended provision means section 213 as amended by the *Crimes Amendment (Obstructing a Railway) Act 2024*.

commencement means the commencement of the *Crimes Amendment (Obstructing a Railway) Act 2024*, Schedule 1[1].

The amendments relate to the defences and exemptions from the offence prescribed in the bill. It seems only reasonable and fair to have express defences and exemptions that would apply to a criminal provision. Amendment No. 1 provides that the offence does not apply on a tramway or light rail. It reflects the concern raised by civil society organisations that the bill will encroach upon groups' abilities to hold civil assemblies in areas close to or that pass over a light rail corridor, such as the Sydney Town Hall or other dense urban locations. People often gather and assemble to express their dissent or their protest or disagreement with government, and they do so around transport areas where there are tramlines or light rail. It seems absurd that there would not be support to exempt tramlines, tramways or light rail.

Amendment No. 2 seeks to require that the offence not apply to persons engaging in forms of protest that obstruct a railway at their place of work. Clearly we are referring to the nature of industrial disputes. This reflects similar provisions in section 214A of the Crimes Act, which contains protections for people engaging in non-protected industrial action in their place of work. The Greens recognise that systems of protected industrial action still create onerous conditions that individuals must meet in order to engage in that form protest. It also seeks to protect those who would engage in such action with the accordance of police or another public authority, or in the instance that the action is taking place on privately owned railway lines.

Amendment No. 3 requires that there be a statutory review after 12 months and that the review contain a public consultation element to it. The amendment is also in response to civil society organisations that have requested a review in 12 months. It is fine for the Opposition and the Government to suggest that the criminal provision has the ordinary defences within it, and therefore protections, defences or exemptions are not required. But the fact is that is just nonsense and it is absurd to expect we must take that. The criminal provision is intended to stifle protest, and that is absolutely on the record. That is what raising the bar in terms of the penalty is. It is precisely what we are doing with this bill. To pretend that we are fixing criminal law is nonsense. I urge anyone speaking against this amendment to not insult the attempt at an amendment with that kind of argument. That is not what the amendment is about.

The amendment is a genuine attempt by The Greens, once again, to protect people from the arbitrary, the unfair and the harsh excesses of the State when it comes to people exercising their fundamental rights to protest and engage in non-violent acts of civil disobedience. I will not be able to recite this off the top of my head but I remember a judgement in the House of Lords where Lord Hoffman said words to the effect of "My Lords, civil disobedience is different to criminal law. It is an act that engages in political objection, conscientious objection to governments, laws or rules or policies that the people don't agree with. When this happens, Parliaments,

magistrates and police should all exercise restraint." That is what members should do, but it is not what this Committee is doing tonight.

The amendments that I have moved in globo seek to provide some modicum of restraint and some protection for the people of New South Wales who may decide to exercise their right to protest and engage in a nonviolent act of civil disobedience. The amendments also aim to protect those who would like to engage in acts of industrial protest or acts that are not protected industrial actions and activities. Once again, The Greens will stand on the right side of history when it comes to protecting people's freedoms and preserving the protections within the laws to exercise the right of dissent.

The Hon. DANIEL MOOKHEY (Treasurer) (20:45): Firstly, I thank the member for moving the amendments in globo. The Government supports the bill as it is, for all the reasons that were given in the other place when the same amendments were moved there. Therefore, I refer members to those remarks in *Hansard* as to the reasons why the Government supports the bill without amendment.

The Hon. SUSAN CARTER (20:46): For identical reasons to those given in the other place when identical amendments were moved, the Opposition is also unable to support them.

The CHAIR (The Hon. Rod Roberts): Ms Sue Higginson has moved The Greens amendments Nos 1 to 3 on sheet c2024-257A. The question is that the amendments be agreed to.

The Committee divided.

Ayes6
Noes28
Majority.....22

AYES

Boyd (teller)
Buckingham

Cohn
Faehrmann

Higginson (teller)
Hurst

NOES

Barrett
Buttigieg
Carter
D'Adam
Donnelly
Fang
Farlow
Franklin
Graham
Houssos

Jackson
Kaine
Lawrence
MacDonald
Maclaren-Jones
Merton
Mitchell
Mookhey
Moriarty

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

Amendments negatived.

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

Motion agreed to.

The Hon. DANIEL MOOKHEY: I move:

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

Motion agreed to.

Adoption of Report

The Hon. DANIEL MOOKHEY: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. DANIEL MOOKHEY: I move:

That this bill be now read a third time.

Motion agreed to.*Committees***PUBLIC ACCOUNTABILITY AND WORKS COMMITTEE****Reference**

Ms ABIGAIL BOYD: I inform the House that in accordance with paragraph (8) of the resolution establishing the Public Accountability and Works Committee, the committee resolved on this day to adopt the following terms of reference:

Integrity, efficacy, and value for money of the Local Small Commitments Allocation process

- (1) That the Public Accountability and Works Committee inquire into and report on the integrity, efficacy and value for money of the Local Small Commitments Allocation process and in particular:
 - (a) the range and availability of funding under the program, including but not limited to, the manner in which grants were and are determined, including:
 - (i) the oversight of funding determinations;
 - (ii) the transparency of decision making;
 - (iii) the independence of the assessment of projects;
 - (iv) the role of advocates, candidates, and members of Parliament in proposing projects for funding; and
 - (v) the scope of Ministers' discretion in determining which projects are approved;
 - (b) the role and interaction of the Premier's Department and other agencies in the process, assessment, and facilitation of grants;
 - (c) measures necessary to ensure the integrity of grants schemes and public confidence in the allocation of public money; and
 - (d) any other related matter.

*Documents***TABLING OF PAPERS**

The Hon. DANIEL MOOKHEY: According to the Workplace Surveillance Act 2005, I table the Report of the Attorney General according to section 42 of the Workplace Surveillance Act 2005 for the period 1 January 2023 to 31 December 2023.

NORTH COAST MISSING PERSONS**Return to Order**

The CLERK: According to the resolution of the House of Wednesday 23 October 2024, I table:

- (a) a return received on Thursday 21 November 2024 from the Cabinet Office, together with an indexed list of documents; and
- (b) a return received on Thursday 21 November 2024 from the Cabinet Office of documents subject to a claim of personal information.

*Bills***VICTIMS RIGHTS AND SUPPORT AMENDMENT (VICTIMS SUPPORT COUNSELLING) BILL
2024****Second Reading Speech**

The Hon. DANIEL MOOKHEY (Treasurer) (20:57): I move:

That this bill be now read a second time.

The New South Wales Government is pleased to introduce the Victims Rights and Support Amendment (Victims Support Counselling) Bill 2024. The bill will amend the Victims Rights and Support Act to extend victims support counselling to the families of people killed in road crimes. The bill implements a New South Wales Government election commitment to provide better support to families who have lost loved ones through road crime by ensuring that those families can access counselling through the Victims Support Scheme.

I acknowledge some people who contributed to the development of the bill, including Martha Jabour and her daughter, Jamelia. Martha has been a fierce advocate for victims of crime, including family victims of road crime. The Government thanks her and the members of the Road Trauma Support Group for their involvement in the development of this bill. I also acknowledge the family members who have lost loved ones as a result of road

incidents. Last Sunday, 17 November, was World Day of Remembrance for Road Traffic Victims—an opportunity to remember those loved ones who have been lost and those who have been injured on the roads.

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

Leave granted.

Victims of road crime have largely been excluded from the Victims Support Scheme [VSS] in New South Wales. Incidents involving motor vehicles are mostly excluded from being "acts of violence" under the Act.

Our Government acknowledges that family victims of road crime experience the same immense trauma and suffering as other people who lose a family member too soon because of a criminal act. This bill will ensure that they receive counselling support to assist them to navigate their loss.

Under the changes proposed in this bill, a family member will be eligible to access victims support counselling if a person is killed in a motor vehicle crash and another person is charged with an offence relating to the crash. A charge will not be required if the alleged offender has died or cannot be located but there is sufficient evidence to establish that an offence has apparently occurred.

An eligible family member will be able to access 22 hours of approved counselling, with further hours available if approved by the Commissioner of Victims Rights.

Eligible family members will be able to access counselling under the VSS if the road crime occurs on or after a date two years prior to the commencement of the new law. The commissioner will have discretion to accept applications from family members of people killed before this date in exceptional circumstances.

Going forward, consistent with counselling offered to victims of an act of violence or modern slavery, there will be no requirement that family victims apply to the VSS within a particular time period after the crime occurred. A person may seek counselling at the time appropriate to them.

The bill also includes a clarifying amendment to confirm that the Charter of Victims Rights at section 6 of the Victims Rights and Support Act applies to victims of road crime.

I turn now to the detail of the bill.

Clause 2 of the bill provides that the Act will commence on a day to be appointed by proclamation. This is to allow Victims Services time to implement the changes.

Schedule 1 to the bill contains the substantive amendments to the Victims Rights and Support Act.

Clause 1 and 2 of schedule 1 make changes to the definitions to reflect new definitions included in the Act.

Clause 3 of schedule 1 amends the definition of "victim of crime" that applies to the Charter of Victims Rights. The amendment clarifies that a victim of crime includes people who suffer harm in the commission of a criminal offence involving a motor vehicle.

Although the Charter of Victims Rights does currently apply to victims of road crimes, this amendment responds to calls for these victims to be clearly and explicitly recognised.

Clause 4 of schedule 1 updates the objects of the part of the Act that creates the Victims Support Scheme to reflect that the scheme will now provide support for family victims of road crime.

Clause 6 of schedule 1 clarifies that a road crime is not an act of violence unless the act was an intentional killing and perpetrator has been charged with murder or the act was a terrorist act. This is consistent with the current position under the Act. The distinction is necessary because victims of acts of violence and family victims of road crimes are eligible for different types of support under the Victims Support Scheme.

Clauses 5 and 7 of schedule 1 include a definition of road crime in the Act. A road crime is an act or series of acts, committed in New South Wales, involving a motor vehicle, that caused the death of a person. Charges must have been laid against an alleged offender in relation to the act, unless the alleged offender has died or cannot be found. The regulation may prescribe circumstances in which an act does, or does not, constitute a road crime.

A charge is required to give effect to the intention to extend support to people who lose family members due to road crime. Unfortunately, people are killed in motor vehicle crashes caused by a range of factors. However, not all crashes are caused by the criminal act of another person.

Determining whether an offence has been committed in a motor vehicle crash is often a complex assessment requiring expert technical knowledge. It would not be practicable for Victims Services to assess whether an offence has occurred in all cases. Requiring a charge to be laid creates greater certainty for all parties.

If the alleged offender has died or cannot be located, it will not be possible for the police to lay charges. In these cases, a family member will be eligible if an offence has apparently occurred. Victims Services will consider the available evidence, including police reports, and assess whether an offence has apparently occurred on the balance of probabilities. This will ensure that family members will not be prevented from accessing support in circumstances where it is not possible to lay charges.

Clauses 8 to 11 of schedule 1 update the definition of family victims to include a member of the immediate family of a person who has died as a result of road crime.

Consistent with existing powers under the Act and regulation, the commissioner will also be able to approve counselling for relatives other than immediate family members, if appropriate.

Clause 12 of schedule 1 updates section 23 of the Act to provide that a family victim of road crime is eligible for the support outlined in proposed new section 29A.

Clauses 13 to 15 of schedule 1 amend section 25 of the Act which sets out when people are not eligible for support. The position for family victims of road crime will be consistent with the position for other family victims of crime. This includes that family victims of alleged offenders will not be eligible for support under the Victims Support Scheme, unless they were also related to the victim.

Clauses 16 and 17 of schedule 1 make consequential amendments to distinguish between a family victim of an act of violence and a family victims of road crime.

Clause 18 of schedule 1 inserts new section 29A which provides that family victims of road crime are eligible for approved counselling services. Under the Victims Rights and Support Regulation 2019, up to 22 hours of counselling will be available, with a further period available if approved by the commissioner.

Clause 19 of schedule 1 updates section 30A to provide that if an act could be classified as more than one of an act of violence, act of modern slavery or a road crime, a victim is eligible for each type of support under the scheme only once. This is consistent with the current treatment of acts of violence and acts of modern slavery under the Victims Support Scheme.

Clauses 20 to 22 of schedule 1 make consequential amendments to allow the commissioner to approve counselling services and authorise payments.

Clauses 23 and 24 of schedule 1 make consequential amendments to allow family victims of road crimes to submit applications and for those applications to be determined.

Clauses 25 to 28 of schedule 1 amend section 44, which sets out reasons for not approving victims support. In general, the position for family victims of road crime will be the same as for victims of acts of violence and acts of modern slavery.

One difference is that family victims of road crime will not have to wait for associated insurance claims to be determined before being found eligible for victims support. This ensures consistency of support offered to victims because victims of acts and violence and act of modern slavery may also receive approved counselling services even if eligible for workers compensation or support under the police officer support scheme. It will also prevent delays in victims accessing support and reduce complexity for victims navigating the insurance and justice systems after a loved one's death.

Clause 29 of schedule 1 contains savings and transitional provisions. Under these provisions, family victims of road crimes that occurred two years before commencement will be eligible for victims support. The commissioner will have the discretion to approve counselling in relation to road crimes occurring before this time, in exceptional circumstances.

The term "exceptional circumstances" is not defined by the bill, but relevant considerations may include the number of individuals killed and their age, and the impact on the families and their community—for example, where a road crime results in the loss of multiple young lives, causing a significant and Lasting impact on the local community. This was the case in the tragic Buxton crash that killed five teenagers and I want to acknowledge the member for Wollondilly for her advocacy on behalf of those families.

Schedule 2 to the bill contains amendments to the Victims Rights and Support Regulation 2019. These amendments are required to allow for the authorisation of payments for approved counselling services for family victims of road crime.

Before I conclude, I want to thank some people who have been instrumental to the development of this bill.

I once again thank the Road Trauma Support Group and, in particular, Martha Jabour. Your love for your family members and your advocacy for change has been central to the development of this bill and you should be commended for your tenacity and your bravery.

I also want to thank the family victims of road crimes, and family members who have lost loved ones in road incidents, who have met with me and shared their stories.

Finally, I thank those family members who met with me after the indescribable tragedy of the Greta bus crash. All of the immediate family victims impacted by this horrific incident will be eligible for counselling under this bill.

This bill will ensure that family victims of road crimes in New South Wales will be able to access critical mental health support through the Victims Support Scheme.

I commend the bill to the House.

Second Reading Debate

The Hon. SUSAN CARTER (20:58): I contribute to debate on the Victims Rights and Support Amendment (Victims Support Counselling) Bill 2024 and indicate at the outset that the Opposition is pleased to support the bill. I also acknowledge that the World Day of Remembrance for Road Traffic Victims was last Sunday. I extend my thoughts and sympathy to all those who are suffering from a terrible trauma and loss. If the bill can go a small way to relieving that trauma and loss, it will have done a good thing. The reforms in the bill build on important work that the Opposition did in government. The bill represents another step forward in our commitment to support victims of road trauma and their families.

The Opposition is proud to have introduced Nick's law when in government. That law extended access to the Victims Support Scheme to the close family members of victims deliberately killed by a motor vehicle. It is law that forms the foundation on which the bill before us builds. We are proud to have engaged with the Judicial Commission on education for judicial officers about the appropriate use of terms such as "accident" and "road crime". It was a Coalition government that legislated for the State Insurance Regulatory Authority to establish a trauma support service for the families of those who have been injured or killed as a result of road trauma. We led reforms that provided bereavement payments for families who lost an unborn child as a result of road trauma.

That is the legacy on which the current bill builds. We are happy to support it, as we did all of those other measures that provide relief for grieving families. The bill extends the counselling support available to families of those killed in road crime, allowing them to access the Victims Support Scheme. It amends the definition of "victim of crime" in the Charter of Victims Rights to explicitly include those who suffer harm in the commission of a criminal offence involving a motor vehicle. Importantly, it does not require there to be a criminal charge if the offender has died or cannot be located such as in hit-and-run cases. We support the bill for the welfare of the families who will benefit. But we are also deeply disappointed with the bill. It is a start, but it is a sometimes shaky start.

It is unclear whether the families of all those who die through road trauma can access counselling, particularly those in grey cases where it may not be clear whether the road trauma was caused by a true accident or a crime was involved. Should our default position be that all these families are also included? What consideration was given to this issue? Also, if our focus is on the families and the survivors of road trauma, what of the surviving family of a deceased offender? It appears that they are not eligible under this legislation unless they are also related to the innocent victim. Is that appropriate or is that punishing a surviving family twice for a crime in which they were not involved?

Those are important, but apparently unexplored, questions. Perhaps that is because the legislation has been rushed by the Government as a reaction to the terrible grief over the devastating Greta and Buxton crashes. A compassionate society responds to that grief, but it responds with full care and consideration—the type of consideration that is currently being given to that difficult and important task by the NSW Law Reform Commission, as a result of a reference the Opposition made in government, so that a considered and thoughtful response could be provided. It is disappointing that this legislation has been presented before the Law Reform Commission has reported on these difficult issues.

But it is not surprising. The Government certainly has form in this regard. It introduced changes to section 93Z of the Crimes Act—and then it ordered a review. It introduced knife crime laws before the report of the Sentencing Council's inquiry on the same issue was received. Surrogacy laws changed before the review of the Surrogacy Act had been completed. Now a victims support counselling bill is introduced before the Law Reform Commission has finished its important work. This is a slapdash approach to important issues. What is the track record of rushing those changes so far? The knife crime penalties, which were to educate us all, have never been used since their premature introduction. The surrogacy changes have created a major—and still unresolved—problem with surrogacy slavery. The real impact of this current bill is still to be seen. We hope it is effective for the families of the victims of road trauma. They deserve our support, our care and our respect.

That is a respect that seems strangely missing when this legislation is compared with the promises made by the Government before the election. On 22 October 2022 a commitment was given that a Minns Labor Government would do what the bill does—that is, extend Victims Support Services to the families of victims killed by road crime. But it also promised, as part of the same commitment, to appoint an independent victims commissioner. That promise remains unfulfilled, and the independent advocate for victims remains a broken promise. The reason given for appointing an independent commissioner was:

... the commissioner is the administrative head of victims' services, responsible for budgetary and management oversight of the delivery of services to victims.

The Commissioner is placed in the impossible situation of being responsible for the agency that delivers services to victims, while being expected to act as an advocate for victims groups when the services are inadequate or inappropriate.

If the Government saw that as a problem when in opposition, why does it not still see it as a problem when in government, when it has the capacity to do something about it. Arguably, this current legislation is making the perceived problem even worse, as it is Victims Services that is charged with the responsibility of deciding if a crime has been committed if the offender is missing or deceased, thus deciding whether or not those family members are able to receive counselling through the service. Is this careless legislation? Is this a broken promise? Is it both? Is it respectful dealing with families of victims of road trauma? Perhaps not. Dealing with crime is not just about punishing offenders; we must also extend our care to victims. A compassionate society does what it can to support victims of crime, and the Opposition believes in a compassionate society. While counselling cannot replace a loved one lost through road trauma, it can help with the loss and, to the extent that it can, it should be provided. The Opposition is happy to support the bill.

Ms SUE HIGGINSON (21:06): The Greens support the Victims Rights and Support Amendment (Victims Support Counselling) Bill 2024, but it is interesting to hear the comments of the Hon. Susan Carter in opposition. I say, "Hear, hear!" I agree with so many things she just said on record. There are many holes in the victims compensation and support systems. We can do much better, and I think we should. The Greens have spoken with the Attorney General and his office, and we understand that this discrete reform is something he is committed to and very passionate about. It is really good when the Attorney General of New South Wales gets

inspired to do something that sits within the vein of justice in this State. Unfortunately, I have seen many opportunities missed, and I have seen many victims in this State miss out because the Attorney General is not inspired to do justice by them. On this occasion I have heard that there is a gap in the system and that he has taken it upon himself and put it through the Parliament in the bill before us now.

It is important that we understand and clarify the definition of "road crime victims", that we include those victims in ways that will best service their needs, and we tailor the types of support for them and their needs. The Greens support the bill and agree with some of the comments made by the Opposition about taking a piecemeal approach when dealing with something as important as the rights of victims being able to access the services and supports they need. The Greens take this opportunity to urge the Attorney General, the department and the Government to take a comprehensive look at how well we are doing for victims of crime across New South Wales.

The Hon. DANIEL MOOKHEY (Treasurer) (21:09): In reply: I thank the Hon. Susan Carter and Ms Sue Higginson for their contributions to debate on the Victims Rights and Support Amendment (Victims Support Counselling) Bill 2024. This important bill amends the Victims Rights and Support Act 2013 to extend victim support counselling to the families of all people killed in road crimes. It implements the Government's election commitment to allow family members who have lost a loved one through a road crime to access crucial mental health support. Once more, I pay tribute to the people who have helped the Government develop the bill. I also pass on my high regard and solidarity to those families who have family members who are victims of road crimes. This bill addresses their needs. With that, I commend the bill to the House.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. DANIEL MOOKHEY: I move:

That this bill be now read a third time.

Motion agreed to.

PUBLIC HEALTH (TOBACCO) AMENDMENT BILL 2024

Second Reading Speech

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (21:10): I move:

That this bill be now read a second time.

I am pleased to bring before the House the Public Health (Tobacco) Amendment Bill 2024. From 1 July 2024 new Commonwealth laws became enforceable, meaning that all vaping products regardless of nicotine content can only be prescribed by a medical or nurse practitioner and dispensed from a pharmacy in Australia. For all other retailers in New South Wales, the sale of all e-cigarettes or e-liquids is illegal. This also includes online sales.

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

Leave granted.

For our part, our vaping enforcement efforts, including seizures, continue. Between 1 July and 9 July 2024, NSW Health with other enforcement agencies, including the TGA, conducted 60 retailer inspections.

These raids seized around 12,026 vapes, 1,935 nicotine pouches, 738,427 cigarettes, and 135.88kg of flavoured and loose-leaf tobacco worth an estimated street value of more than \$1.29 million.

Our compliance and enforcement efforts as well as our regulatory and legislative frameworks need to appropriately meet the enormity of this challenge.

The bill proposes to amend various pieces of legislation following the Commonwealth Government's recent legislative reforms to target illegal vaping goods. The changes in the bill will align New South Wales with the Commonwealth by including specific New South Wales offences that ban the supply and possession of vaping goods unless authorised for therapeutic use, and will make a number of other consequential amendments.

These changes will support New South Wales officers to implement the ban in New South Wales.

I want to take this opportunity to thank the Committee on Law and Safety for its inquiry and corresponding report on e-cigarette regulation and compliance in New South Wales. The inquiry rightly highlighted the significant risks and issues associated with e-cigarettes in our community and the need for the New South Wales Government to support the Commonwealth Government's vaping reforms and continue to work closely with federal agencies to align enforcement and compliance efforts.

Before turning to the provisions of the bill, I want to firstly speak about the widespread emergence of e-cigarette use (also known as vaping), particularly amongst young people, which has occurred at an alarming pace.

E-cigarettes were marketed and sold to consumers and governments around the world as a cessation aid for long-term smokers who were unable to quit smoking tobacco by using existing behavioural and therapeutic pathways.

E-cigarettes were never intended to be used as recreational products. However, these products have been deliberately targeted at young people, designed to hook a whole new generation on nicotine.

This is a significant public health concern and there are increased risks that our children and young people will suffer from a lifetime of nicotine dependence.

The bill aims to address these concerns by aligning New South Wales legislation with the recent Commonwealth vaping reforms made under the Commonwealth Therapeutic Goods Act.

At a high level, the vaping reforms in the Commonwealth Therapeutic Goods Act prohibit, from 1 July 2024, the importation, manufacture, supply and possession of vaping goods (being vaping devices, vaping accessories and vaping liquids), regardless of whether these devices contain nicotine, unless a relevant defence or exception applies. In general, this means that vaping goods can only be manufactured, sold and possessed for therapeutic purposes.

While vaping goods, irrespective of nicotine content, have been banned since 1 July 2024 in New South Wales and Australia wide due to the Commonwealth reforms, the purpose of this bill is to include specific supply and possession offences under New South Wales legislation which are aligned with the Commonwealth reforms in order to support enforcement in New South Wales.

In doing so, it will enable New South Wales officers appointed under the NSW Poisons and Therapeutic Goods Act 1966 and Medicines, Poisons and Therapeutic Goods Act 2022, to use their existing powers to enforce these new offences.

Having specific offences in New South Wales will help New South Wales officers enforce the vaping laws within the context of New South Wales legislation, utilising their existing enforcement powers. While the Commonwealth laws also extend to importation and manufacturing, the bill does not include the importation and manufacturing offences as enforcement of such matters generally falls within the remit of the Commonwealth Therapeutic Goods Administration.

The bill aims to ensure that enforcement can occur efficiently and effectively in New South Wales retail settings, by New South Wales officers, under New South Wales law, and, where appropriate, in consultation with other enforcement bodies.

Before turning to the specifics of the bill, I want to make clear that, similarly to the Commonwealth provisions, this bill does not intend to criminalise the possession of vaping goods for personal use, particularly for young people who have been targeted with these products.

The controls within the bill ensure that individuals will not be penalised for experiencing nicotine addiction. Both the Commonwealth offences and the provisions of this bill allow for the therapeutic supply of vaping goods to support smoking cessation or the management of nicotine dependence.

I turn now to schedule 1 to the bill, which contains various amendments to the Poisons and Therapeutic Goods Act 1966 that align with the Commonwealth supply and possession offences.

Firstly, new section 20 prohibits the supply of "vaping goods" (which has the same meaning as in the Commonwealth legislation, to include vaping devices, vaping accessories, and any vaping liquids, irrespective of nicotine content).

The maximum penalty for this offence is seven years imprisonment, 14,000 penalty units (being \$1,540,000), or both. Where this offence is prosecuted as a strict liability offence, the maximum penalty is 560 penalty units (being \$61,600). These are consistent with the Commonwealth laws, with the penalty units adjusted for the difference in their value between New South Wales and the Commonwealth.

As with the Commonwealth laws there are strict liability offences, which are offences where the prosecutor is not required to prove a mental element of the offence. They assist in ensuring a proportional approach to regulation is applied based on the seriousness of the offence.

Importantly, these offences will not apply if a relevant exception exists, including where persons are otherwise authorised to supply the vaping goods (by way of being an authorised manufacturer or wholesaler), or are authorised to supply the goods under the Commonwealth Therapeutic Goods Act.

The offence will also not apply where supply is by a pharmacist, medical practitioner, or nurse practitioner who is otherwise authorised to supply the vaping goods under the Poisons and Therapeutic Goods Act, where the supply meets certain quality and safety requirements, and is for the purpose of smoking cessation, management of nicotine dependence, or another indication determined under the Commonwealth Therapeutic Goods Act.

I turn now to the inclusion by the bill of the new sections 21 and 22 of the Poisons and Therapeutic Goods Act (which I will refer to as the Poisons Act).

These new sections contain two types of offences for the possession of vaping goods — firstly, offences for the possession of commercial quantities of vaping goods, and secondly, possession offences that apply specifically to retailers.

The offences, penalties and definition of commercial quantity in the bill are aligned with the Commonwealth laws. Under the bill, it will be an offence to possess a kind of vaping good that is at least the commercial quantity but less than 100 times the commercial quantity, with a maximum penalty of two years imprisonment and/or 2,800 penalty units; to possess a kind of vaping good that is at least 100 times the commercial quantity but less than 1000 times the commercial quantity with a maximum penalty of four years imprisonment and/or 8,400 penalty units; and to possess a kind of vaping good that is at least 1000 times the commercial quantity, with a maximum penalty of seven years imprisonment and/or 14,000 penalty units.

As with the Commonwealth laws, there are also strict liability offences with lower penalties which will allow for graded enforcement action depending on the nature of the offence.

From 1 October 2024, for vaping devices, the Commonwealth has set the commercial quantity at nine. For vaping accessories, the commercial quantity is 60, and for vaping liquids, the commercial quantity is 400 millilitres.

In line with the Commonwealth, these offences do not apply to possession by a person who uses vaping goods for their personal use, provided that the person possesses less than five times the commercial quantity of vaping goods, which from 1 October 2024 will be 45 vaping devices, 300 vaping accessories, or 2,000 millilitres of vaping liquids. This amount is determined by reference to the Commonwealth's vaping goods determination.

Similarly to the supply offences, there will be exceptions where a person is lawfully authorised to possess vaping goods, including pharmacists, medical practitioners and nurse practitioners or those who are otherwise authorised to supply under the Commonwealth laws.

I turn now to the retailer possession offences in the new section 22 of the poisons Act.

This possession offence will apply solely to retailers on retail premises. A retailer is defined consistently with the Commonwealth laws to mean owners, lessees, or occupiers of retail premises, a person conducting business at a retail premises, directors, officers or agents of the retail premises, and a person performing work at a retail premises (including employees).

This offence is intended to capture retailers who wish to sell illegal vaping goods, and who deliberately keep stock levels of the illegal product below the commercial quantity in order to avoid the more serious offences for the possession of commercial quantities of vaping goods.

In addition, the offence is intended to ensure retailers who wish to sell illegal vaping goods cannot argue that illegal vapes on retail premises are for personal use.

As a starting point, these offences do not apply where a retailer possesses a "permitted quantity" of vaping goods that has been lawfully supplied to the person for their personal use. The permitted quantity for vaping devices is two, for vaping accessories is three, and for vaping liquids, is 60 millilitres, determined by reference to the Commonwealth's vaping goods determination.

This carve out is necessary to ensure that retailers who do not wish to sell illegal vapes for commercial purposes, but who possess vaping goods for personal use, are able to lawfully do so while at work. However, such legal vaping goods must be kept to a minimum.

Turning to the offence provision, the offence will apply to a retailer that possesses a number of vaping goods that is less than the commercial quantity, but is over the permitted quantity. The penalty for this offence is 12 months imprisonment and/or 1,400 penalty units. Similarly to the other offence provisions, there is also a strict liability offence with a smaller penalty of 160 penalty units.

Similarly to the other offences, the retail possession offence will not apply if a person is otherwise lawfully authorised to possess the vaping goods, such as a medical practitioner, pharmacist or nurse practitioner.

I will turn briefly to schedule 2 to the bill, which contains amendments to the Medicines, Poisons and Therapeutic Goods Act 2022 (which I will refer to as the medicines Act). The medicines Act passed Parliament in 2022 to replace the poisons Act following a review of the latter Act. The medicines Act is expected to commence in 2025 following the development of regulation to support the Act.

The amendments to the medicines Act in the bill that create the new vaping good supply and possession offences are substantively the same as the amendments in the poisons Act which I have just spoken to. These offences will commence when the medicines Act commences, to ensure there is no gap in regulation.

Schedule 3 to the bill contains amendments to the Criminal Procedure Act to provide that the offences in the poisons Act and the medicines Act are to be dealt with summarily unless the prosecutor elects otherwise. This will ensure that matters can be heard summarily or proceed on indictment, as appropriate in the circumstances.

Schedules 4 and 5 to the bill contain amendments to the Public Health (Tobacco) Act 2008 and the Smoke-free Environment Act 2000 that are consequential to the ban on the supply of vaping goods, outside of a therapeutic pathway.

Currently, the Public Health (Tobacco) Act includes a range of provisions regulating e-cigarettes in the same way as tobacco products. This includes requirements to register as an e-cigarette retailer, banning the sale of e-cigarettes to minors, requirements regarding display of e-cigarettes, and mandatory signage requirements.

Schedule 4 to the bill removes references to e-cigarettes in the provisions in the Public Health (Tobacco) Act, with the exception of the provision which prohibits a person from vaping in a car with a minor. It will remain an offence to vape in a car with a minor, consistent with the requirements that vaping is only permitted where it is permitted to smoke tobacco.

Schedule 5 to the bill contains a minor consequential amendment to the Smoke-free Environment Act. The Smoke-free Environment Act requires that vaping can only occur where it is permitted to smoke tobacco. This requirement will not change. However it does this by defining smoking as including using an e-cigarette within the meaning of the Public Health (Tobacco) Act. Given the definitions are changing in the Public Health (Tobacco) Act, there needs to be a consequential amendment to the Smoke-free Environment Act.

I want to emphasise that all other smoke-free requirements will remain for e-cigarettes. Vapes cannot be used wherever tobacco smoking is prohibited, including in most public enclosed areas, on public transport and in many outdoor areas, such as within four metres of an entry point to a public building.

This bill is an important step to help improve New South Wales enforcement efforts in relation to the recent Commonwealth ban of e-cigarettes. The bill will complement the Commonwealth changes and allow New South Wales officers to enforce the e-cigarette ban in retail settings within the context of New South Wales specific legislation.

I commend the bill to the House.

Second Reading Debate

The Hon. NATALIE WARD (21:11): On behalf of the Opposition I speak in debate on the Public Health (Tobacco) Amendment Bill 2024. I acknowledge the Government's commitment to this issue and this great work. I also acknowledge the work of Kellie Sloane, the member for Vacluse and shadow Minister for Health, and her

commitment to improvement in this area. I note there is a Greens amendment to the bill, which we will support. I thank the Government for working with all parties on this legislation. It is important. The Opposition recognises that the bill is one of many measures introduced to try to reduce vaping, especially among young people. The Opposition shares those concerns and hopes that we can do much more in a bipartisan way to help solve this significant public health issue.

Stores that deliberately market vapes and other hazardous products to our children should feel the full force of the law. There has been a substantial rise over the past five years in the number of people, particularly young people, who vape. The Cancer Council Generation Vape research project found that 90 per cent of young people aged 14 to 17 years found accessing vapes easy, 37 per cent of young people aged 18 to 24 years were current vapers and 80 per cent were buying vapes from retail stores. Tobacconists are popping up everywhere. NSW Health data estimates that approximately 19,500 tobacconists are registered across New South Wales. That is an increase from 14,500 just four years ago. To give an example, in Sydney's inner west alone, there are 824 tobacconists.

I am informed smoking rates are going down, contrary to the rise in tobacconists. Why? Illegal vapes are being sold and there is also a black market in illegal tobacco. There are well documented links between the distribution and sale of illicit tobacco in Australia and serious and organised crime syndicates. Organised crime syndicates use illicit tobacco income to fund other illicit activities that cause significant harm to our communities, such as illicit drugs.

My colleague in the other place, the shadow Minister for Health, has provided the Opposition's position. I note that the bill creates offences and significantly increases the penalties for the illegal supply and possession of vaping products. It aligns New South Wales enforcement with the Commonwealth laws that came into effect on 1 July 2024. Under the new laws, vapes are available for therapeutic use and may only be supplied by pharmacists, medical practitioners and nurse practitioners. The reforms have been outlined in the Minister's second reading speech in this House and in the other place. These laws are entirely necessary and they are supported by the Opposition, as is The Greens amendment.

Dr AMANDA COHN (21:15): As The Greens spokesperson for health, including mental health, I indicate that The Greens oppose the Public Health (Tobacco) Amendment Bill 2024 and will be seeking to amend it. Firstly, I need to make clear that we strongly support the stated intent of this bill, which is to reduce the health harm caused by nicotine vaping. As a GP, I have been distressed to see the rise in nicotine addiction, particularly among young people, who have been targeted by the black market and by advertising, especially on social media. Vaping is a health issue that has been ignored for too long. The long-term health impacts of vaping are yet to be seen, as this kind of research and evidence is only emerging. I certainly do not view e-cigarettes as harmless, and even nicotine addiction on its own can have a negative impact on people's lives. However, it seems extraordinarily unlikely that vaping will be shown to be as harmful as we already know that cigarettes are.

The Greens support parts of this bill—for example, the amendments to the Smoke-free Environment Act 2000 to include vaping as well as to restrict advertising. Those are sensible harm reduction measures. However, the most significant changes proposed by this bill are to enforcement. The Public Health (Tobacco) Amendment Bill 2024 is the State's enforcement and compliance legislation drafted to mirror the Commonwealth Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024, relating to the supply, possession and use of vaping products. With this bill, New South Wales will prohibit the supply of vaping products, other than as therapeutic goods, and limit suppliers to health professionals and pharmacists as authorised under the relevant Commonwealth laws. It will restrict the possession of commercial quantities to those authorised to manufacture, import or supply vaping products. The bill introduces significant penalties, including a maximum penalty of seven years imprisonment or 14,000 penalty units for the unauthorised supply of vaping goods.

Firstly, it has not been made clear that these changes are necessary. I understand that NSW Health inspectors are currently doing the intended work with the added administrative hurdle of having to undertake inspections either under State or Commonwealth law. The Government has argued that this bill will reduce complexity for officers undertaking inspections. For example, they will no longer need to test whether vapes contain nicotine or not, which is described as a current barrier to enforcement. While I have sympathy for those inspectors and would generally like to support hardworking public servants to be able to do their work, easing an administrative burden for them is not a good enough reason to pass otherwise flawed legislation.

The penalties proposed by this bill are astonishingly high, including a maximum penalty of seven years imprisonment or 14,000 penalty units for supplying vaping goods. While the Government has stated that its intent is to align with Commonwealth penalties, harmonisation alone is not a good enough reason to legislate such enormous penalties. The public health benefit of such astonishing penalties has not been well argued. It is not surprising that the Opposition, which loves a law-and-order solution to any problem, is supporting an amending bill that will further increase penalties.

Finally, and most substantially, under this legislation, which mirrors the Commonwealth Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024, it will be easier for the people of New South Wales to purchase cigarettes than vapes. While the provision of nicotine e-cigarettes by pharmacists makes sense on the grounds that they already supply other nicotine products, such as patches, lozenges, inhalers and gum for smoking cessation, I understand that the uptake of pharmacists stocking nicotine e-cigarettes and nicotine for vaping has so far been extremely limited. From data supplied to Senate estimates, we know that the uptake of pharmacy vape prescriptions has had a slow start. In the first month of the scheme, vapes were dispensed from behind the counter at pharmacies only 3,500 odd times following a consultation across the country.

A survey by the Australian Journal of Pharmacy found that 86 per cent of pharmacies are not stocking vapes. NSW Health does not collect data on the products sold in independent pharmacies. Similarly, Federal health department officials said they were not keeping track of how many pharmacies were selling vapes at present, nor is the department tracking the number of vapes sold from doctor or nurse practitioner prescriptions. I repeat that the fundamental problem created by this legislative approach is that it will be easier to access cigarettes than vapes.

NSW Health states that e-cigarette use among young people has dramatically increased in recent years, according to its health statistics, which it acknowledges are likely an under-representation of the true prevalence. When so many young people are already addicted to black market nicotine, I have serious concerns that the unintended consequence of this approach will be more young people smoking cigarettes, and I have already heard from young people that this is occurring. A genuine harm reduction approach would do more than just impose penalties that are likely to push people experiencing addiction towards black market suppliers. Research has shown that a lack of government messaging about vaping has been interpreted by some young people as a sign that vaping is relatively safe, contributing to vaping being considered normal and acceptable to most young people.

An excellent report produced last year through the Office of the Advocate for Children and Young People platformed the perspectives of young people themselves on vaping. They want government to take more action to address vaping. Unprompted, more than half of all young people surveyed for the report responded that the preferred support they wanted to help them quit vaping was to have someone to talk to, whether that was a peer, family member or professional, with a need for confidentiality and trust and a preference for being supported by a younger person. One respondent said, "If young people want to quit, it's hard, because you have to do it alone. You can't go to your parents or teachers to talk about it."

Through the advocate, young people recommended that local councils should continue to invest in free and accessible recreation programs and spaces to provide young people with positive alternatives to engaging in vaping. They recommended prohibiting e-cigarette advertising on social media platforms, expanding existing legislation relating to advertising, plain packaging and health warnings to include e-cigarette products, and implementing public education campaigns and support services that are co-designed with and tested by young people.

I commend the work of my colleague Emma Davidson, the former Minister for Mental Health and Minister for Population Health in the Australian Capital Territory. She has undertaken extensive work on the matter, including roundtable discussions with young people. They expressed their need for tailored and targeted education and support services; for funding for the Cancer Council ACT and the Alcohol, Tobacco and Other Drug Association ACT to deliver programs to upskill workers in the community; for the education and sporting sectors to provide brief interventions to young people who need support in relation to their vaping; for the establishment of a clinical e-cigarette stakeholder reference group; and for a co-designed online vaping, youth and health education package for students in years 7 and 8. In addition to the legislative approach the Government is taking today, I hope it will consider the need for programs such as that in New South Wales.

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (21:21): In reply: I thank the honourable members who contributed to debate, the Hon. Natalie Ward and Dr Amanda Cohn. Given the hour and the fact that we have an amendment to debate, I commend the bill to the House.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The CHAIR (The Hon. Rod Roberts): There being no objection, the Committee will deal with the bill as a whole. I have one amendment only, being The Greens amendment No. 1 on sheet c2024-217A. I invite Dr Amanda Cohn to move her amendment.

Dr AMANDA COHN (21:23): I move The Greens amendment No. 1 on sheet c2024-217A:

No. 1 Review of operation of amendments

Page 22, Schedule 4. Insert after line 36—

[45] Part 8 Miscellaneous

Insert at the end of the part, with appropriate section numbering—

Review of operation of amendments by Public Health (Tobacco) Amendment Act 2024

- (1) The Minister must cause an independent review to be conducted of the operation of—
 - (a) the amendments to this Act, the *Poisons and Therapeutic Goods Act 1966*, the *Medicines, Poisons and Therapeutic Goods Act 2022*, the *Criminal Procedure Act 1986* and the *Smoke-free Environment Act 2000* by the *Public Health (Tobacco) Amendment Act 2024*, and
 - (b) any regulations made for the purposes of those amendments.
- (2) The review must commence no later than 1 July 2026.
- (3) The person who conducts the review must give the Minister a written report on the outcome of the review within 6 months after commencing the review.
- (4) A copy of the report is to be tabled in each House of Parliament within 15 sitting days of the relevant House after the report is given to the Minister.

The legislative approach taken by the Federal Government that is being enforced by the bill is world leading, with no precedent overseas. There are legitimate concerns about whether this will actually achieve the aim of reducing the health harms caused by vaping. Even proponents of this approach sensibly acknowledge that it is an evidence-free space. I am pleased that the amendments negotiated by The Greens in the Federal Parliament included a review of the operation of the new legislation. The amendment proposes a requirement for review similar to that in the Commonwealth Therapeutic Goods and Other Legislation Amendment (Vaping Reforms) Bill 2024. The bill will not reduce the health harms caused by vaping. Given that the bill looks likely to pass today, I hope that I am wrong. If it does as is intended, I will be delighted to be proven wrong. But if it does not, we all need to be sensible enough to come back and consider a different approach. In commending the amendment to the Committee, I appreciate the collaborative approach of both the Minister's office and the shadow Minister's office in regard to it.

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (21:24): The Government supports the amendment. It provides for the provisions of this bill to be independently reviewed, commencing no later than 1 July 2026. It is important that the changes in the bill operate as intended and provide benefit to the community. A review of those provisions will provide important information to the Government in this regard. This is a sensible amendment, and the Government supports it.

The Hon. NATALIE WARD (21:24): The Opposition supports the amendment. I am not normally a fan of independent reviews. I think I am on record about that in this place. But I wholeheartedly support an independent review of this bill. Dr Amanda Cohn makes a very important point: We should be looking at whether the bill is working or not. It is important to have that assurance and to make sure we get that quickly. There has been a huge increase in tobaccoconists registered across New South Wales. Given the speed at which the industry is growing, it is imperative that we get this right. If the bill is not working in the way it should, we need to know that as soon as possible. I note there is a date on that. The Opposition wholeheartedly supports the amendment.

The CHAIR (The Hon. Rod Roberts): Dr Amanda Cohn has moved The Greens amendment No. 1 on sheet c2024-217A. 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. COURTNEY HOUSSOS: I move:

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

Motion agreed to.

Adoption of Report

The Hon. COURTNEY HOUSSOS: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. COURTNEY HOUSSOS: I move:

That this bill be now read a third time.

Motion agreed to.

REVENUE LEGISLATION FURTHER AMENDMENT BILL 2024

Second Reading Speech

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (21:27): On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

The Revenue Legislation Further Amendment Bill 2024 amends various Acts to enhance the integrity of the revenue system, strengthen compliance, increase the efficient administration of the revenue system and otherwise ensure that revenue legislation remains effective and up to date.

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

Leave granted.

The reforms in this bill largely fall into four categories:

1. amendments to State taxation legislation to enhance revenue integrity, ensure exemptions operate as intended, address anomalies and reduce red tape;
2. amendments to State debt legislation to streamline the allocation of recovered amounts, improve overall administration and clarify the law;
3. amendments to fines legislation to clarify where postal addresses for service may be sourced from; and
4. minor amendments to revenue legislation and the Law Enforcement (Powers and Responsibilities) Act 2002 to update the name of an Act and various government departments.

I address each category of amendments in turn.

Amendments to State taxation legislation

This bill amends the Duties Act 1997, the Land Tax Management Act 1956, the Payroll Tax Act 2007 and the Taxation Administration Act 1996.

I will first address the duties amendments at schedule 1 to the bill.

Duties Act 1997

The Duties Act 1997 amendments involve:

- changes to the duty exemptions related to family farm transfers and relationship breakdowns to make them fairer;
- broadening the definition of qualified investor for landholder duty;
- clarifying the tax treatment of Corporate Collective Investment Vehicles; and
- several other minor amendments making duty exemptions fairer.

The Duties Act 1997 currently provides a duty exemption for a "family farm transfer"—that is, a transfer of primary production land between family members in certain circumstances. This exemption can apply to transfers between entities directed by a family member, reflecting how modern family businesses may be structured using, for example, companies or trusts. This includes a bare trust, where the trustee holds the property on behalf of the family member and acts solely on their instructions.

However, while the transfer of property to a bare trust may be exempt from duty, the making of the bare trust itself over the property is currently subject to ad valorem duty. This is at odds with the intent of the exemption to support the transfer and continuation of family farm businesses.

The first amendment addresses this by exempting from duty the making of a bare trust over property, where the transfer of that property is exempt as a family farm transfer. This change reduces red tape and costs for family farm businesses.

The second amendment relates to the duty exemption for a transfer of relationship property arising from the breakdown of a marriage, or a de facto or domestic relationship. Currently, the exemption applies where property is transferred to a party to the relationship or their child.

However, there may be unfortunate circumstances whereby a party or their child has died, and the property is to be transferred to their legal personal representative. Currently, the duty exemption does not extend to the legal representative.

The amendment addresses this by extending the exemption to the legal representative of the party or child that has died.

Broadening the definition of qualified investor

The next duty amendment relates to landholder duty and the definition of "qualified investor".

Landholder duty applies when shares in a company or units in a unit trust owning land are acquired above a certain threshold. Earlier this year, the acquisition threshold for triggering landholder duty on private unit trusts was lowered from 50 per cent to 20 per cent, except for wholesale unit trusts and imminent wholesale unit trusts. Unlike private unit trusts, which are generally used for asset protection or income tax minimisation and set up to benefit a small number of investors, wholesale unit trusts are set up and managed by a funds manager for wholesale investors such as complying superannuation funds and State-owned investment companies. Retaining the 50 percent threshold for wholesale unit trusts supports their use as vehicles for genuine long-term investment by larger numbers of investors.

To be a wholesale unit trust or imminent wholesale unit trust, certain conditions must be met, including that at least 80 per cent of the units be held by "qualified investors".

Since the changes commenced, it has become apparent through the transactions assessed by Revenue NSW and stakeholder feedback that the definition of "qualified investor" is overly restrictive and not in line with modern business practices by not including wholly owned subsidiaries or trusts of most entities that qualify.

Further, although a qualified investor currently includes the Crown and statutory bodies representing the Crown, there may be instances where it is unclear whether a body represents the Crown. These issues can hinder decision-making about investment in New South Wales.

Thus, the bill addresses this in two ways:

1. broadening the definition of qualified investor to include a wholly owned subsidiary or trust of a qualified investor; and
2. enabling statutory bodies to be specified as a qualified investor by regulation.

These changes will improve the operation of the reforms introduced earlier this year and provide certainty and clarity for investors.

Corporate Collective Investment Vehicles

This bill clarifies the tax treatment of corporate collective investment vehicles [CCIVs] in New South Wales.

CCIVs are a new type of Australian company limited by shares and made up of sub-funds, which is used for funds management. In 2022, the Commonwealth passed legislation to register and regulate CCIVs, and to tax them as separate unit trusts.

The bill will align State taxation provisions with the Commonwealth's approach by deeming each CCIV sub-fund as a separate unit trust. In doing so, the CCIV is deemed the trustee; the business, assets and liabilities of the sub-fund are the trust property; and the sub-fund members are the beneficiaries.

As a CCIV can have a custodian (or sub-custodian) holding its property, the bill also extends the concessional duty arrangements for managed investment schemes to CCIVs. This allows for transfers of property between the CCIV and the custodian (and from the sub-custodian) to only be subject to concessional duty, enabling efficient and flexible holding of the CCIV property.

Other minor amendments

Lastly, the bill makes minor updates to the Act by:

- clarifying that a dutiable transaction may be effected by electronic, digital or other means, not just paper; and
- removing a redundant reference to regional Aboriginal land councils, which were abolished several years ago.

I now turn to the land tax amendments in schedule 4.

Land Tax Management Act 1956

Like the duties amendment, this bill amends the Land Tax Management Act 1956 to deem each sub-fund of a CCIV to be a separate unit trust. In addition, the land tax amendments will make clear that a sub-fund, deemed as a unit trust, is to be a special trust for land tax purposes.

Additionally, the bill addresses two further matters.

Currently, land owned by the NSW Aboriginal Land Council and local Aboriginal land councils is exempt from land tax. A duty exemption also applies to the transfer of such land. In 2023, the duty exemption was extended to land owned by Registered Native Title Bodies Corporate. These are bodies established under the Native Title Act 1993 (Cth) to represent native title holders once native title has been determined.

The bill will amend the land tax exemption to extend it to Registered Native Title Bodies Corporate to align with the duties exemption. Similar to the above Duties Act amendments, a redundant reference to regional Aboriginal land councils is removed.

The second amendment addresses an inconsistency between the principal place of residence exemption and the mixed-use land concession for land used as a principal place of residence.

The principal place of residence exemption does not apply where the landowner is a company or trustee, including a trustee of a special trust. The mixed-use land concession similarly excludes companies or trusts, but does not exclude a trustee of a special trust. This omission was a drafting oversight, and the amendment corrects this.

The next set of amendments I will speak to are the payroll tax changes at schedule 6 to the bill.

Payroll Tax Act 2007

The amendments to the Payroll Tax Act 2007 largely address three matters.

The first is "phoenixing". Phoenix activity is where a company incurs substantial debts, including tax debts, and then transfers its assets to a new entity controlled by the same people. The company then liquidates without paying its debts, while the new entity carries on the business, having avoided its debt obligations.

In 2023, the payroll tax grouping provisions were amended to address phoenixing by enabling a former entity and a successor entity to be grouped together, making the successor jointly and severally liable for the payroll tax debts of the former entity.

The bill strengthens these provisions by specifying that a "former entity" includes a company that has entered into a deed of company arrangement [DOCA] and that a successor entity can be held liable for the debts of such a company. A deed of company arrangement is a binding agreement entered into by a company in voluntary administration with its creditors to attempt to continue the company's business or provide a better return to the creditors. Revenue NSW, as an unsecured creditor for any payroll tax liabilities, is bound by a deed of company agreement even if it voted against it.

The bill also replaces references to "former corporation" with "former entity".

Although the provisions were broadened last year to apply to non-corporate structures, some references were inadvertently missed.

These changes ensure the provisions operate as intended and that payroll tax owed to the State cannot be avoided through "phoenixing".

The second set of amendments relate to the Bulk Billing Support Initiative for medical centres introduced in the budget 2024-25.

As part of this initiative, a payroll tax rebate is available to medical centres in respect of wages paid or payable to contractor general practitioners from 4 September 2024, if the medical centre meets a certain bulk-billing threshold.

This bill amends the rebate by allowing GP services covered by the Department of Veterans' Affairs to be counted towards the threshold. These services are similar to bulk-billed Medicare services in that no gap or out of pocket fee is charged to the patient.

This amendment ensures that medical centres providing GP services to the veteran community are not inadvertently disadvantaged when determining whether they are eligible for the payroll tax rebate.

The third set of payroll tax amendments follow on from the duties and land tax amendments dealing with CCIVs. These amendments provide that any fees paid or payable by a CCIV to its corporate director are not wages. This is intended to align with how management fees retained by a responsible entity of a managed investment trust are not subject to payroll tax.

Finally, there are the taxation administration amendments at schedule 8.

Taxation Administration Act 1996

The bill introduces a significant enhancement to the measures available to deter tax avoidance schemes.

Currently, under the Taxation Administration Act 1996, a person may be held liable for tax that they have avoided as a result of entering into a tax avoidance scheme. Although penalty tax and interest may apply, this is the case for any failure to pay tax, and there is no specific, additional penalty for the actual avoidance of tax resulting from entering into the scheme. By comparison, a person who promotes a tax avoidance scheme may be subject to significant penalties for such behaviour.

This bill introduces a new statutory penalty for entering into a tax avoidance scheme. The chief commissioner will have discretion to impose the penalty and determine the amount of the penalty, which may be up to 100 per cent of the amount of tax avoided. In exercising this discretion, the chief commissioner will have regard to prescribed factors, including the seriousness of the tax avoidance, the period over which it took place and the deterrent effect of any penalty.

This new penalty sends a strong message that there is little to be gained from entering a tax avoidance scheme and will complement the existing penalties for scheme promoters.

The bill also makes a minor amendment relating to the conversion of foreign currency amounts. When calculating tax, a foreign currency amount must be converted into Australian dollars using the rate last reported by the Reserve Bank before the tax liability arose. The amendment will also enable the use of a rate determined by the chief commissioner, with the intent that this allow the rates used by the Australian Taxation Office to be used. This will make it easier for taxpayers who already use the ATO rates for Commonwealth tax purposes.

This concludes the State taxation legislation amendments. I will now turn to the State debt amendments at schedule 7.

State debt legislation

The amendments to the State Debt Recovery Act 2018 are primarily to improve administration.

Firstly, the bill clarifies that a "referable debt" includes any debt that is defined as a referable debt under other legislation. Currently, a fee, charge or other amount is a referable debt if declared so by order of the chief commissioner. Although the legislation providing for the fee, charge or other amount may already provide that it is a referable debt, it is unclear whether an order by the chief commissioner is also still needed. This amendment clarifies this, reducing red tape.

Secondly, the bill clarifies how recovered amounts may be allocated towards a State debt. A debtor may have more than one State debt under a debt recovery order and more than one debt recovery order. Each State debt can also have limitation periods in which to collect the debt before it is extinguished.

Generally, a payment on a debt recovery order is applied to the debt with the earliest referral date. However, this may not be the debt with the earliest expiring limitation period.

This bill will improve administration of the legislation by providing:

- that the limitation period for a debt is to be considered when prioritising the allocation of a recovered amount; and
- that recovered amounts can be allocated to debts under any debt recovery order of the debtor (if they have more than one).

There is also uncertainty as to the interaction between the Limitation Act 1969 and the State Debt Recovery Act 2018. The former provides the limitation periods in which action may be taken to recover debt. Sometimes these periods are "reset" such as where judgment is awarded to a creditor. There has been confusion as to whether a debt's limitation period is reset when it is referred to Revenue NSW under the State Debt Recovery Act 2018. This bill clarifies that it does not.

The next amendment closes the loop on the lifecycle of a State debt. When a debt is referred by an agency to Revenue NSW, the agency's functions in relation to the debt become limited as Revenue NSW becomes empowered to recover it on their behalf. In some cases, Revenue NSW has exhausted the actions available to recover the debt and there is a need to refer the debt back to the agency. For example, to write off the debt or to consider their recovery options outside of the State Debt Recovery Act 2018. Currently, the only mechanism for a debt to be "returned" to the agency is to revoke the referral of the debt. However, this would have the effect of reversing any debt recovery action, which may result in any paid or recovered money needing to be refunded to the debtor. The bill will allow a referral to be revoked, returning the debt to the agency, without requiring any paid or recovered money to be refunded.

Finally, the bill removes a requirement for a debt recovery order to include the date of birth of the debtor, if known. Such information is typically not collected by agencies. If a date of birth is known, the inclusion of it on the debt recovery order unnecessarily creates a privacy risk for the debtor.

The final amendment is to the Fines Act 1996 at schedule 2.

Fines Act 1996

The Fines Act provides that notices be served to a postal address and, in certain circumstances, deemed as served even if returned to the sender. Currently, the postal address for service must be sourced from Transport for NSW and the driver licensing and vehicle records of Transport for NSW. However, for interstate driver licences and vehicle registrations, the address would be sourced from the National Exchange of Vehicle Driver Information System [NEVDIS].

For example, a driver with a Victorian driver licence is caught speeding in New South Wales. To issue the fine, NEVDIS is used to check the Victorian driver licence and associated postal address. Similarly, a driver using a vehicle registered in Queensland is caught by a speed camera in New South Wales and issued with a fine. NEVDIS again would be used to check the Queensland registration to identify the vehicle owner and their postal address for service of the fine.

As NEVDIS is not a record of Transport for NSW, this amendment clarifies that postal addresses from NEVDIS, in addition to the records of Transport for NSW, may be used for the service of fines.

Minor statute law revision amendments

Finally, this bill also makes minor amendments of a statute law revision nature to the various revenue Acts already mentioned, and the Land Tax Act 1956 and Law Enforcement (Powers and Responsibilities) Act 2002.

The amendments:

- update the name of the first home owner legislation to the First Home Owner Grant and Shared Equity Act 2000;
- update the names of government departments which have changed; and
- repeal references to schemes that have now concluded.

This bill intends to strengthen and modernise a range of revenue laws to ensure they are effective and current.

I commend the bill to the House.

Second Reading Debate

The Hon. DAMIEN TUDEHOPE (21:28): The Opposition supports the Revenue Legislation Further Amendment Bill 2024, which makes a series of technical and relatively minor changes to tax and revenue laws. The Coalition in government regularly updated tax and revenue laws to address new matters. The bill will amend eight separate Acts. Interestingly, the bill is already amending the Payroll Tax Act 2007 to ensure that the exemption for GP clinics which meet specified bulk-billing requirements also applies to similar arrangements where the general practitioner accepts as full payment for a service to a patient the specified payment under five Commonwealth Acts that provide for payments for the treatment of veterans. That is a welcome amendment. Despite the lengthy delay before settling the matter, it appears that at the time the amendment relating to GPs was looked at, that particular part had been overlooked.

The bill provides for additional penalties for tax avoidance schemes that may be as high as the amount of tax avoided by the taxpayer. The Act defines "tax avoidance scheme" as a scheme that is entered into, made or carried out for the sole or dominant purpose of enabling a tax liability to be avoided. It is fitting that there are appropriate penalties for such schemes. The penalty of 100 per cent of tax avoided is an upper limit and would only be applied in the more egregious cases. The bill sets out a number of matters the chief commissioner must consider before deciding on the amount of the penalty. We are advised that Revenue NSW intends to issue a practice note in relation to the matter. I will not go through the other details contained in the bill other than to say that they are technical adjustments. The Opposition commends the bill to the House.

The Hon. COURTNEY HOUSSOS (Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources) (21:30): In reply: I thank the Leader of the Opposition for his contribution and commend the bill to the House.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. COURTNEY HOUSSOS: I move:

That this bill be now read a third time.

Motion agreed to.

Documents

EARLY CHILDHOOD EDUCATION AND CARE SECTOR

Variation of Order

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): According to standing order 53, I table a request received on Thursday 21 November 2024 from the Cabinet Office to vary the scope of an order for papers regarding the early childhood education and care sector, together with a response from Ms Abigail Boyd not agreeing to the request. I inform the House that as no agreement was reached, the original order stands with the original due date.

Bills

WITNESS PROTECTION AMENDMENT BILL 2024

Second Reading Speech

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (21:32): I move:

That this bill be now read a second time.

The Government is pleased to introduce the Witness Protection Amendment Bill 2024. The bill makes important amendments to modernise the Witness Protection Act 1995, which will strengthen the integrity of the New South Wales witness protection program and the NSW Police Force's ability to protect the safety and welfare of witnesses who agree to give evidence on behalf of the Crown. In our criminal justice system, witness testimony is a crucial tool for police for investigating and prosecuting serious and organised crime. However, occasionally witnesses can be vulnerable to attempts to intimidate so that their testimony is not provided, or to retribution for testimony that has been provided.

In this context, the New South Wales witness protection program, established under the Witness Protection Act 1995, operates to protect the safety and welfare of its participants, including through the establishment of a new identity. Other action may include relocation, accommodation, transport of property, reasonable financial assistance and counselling. The Act was passed almost 30 years ago and requires reform to ensure it keeps pace with modern issues that risk the safety of program participants and to ensure it operates effectively. The program's ongoing success depends on its ability to protect the identity of participants while keeping police methodologies confidential. It is essential that witnesses can trust the program's capacity to keep them safe if they are to agree to provide evidence for the Crown in circumstances that may put their safety at risk.

To achieve these outcomes, the bill enhances the Act's capacity to protect program participants from the risk of having their identities exposed because of modern technological advancements such as the increasing collection and use of biometric information. The bill also strengthens an existing offence in the Act to require participants and others not to record and disclose certain facts or information about the program. This includes the fact that they are or were on the program and confidential information about the program. These amendments are essential to protect the confidentiality of participants' identities and information about the program's operation and methods. This bill strengthens protections for current and former participants with new identities when they become involved in court proceedings and their identity is an issue. This is to minimise the risk of their protected identities and locations being revealed during proceedings.

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

Leave granted.

The bill also makes various enhancements to the operation of the program to ensure its continued effectiveness and better assist police in keeping participants safe.

These reforms have been developed by the NSW Police Force based on nearly 30 years of experience operating the program. They are also informed by consultation with key government, policing and legal stakeholders.

I now turn to the details of the bill.

The bill enhances the Act's capacity to protect participants on the program from risks arising from modern threats.

The bill inserts section 4(1)(a)(ia) of the Act to expand the definition of a "witness" to include a person who has given, or agreed to give, evidence on behalf of the Crown in proceedings relating to an application for a serious crime prevention order under the Crimes (Serious Crime Prevention Orders) Act 2016.

Extending this definition will clarify that witnesses giving crucial evidence in these proceedings to prevent a person's involvement in serious and organised crime, can be included in the program.

The bill provides for the removal and creation of identity records for a participant on the program held by an agency to better protect program participants from potential exposure. It does this by amending section 15 of the Act which currently enables applications to the Supreme Court to authorise the making of an entry in certain registers maintained under the Register of Births, Deaths and Marriages for a witness.

The bill inserts a new section 15(1) of the Act to enable applications to the Supreme Court for an order authorising a specified person or class of persons to remove an identity record held by an agency or to create a new identity record in the participant's new identity. Proposed section 15(1A) provides that the application to the Supreme Court for removal of an identity record must specify the type of identity record to be removed.

These applications can be made by the Commissioner of Police, or the designated authority for a complementary witness protection law.

The bill introduces a definition of "identity record" which is "a document that may assist in identifying a person, other than a document forming part of the Births, Deaths and Marriages Register". "Document" is also defined to include a biometric, educational, legal, and medical record.

Proposed section 4A introduces a definition of "agency" to which these amendments apply. It covers New South Wales Government agencies and other persons or bodies prescribed by the regulations. It does not cover agencies outside New South Wales, which I will turn to later.

Importantly, proposed section 17(e) provides that the Supreme Court may make an order to remove an identity record if satisfied there is a risk of this record linking the program participant's previous identity and new identity. This ensures that identity record removals only occur where their existence could potentially expose a participant.

A key objective for these amendments is to enable the removal of biometric records, which are increasingly being collected and used by agencies.

Examples of biometric records could include facial images, fingerprints, voice samples, iris recognition, handwriting or typing characteristics, hand or finger geometrics, palm vein patterns, and DNA. It is envisioned that biometric records would generally meet the threshold for removal under the new provisions as they are unique to a person, and so present a risk of linking a participant's previous and new identity.

The bill also explicitly includes other types of documents that may link a participant's previous and new identities; or may be directly linked to a biometric record and therefore also require removal. These are educational, legal and medical records.

I note the amendments do not allow unfettered or unnecessary removal of identity records. It is generally intended they would not enable removal of names and addresses of a previous identity in an agency's files, without any biometric or other information attached that presents a risk. These details alone generally could not link a person's previous and new identity.

While I am advised that the NSW Police Force expects to only apply for a very small number of orders each year, it is important that police have this ability to protect participants from exposure.

The bill includes other amendments related to the removal and creation of identity records for a participant. Proposed section 19A provides that the Commissioner of Police can ask an interstate entity to remove a participant's identity record, or create a new identity record in the participant's new identity, if there is a risk of the identity record linking the participant's previous and new identities.

Proposed section 198 provides that removed identity records are to be kept by the Commissioner of Police, when asked by an authorised person or interstate entity, for the purposes of restoring a previous identity.

I note the bill does not conflict with provisions in the State Records Act 1998 in respect of protecting State records, as section 21(2)(d) of that Act already provides that anything done pursuant to an order or determination of a court is not a contravention of the general protection measures of State records under s21 of that Act.

The bill also strengthens existing offences in the Witness Protection Act 1995 to better protect participants, the program and NSW Police Force staff from exposure of information or identities.

Section 33(1) of the Act currently provides that a person must not, either directly or indirectly, disclose certain information relating to the Witness Protection Program. The bill extends this to provide that a person must also not record certain information. This recognises that the very existence of records related to a participant or the program would pose an unacceptable risk of dissemination or publication, whether accidental or intentional.

A "person" to whom this offence applies means a current participant, former participant, and a witness who is being, or has been, assessed for inclusion in the program.

The information not to be disclosed or recorded is set out at proposed section 33(1), items (a) to (d). It includes confidential information about the program. Proposed section 33(3) defines "confidential information" as: information relating to things done under the Act by the Commissioner of Police or another member of the NSW Police Force; information about the way in which the program operates; and information relating to the identity of NSW Police Force members involved in the program.

The information not to be disclosed or recorded also includes the fact that the person is or was a participant in the program. Proposed section 33(1A) provides an exemption where there is a reasonable excuse for recording or disclosing this fact, and the reasonable excuse relates to a health or safety risk. The onus of proof for this exemption lies with person seeking to rely on it, which is consistent with provisions concerning proof of exceptions in section 417A of the Crimes Act 1900.

More broadly, section 33(2) of the Act will continue to provide appropriate exemptions from the offence in section 33(1). This section will provide that the offence does not apply to a disclosure or communication that has been authorised by Commissioner of Police, where necessary for an investigation by the Law Enforcement Conduct Commission or the Inspector of the Law Enforcement Conduct Commission, or where necessary to comply with a Supreme Court order.

The bill also makes various amendments to ensure the Inspector of the Law Enforcement Conduct Commission is able to properly exercise functions under the Law Enforcement and Conduct Commission Act 2016, without a risk of contravening offences under sections 23 or 33 of the Witness Protection Act 1994.

As I mentioned previously, the bill amends section 33(2)(b) of the Act to exempt a record or disclosure that is necessary for the purposes of an investigation by the Inspector, from the offence under section 33(1).

Additionally, the bill amends section 23(1)(b) of the Act to exempt a record or disclosure that is necessary for the purposes of an investigation by the Inspector, from the offence under section 23(1). This offence provides that a person must not, either directly or indirectly, record or disclose to another person any information relating to making an entry under the Act in a register of births, deaths or marriages.

Since the bill enables the Inspector to lawfully receive certain information for the purposes of an investigation, the bill also inserts section 34(1)(f). This provides that the Inspector generally cannot be required to disclose information regarding the exercise of functions under the Act, or the protection of witnesses in the program, in any proceedings. This is unless there is a Supreme Court order or the proceedings relate to an offence under the Act.

The bill makes various amendments to better protect current and former program participants with new identities who become involved in court proceedings, where their identity is in issue.

Part 3A of the Act currently provides for the Commissioner of Police to give a non-disclosure certificate to a Court to protect a current and former participant who has been given a new identity, and retains that identity, when they are or may be required to give evidence in a relevant proceeding. These certificates effect protections under section 31D of the Act including limits on questions, answers and statements that might disclose the protected person's identity or where they live.

The bill amends sections 31A and 31B to provide that a non-disclosure certificate must be given to the Court where a protected person becomes involved in a relevant proceeding before a court, whether under their new or previous identity, where their identity is in issue. Currently a non-disclosure certificate is only given where a protected person is or may be required to give evidence.

This recognises that current and former program participants with a new identity can become involved in criminal or civil proceedings without giving evidence. It is important they receive appropriate protections in these situations if their identity is in issue.

The bill also makes amendments to enhance the operation of non-disclosure certificates.

Proposed section 31B(2A) states the non-disclosure certificate may be given to the Court in a way prescribed the regulations, before the relevant proceeding commences, and in the absence of a party to the proceeding. This would provide the Court with time to prepare to apply the provisions in Part 3A of the Act, as matters involving the Act are uncommon. It would also ensure the existence and contents of the non-disclosure certificate are not revealed before the Court decides to do so using its existing discretion under section 318(3) of the Act.

The bill also expands section 31E of the Act to enable the Court to allow questions or statements that may disclose relevant information about the protected person's identity or where they live on its own motion. Currently this can only occur on application of a party, however the party may not know the non-disclosure certificate exists and would not make an application.

The bill also makes amendments to ensure the non-disclosure certificate includes appropriate information for the Court.

Proposed section 31C(1)(d) provides that the non-disclosure certificate must state that the person is entitled to give evidence via audio visual link (AVL), under existing section 31G of the Act, subject to the other provisions in that section.

As I mentioned previously, the bill provides that the non-disclosure certificate may be given to the Court before the relevant proceeding commences. When that ability is used, in conjunction with this amendment, the Court will become aware of the person's entitlement to AVL in advance. This will assist the Court to prepare to apply the relevant provisions under the Act.

I note this will not replace or amend the existing AVL application process under the Evidence (Audio and Audio Visual Links) Act 1998. Such an application would be made in the ordinary course and continue to give the other party an opportunity to be heard on the AVL application. After hearing the AVL application, the Court may decide whether to make an order under section 31G that the person may not give evidence via AVL, if satisfied that it is not in the interests of justice.

Additionally, proposed section 31C(1)(e) requires the non-disclosure certificate to state "other information about the person that the Commissioner of Police considers necessary or appropriate to include". It also amends section 31C(2) to provide that a non-disclosure certificate must not include any information that may enable the protected identity of the person to be revealed "unless the Commissioner of Police is satisfied the inclusion of the information is necessary or appropriate".

While uncommon, there are situations where a person's protected identity may be revealed through the evidence and facts of a case alone. For example, a person may be charged with offences after they have been given a new identity, however most of the evidence is directly linked to their old identity. It is then challenging for the non-disclosure certificate to not include any information that may reveal the protected identity.

These amendments will maintain the strong protections related to the non-disclosure certificate while enabling the Commissioner of Police to include other information which may relate to the protected identity on the very rare occasion that it is necessary or appropriate.

The bill also contains a range of reforms to strengthen and enhance the program's operation and integrity.

The bill inserts section 8(2)(c2) to clarify that the participant's Memorandum of Understanding may contain provisions relating to the "recording or monitoring of the participant's communications with another person". Proposed section 8(7) defines "communications" to include "any transmission of information".

It is necessary for the NSW Police Force to record or monitor the participant's communications because the deliberate or inadvertent disclosure of the participant's safe site location can jeopardise their safety and that of police officers. Participants who have recently been included in the program are particularly vulnerable to disclosing these details by accident. Including this in the Memorandum of Understanding provides transparency to participants before they enter the program.

Importantly, the bill provides appropriate safeguards for participants. Proposed section 9A(2) specifies that recording and monitoring cannot occur in relation to the participant's communications with their legal representative, Law Enforcement Conduct Commission staff, the Inspector of the Law Enforcement Conduct Commission, or NSW Police Force staff exercising functions in relation to police misconduct investigations.

I note that aside from the provisions in the bill, other safeguards exist for the participant. Recording or monitoring will cease when the participant is terminated from the program, which can occur through voluntary withdrawal. Under section 8(3) of the Act, the participant can also complain to the Law Enforcement Conduct Commission about the conduct of the Commissioner of Police or other NSW Police Force staff in relation to matters dealt with in the Memorandum of Understanding.

Also of importance, proposed section 9A(3) provides safeguards for non-participants who are communicating with the participant and are not aware they are being monitored. This section specifies that a recording obtained in accordance with the MoU, or a transcript or report of the recording, must not be used in legal proceedings against persons who are not the participant.

Proposed section 9A(4) clarifies that recording or monitoring of a participant's communications under proposed section 9A(2) does not authorise the Commissioner of Police to intercept a communication passing over a telecommunications system. This confirms that the Act does not authorise telecommunications interception, which is prohibited under the Telecommunications (Interception and Access) Act 1979 (Cth).

Schedule 2 of the bill makes consequential amendments to offences contained in sections 7(1) and 10(1) of the Surveillance Devices Act 2007 to exclude the installation, use or maintenance of a listening or data surveillance device in accordance with the Act or an instrument made under this Act. This intends to put beyond doubt that recording and monitoring of communications under the Act is not unlawful.

The bill inserts section 11(2)(d) to provide that the Commissioner of Police may terminate protection and assistance provided under the program to a participant, if satisfied that a sentence of full-time detention given to the participant after their inclusion in the program limits the Commissioner's ability to provide them with adequate protection.

This is because a participant in this situation is at an increased risk of harm should their protected identity be discovered. In addition, if the Commissioner's ability to provide them with adequate protection is limited, this means that the terms of the memorandum of understanding cannot be satisfied.

I note that involuntary termination from the program is never automatic. It is always determined on a case-by-case basis.

Suspension is and will remain another option in these circumstances, but may not be appropriate because the risks to the person and their protection needs may change over the course of their sentence. Termination provides the opportunity for a new risk assessment to occur after their sentence.

The bill amends section 5(1) to clarify the Commissioner of Police is to take action that the Commissioner thinks necessary and reasonable to protect the safety and welfare of a "participant", rather than a "witness". The current use of the term "witness" may be understood by some to mean that the Commissioner must apply the Act's protections to all general witnesses.

The bill inserts section 18(2) to provide that a witness protection order may, with the consent of the participant to whom the order relates, be used to change the participant's identity not more than twice.

On occasion, a current or former participant who has been reidentified through a witness protection order may become compromised to a degree that they require a second new identity. This is rare and unforeseeable, for example if there is accidental exposure with an associate from their previous identity.

Permitting a second use of a witness protection order also has resourcing benefits for the NSW Police Force and the Supreme Court by reducing subsequent applications. The limit of two uses for each order balances these benefits with maintaining appropriate judicial oversight.

The bill inserts section 38A to require an agency in possession of confidential documents to take reasonable steps to ensure those documents are kept and handled securely. This must occur in accordance with section 12 of the Privacy and Personal Information Protection Act 1998, which refers to taking reasonable safeguards to protect information "against loss, unauthorised access, use, modification or disclosure, and against all other misuse"; and any requirements prescribed by the regulations.

A "confidential document" is defined as a document containing information relating to the program.

These amendments set a minimum standard for secure keeping and handling of information across agencies, to reduce the risk of confidential information being exposed or leaked.

Clause 2 of the bill provides that most of the amendments in this Act will commence on the date of Assent.

However, I will note that some matters included in this bill require updates to technical systems and agency processes to ensure they can commence smoothly. This includes the amendments to enable removal and creation of identity records for a participant, and to provide for confidential documents to be kept and handled securely.

Accordingly, the bill provides that these amendments will commence upon proclamation or 12 months after the date of assent to this Act, to ensure necessary changes are in place.

This bill brings a range of important reforms that will enhance the effectiveness of the Witness Protection Act 1995. This will strengthen the integrity of the NSW Witness Protection Program and better equip the NSW Police Force to protect the safety and welfare of witnesses who agree to give evidence on behalf of the Crown.

When these witnesses come forward at great personal risk, it is critical they can trust the NSW Witness Protection Program to keep them safe from exposure and retribution, and protect their welfare.

I am thankful for the hard work of the NSW Police Force in responding to the threats of serious and organised crime, and continuing to risk their lives daily to protect the safety of witnesses, and our community.

The measures included in this bill will support this important work which is ultimately to keep the community safe from such serious threats.

I commend the bill to the House.

Second Reading Debate

The Hon. SUSAN CARTER (21:35): I speak on behalf of the Opposition in support of the Witness Protection Amendment Bill 2024. The bill has rightly been characterised as an updating of legislation, almost housekeeping, that looks at whether the provisions that were initially made to protect witnesses are still current and appropriate today. All of that is entirely true, but that understates the importance of the bill before us. In many ways, it is one of the most important bills that we will pass this day or, indeed, this year. The bill buttresses our system of law. We talk about trials, innocent until proven guilty and the rule of law, but unless we have a robust system that protects the people who come forward to participate in the process, that is just talk.

The bill is for those brave people on whom we absolutely rely, who are prepared, at great risk to themselves, their livelihood and their families, to come forward and give testimony that we need in order to have a safe, well-regulated society that is ordered by law. The bill appropriately protects those brave people. They come forward and do something important for us, and it is entirely appropriate that we give them every protection that we can. Happily, I am not talking about a large number of people, because most people who come forward and give evidence in cases do not need the sort of protections that the bill envisages. But for the few, the protections are necessary. It is entirely appropriate that the protections be revised, updated and made appropriate for the twenty-first century. The Opposition is happy to support the bill.

Ms SUE HIGGINSON (21:37): I speak on behalf of The Greens in support of the Witness Protection Amendment Bill 2024. I thank those in the department and Ministers' offices who gave us the briefing. They helped us to understand the provisions and importance of the bill. The bill expands the types of witnesses eligible for the program to include persons giving evidence related to serious crime prevention orders and makes the identity management systems far more fit for purpose. The police will be able to apply to the Supreme Court for an order to remove identity records linking old and new identities and to create new identity records, including biometric, educational, legal and medical records. The bill applies to New South Wales government agencies and prescribed persons or bodies. The protections will likely be used sparingly by the NSW Police Force, but they will be vital when they are used.

The witness protection system was spearheaded decades ago, and we now know so much more. The nature of crime is changing. The nature of access to people's identities is changing, as is the reach, and so the greater is the need for protection. The overall impact requires a modernising of the witness protection program. We can see that the bill will improve security and confidentiality. We accept that times are much more complex, and so does the program need to be in order to achieve these purposes and objectives. This bill introduces operational efficiencies and stronger safeguards for those participants and ensures that the Police Force and associated agencies can adapt to the evolving requirements while, hopefully, maintaining the program's integrity. The Greens absolutely support the improvements in the witness protection system.

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (21:39): In reply: I thank the Hon. Susan Carter and Ms Sue Higginson for their contributions. I commend the bill to the House.

The ASSISTANT PRESIDENT (The Hon. Peter Primrose): The question is this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. TARA MORIARTY: I move:

That this bill be now read a third time.

Motion agreed to.**STATE INSURANCE AND CARE GOVERNANCE AMENDMENT (GOVERNANCE ARRANGEMENTS) BILL 2024****Second Reading Speech**

The Hon. MARK BUTTIGIEG (21:41): On behalf of the Hon. Daniel Mookhey: I move:

That this bill be now read a second time.

Today the Government continues its reform of icare. The State Insurance and Care Governance Act 2015 contains the governing framework for icare. This bill proposes four practical amendments aimed at strengthening governance arrangements between icare's board and management, better supporting icare to be responsive to government priorities, and strengthening icare's accountability and transparency to its stakeholders, including government, the Parliament, injured workers, premium holders, premium payers, employers and the broader community. The bill's amendments propose to remove the chief executive officer from the board of Insurance and Care NSW—that is, icare—as a managing director, appoint the Treasury secretary or nominated Treasury delegate to the icare board, clarify that ministerial approval of the appointment of a CEO by the icare board is required and require the tabling of icare's annual statement of business intent in Parliament from 1 January 2025 onwards.

The bill also aims to embody icare's newly established principal objectives, including to promote efficiency, transparency and accountability in the conduct of its operations. The new objectives were established last year by an amendment to the same Act. Treasury recently completed an operational expenditure review into icare, and the bill also gives effect to the review's findings that require legislative change. I note that Ms Abigail Boyd has foreshadowed that she intends to move two amendments with respect to the underlying workers compensation framework to this bill. With respect to both those amendments, I can say the Minister is working to bring a bill concerning broader workers compensation reform to this place in the first half of next year. That will address both amendments raised by The Greens. This bill, however, is about governance at icare.

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

Leave granted.

Icare is one of Australia's largest insurers responsible for administering workers compensation, dust diseases and lifetime care and builders' warranty insurance on behalf of New South Wales employers, employees, drivers and home builders.

It is also responsible for insuring the New South Wales Government's own property assets and other insurable risks. At present, icare provides workers compensation cover for approximately four million workers, 338,000 employers and 204 New South Wales government agencies. Icare handles approximately 100,000 workers compensation claims each year.

It also manages more than \$49 billion of assets, including the Treasury Managed Fund, which on its own accounts for \$16 billion of the State's assets. It is critical for injured workers, business and government that icare's governance arrangements are as transparent as possible.

The first element of the bill deals with the composition of the icare board. At present, the board is made up of 10 voting members, including the managing director, chief executive and employee-nominated director.

We have also asked for an employer director and seven independent, non-executive directors. Consistent with contemporary trends in corporate governance, which attach a high value to the role of non-executive directors, the removal of the chief executive as a voting member of the board will sharpen the distinction between the board and management.

It sends a clear signal that the board's role is to set icare's strategic direction and hold management to account for icare's business management and day-to-day operations, and that management is subject to the board's control.

The bill also proposes the appointment of the Secretary of NSW Treasury or nominated Treasury official to the board. The size of the board will remain unchanged with 10 members, but the make-up of the icare board will look similar to NSW Treasury Corporation. TCorp is the New South Wales Government's other public financial corporation. Its board includes the NSW Treasury secretary and another NSW Treasury senior executive.

The icare board will be better supported to understand the Government's priorities, and the board in turn will benefit from a deeper understanding of the government environment and context.

One of icare's unique features is the role it plays as the New South Wales Government's self-insurance provider. Insurance for NSW manages several government funds and statutory insurance schemes. They collectively support and protect the New South Wales public service in the course of its operations.

The largest of these schemes is the Treasury Managed Fund. The TMF's liabilities count towards the total State sector accounts, and its liabilities are funded through contributions either via agencies or directly from the Consolidated Fund and income from investments managed by TCorp.

icare's role as the State's mandatory insurer for the provision of workers compensation, acting on behalf of the Nominal Insurer, builder's warranty insurance and its various lifetime care schemes, and the size of its assets and liabilities—approximately \$49 billion—means that its role as scheme administrator has a broader economic significance, with direct implications for workforce participation and productivity.

These dimensions mean it is equally important for Treasury to build a deeper understanding of the State's insurance and care landscape, as well as gain new insights into icare's business, strategic direction and broader operating context and policy challenges.

The change builds on the Government's investment through the 2024-25 budget to establish an ongoing policy and system stewardship function for the State's insurance and care system within NSW Treasury.

It is also in line with a recommendation by the Auditor-General of New South Wales for NSW Treasury to work more closely with icare's board and take a stronger financial oversight role.

The third part of the bill clarifies the role of the Minister with respect to the appointment of the icare CEO by the board. Under the current Act, the board is simply required to consult with the responsible Minister before appointing a CEO.

That requirement is ambiguous. Going forward, the board will need the Minister's approval for the chief executive to be appointed. At the same time, the bill acknowledges the board's role in appointing the chief executive.

The final change made by the bill is a new requirement for icare's statement of business intent to be tabled in Parliament. The main purpose of the statement of business intent is for icare to present to the Government and to the public a clear understanding of how its commercial objectives, strategies, plans and activities align with the Government's expectations.

The agreement between icare and the Government allows icare's business performance to be monitored and tracked overtime. But, under the current Act, there is no requirement for icare's statement of business intent to be made public or tabled in Parliament.

In April 2024 the Auditor-General of New South Wales recommended that icare publicly release its 2024-25 statement of business intent setting out its approach to achieving its legislative objectives for workers compensation.

The bill will legislate that requirement going forward. It is a welcome change that will improve transparency for key stakeholders, including the Legislative Council's Standing Committee on Law and Justice, and employers and employees across New South Wales to whom icare owes a statutory trust.

As the New South Wales Government's social insurer, icare plays a key role in creating strong social, financial and economic outcomes across our community.

That means it is vital that both government and the wider community can have confidence in icare and its performance to deliver high-quality services.

In summary, the bill proposes a series of practical changes intended to improve icare's governance. They build on changes to appoint employee and employee-body nominated directors to the icare board and establish principal objectives for icare.

The bill also responds to recommendations and findings made by the Auditor-General of New South Wales and NSW Treasury.

Ensuring that we reform icare was part of the Government's election mandate. This bill is the third icare bill that we have brought to Parliament. It will not be the last.

There is a lot more work to do with respect to supporting injured workers. I note that the Minister for Customer Service and Digital Government is in the Chamber.

He oversees the State insurance regulator, which makes sure that icare performs its role and duty to the people of New South Wales, injured workers and employers. Under our Government, icare has a duty and responsibility to ensure that injured workers are a priority and that employers who pay the premiums have better engagement with it.

I acknowledge the staff at icare. I acknowledge the executive and the board headed by Mr Robertson, and the work that has been undertaken since we were elected. There is still a long way to go. I appreciate everyone's patience and acknowledge the hard work. I have met with a number of icare staff in our regional offices. I thank not only them but also the icare staff across the State for the work that they do to ensure that injured workers are put front and centre.

That is one of the principal objectives for icare that we introduced last year. I also thank Unions NSW, the Injured Workers Campaign Network and Business NSW for their engagement on the bill. The bill demonstrates the Government's continuing commitment to implement recommendations made by the Hon. Robert McDougall, KC, in 2021 and fix icare from its foundations. I commend the bill to the House.

Second Reading Debate

The Hon. DAMIEN TUDEHOPE (21:43): The Opposition will support the passage of the State Insurance and Care Governance Amendment (Governance Arrangements) Bill 2024. The bill continues the program of reform of icare, which was initiated by the former Coalition Government. The bill seeks to strengthen icare's governance framework through several changes. Firstly, it removes the chief executive officer from the board as a voting member—a move that will ensure a clearer separation between governance and management. That sensible reform aligns with best corporate governance practices and will allow the board to better hold the CEO as head of the executive team accountable for icare's performance.

Additionally, the bill adds a representative from NSW Treasury to icare's board, typically the secretary or a senior delegate. While there has always been close collaboration between Treasury and icare, that step may help to ensure a deeper alignment between icare's strategic direction and the Government's broader financial and policy objectives. However, it should be noted that icare and its board are responsible for not only the New South Wales Government's self-insurance schemes but also the Nominal Insurer, the Home Building Compensation Fund and other schemes that provide workers compensation and other insurance for the private sector. The Government ought not seek to subject icare's responsibilities for those schemes to unrelated aspects of its overall financial and policy objectives. Any Treasury representative, in his or her capacity as a member of the icare board, would have

a duty to act in accordance with the interests of those private sector companies and individuals covered by those schemes.

Another key element of the bill is the requirement for ministerial approval before the appointment of a new CEO. However, in many respects that provision is little more than window-dressing because the Act already requires the board to consult with the Minister before appointing a CEO, and it is unthinkable that the board would proceed with an appointment if the Minister opposed it. While formalising ministerial approval, the change does relatively little to alter the reality of how appointments have been managed in practice. The bill also mandates that icare's annual statement of business intent be tabled in Parliament. That is an important step for transparency, giving Parliament, stakeholders and the broader public a clear view of icare's performance and strategic objectives. Transparency is the cornerstone of public trust. By ensuring that those documents are made publicly available, we are rebuilding confidence in icare.

While the recent Treasury review into icare is largely positive, including its findings on pay scales and governance improvements, many of the fundamental issues remain unresolved. They include the rising premium costs for the Nominal Insurer, the abolition of the Net Asset Holding Level Policy with the inclusion of the Treasury Managed Fund in OneFund, and the continuing rise in the impact of psychological claims, with poor return-to-work rates for both the Nominal Insurer and the Treasury Managed Fund. The bill does not address those core issues, which continue to place significant strain on both of the workers compensation schemes managed by icare.

While the Opposition supports the bill, members must acknowledge that it builds upon the solid foundations established by the previous Coalition Government. It was the Coalition that expanded icare's role to ensure that injured workers were a priority, and the bill seeks to continue that legacy. The Coalition initiated many of the governance reforms now being legislated, and we are pleased to see the Government following our lead on those important issues. However, as I mentioned, the bill addresses only some of the challenges facing icare. Deeper issues related to premium costs, operational effectiveness and service delivery must be tackled if icare is to fulfil its mandate effectively. In closing, Coalition members will always support good governance and transparency. We welcome the bill as a step in the right direction, but we urge the Government to continue addressing the broader challenges within icare.

Ms ABIGAIL BOYD (21:47): In the interests of time, I will be brief. As The Greens' work health and safety spokesperson, I support the State Insurance and Care Governance Amendment (Governance Arrangements) Bill 2024. I say this with all possible kindness and goodwill, which I always show to the Labor Government: This is a very underwhelming piece of legislation. We all know how sorry the state of affairs is for injured workers in our State, and I do not envy the Minister her job in reforming the troubled workers compensation regime. I fear that we are not coming close to making the radical reform that is so desperately needed.

In fact, let us forget about radical reform. At this point I would settle for genuine reform. This is the third icare governance bill brought to the Parliament. Prior to this one, the most recent reforms provided for the appointment of an employee-nominated director and the establishment of principal objectives. The Government is clearly trying to reform what is an ailing public insurer. However, it is unclear how much will ultimately be achieved by changes to board composition and aims. It may be that more substantive and structural reform is needed to make sure that our workers compensation system is truly fit for purpose.

A vast portfolio of insurance schemes is managed by icare, including workers compensation, dust diseases, lifetime care and builders warranty insurance. With approximately \$49 billion in assets under management including the Treasury Managed Fund [TMF], icare's financial health and operational efficiency have significant implications for the State's economy and workforce.

We do have concerns about the increasing influence of Treasury over icare and the possibility that this consolidation of power will allow Treasury to obscure the Government's failure to properly contribute to the TMF to compensate government employees. The Greens did indicate that we would move amendments, which we will withdraw on the basis that the Parliamentary Secretary indicated that the Government will introduce more significant reforms in the first half of next year.

The amendments that we proposed are just two examples of the low-hanging fruit in this area. If the death benefits amendments from the lapsed State Insurance and Care Legislation Amendment Bill 2022—which the then Coalition Government put up and which was broadly agreed to—were implemented today, they would make such a massive difference to people stuck in the system at the moment. Similarly, removing pre-injury average weekly earnings from the definition of work capacity decisions would be so beneficial.

We proposed those amendments as a little push because they are changes we could make today. I know that the Government is working through those issues. I have a lot of goodwill towards the Minister in this area,

but I do worry that we are moving far too slowly. There is far too much tinkering and not enough significant reform. That said, I am reassured by the Government's response. I look forward to working with the Government, workers representatives and the unions to make sure that, in the first half of next year, we introduce significant reforms that can make a real difference to people's lives.

The Hon. MARK BUTTIGIEG (21:51): On behalf of the Hon. Daniel Mookhey: In reply: I thank the Hon. Damien Tudehope and Ms Abigail Boyd for their contributions to debate on the State Insurance and Care Governance Amendment (Governance Arrangements) Bill 2024. A priority for this Government is to improve governance arrangements at icare. The bill is an important opportunity to do just that. I will briefly respond to the points made by members. The Hon. Damien Tudehope indicated that the Opposition supports the bill. I thank the Opposition for its support for the bill and, indeed, other bills concerning governance reform at icare that the Government has brought to this Parliament.

I note that the Hon. Damien Tudehope claims that the bill does not do much. But ensuring that the Minister appoints the CEO of icare sends a direct, strong message that icare is part of government and its CEO, as the person who makes operational decisions, is directly accountable to the Minister. It is appropriate that the State's highest paid public servant is appointed by the Minister directly and not by the board of icare alone. Placing the Treasury secretary or their nominated delegate on the icare board also indicates the importance of the schemes icare administers to the financial performance of government, particularly the Treasury Managed Fund. They are not cosmetic changes; they are changes that should have been made a long time ago.

I acknowledge the contribution of Ms Abigail Boyd to debate and thank her for working with the Government to improve both icare and the workers compensation scheme. Ms Boyd has long been an advocate for workers and their rights to a safe workplace and a just workers compensation system. I share Ms Boyd's view that our workers compensation system needs reform. As I said earlier, the Minister plans to introduce a bill addressing the amendments that Ms Boyd foreshadowed in the first half of next year.

However, the bill is about governance reform at icare. It is critically important we get it right. It is appropriate that amendments to the underlying workers compensation scheme are addressed in a bill concerning that subject matter alone. I understand Ms Boyd has concurred and agreed to remove her amendments in anticipation of next year's bill. The Government looks forward to working with Ms Abigail Boyd and indeed all crossbenchers next year about the future of workers compensation in this State. I acknowledge the staff at icare. I acknowledge the executive and the board headed by Mr Robertson and the work that has been undertaken since we were elected. I also thank Unions NSW, the Injured Workers Campaign Network and Business NSW for their engagement on the bill. The bill demonstrates the Government's continuing commitment to implement recommendations made by the Hon. Robert McDougall, KC, in 2021 and fix icare from its foundations up. I commend the bill to the House.

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

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

Motions

SEASONAL FELICITATIONS

The Hon. PENNY SHARPE (Minister for Climate Change, Minister for Energy, Minister for the Environment, and Minister for Heritage) (21:55): I move without notice:

That this House notes its thanks to the members and staff of the Parliament and wishes seasonal felicitations to all.

I give my best wishes to all members and staff for the festive season. This year the New South Wales Legislative Council commemorated its 200th year. It has been a big year. As we end another year, we understand that many in our communities are doing it extremely tough. We must redouble our efforts to ensure that this House never forgets those in our community who are having difficult times. I especially thank those who will be working and volunteering over the holiday season to help others in need.

This year has been busy. We sat for 43 days for 463 sitting hours. We have given 898 notices of motions and, for better or for worse, we have resolved 482 of them. We passed 84 bills, agreed to 82 amendments, and returned 194 orders for papers. The Ministers answered 1,293 questions on notice and answered 603 questions

without notice. Our committees commenced 32 new inquiries. We held 125 hearings and heard from 1,729 witnesses. The committees received 2,363 submissions and 5,336 online questionnaire responses. Thirty-three reports have been tabled.

To those who keep the wheels of democracy turning, on behalf of the Government we say thank you. We would not be anywhere without our Clerkly colleagues, David Blunt and Steven Reynolds, ably assisted by Stephen Frappell. We thank you and your staff for your efforts, professionalism and "no dumb questions" attitude in assisting all members. Thanks to the procedure team, the committee secretariat and the Usher of the Black Rod's team. I particularly thank the Chamber support staff led by John Ferguson, along with attendants, Dan, Nathan, Sam, Katinka, Carolin, Angela and Min. Again, I thank Jenelle Moore for her sterling efforts with the Bicentenary.

Thanks to those who keep us safe, keep us fed and keep our IT working. Thanks to Hansard for always making us look much better on paper than we ever sound in person. Thanks to the Library and Research Office for keeping us informed. Thanks to those that keep the building working and our offices clean. Thanks to those who work to bring the building to life as we reach out to inform, entertain and education our communities about our very imperfect, but not too bad, democracy.

Thank you, Mr President, Mr Deputy President, Mr Assistant President and Temporary Chairs. Presiding over this House takes serious skill and patience. In our 200th year, we owe you an enormous debt for putting up with us all yet again. To the Whips, thanks for another year of making sure we are mostly where we are all supposed to be at the right time. To my Opposition counterparts, I know how much you dislike opposition. Almost two years in, I am sure you realise that it really does not get any better, but I do look forward to sparring with you again in 2025.

For the crossbench, it has been another big year but together we have struck a blow for good behaviour on committees by reforming the standing orders to be able to name those who misbehave—thank you for your efforts. As we reflect on the year, there are a couple of awards I would like to present. The award for being the first member during a committee hearing to be put on a call under the new standing orders is actually a Legislative Assembly member. Congratulations to the Premier, my friend and yours, on this outstanding and historical achievement—not quite what we were aiming for but a good job done nonetheless. The most prolific writers of questions this year award goes to the Hon. Chris Rath—554 questions. We are pleased to see that he has lost his obsession with Carla from Bankstown.

The Hon. Chris Rath: You haven't answered any of them.

The Hon. PENNY SHARPE: You can ask the questions; you cannot control the answers. The award for the most concern for threatened species goes to the Hon. Bob Nanva for his concern for the broad-toothed rat during the horse inquiry. He also gets a special glow-up award for his new haircut. The award for musical aspiration goes to the Hon. John Graham, who, while regularly including a song in his question time answers, has only made the procedural debrief once this year—more effort will be required in 2025. The fashion award goes to the Hon. John Ruddick for bringing a little bit of Argentina into the House each week. A special fashion mention goes to the Hon. Dr Sarah Kaine for her efforts at being extremely stylish while showcasing how we can keep textiles out of landfill. Another honourable mention goes to Ms Cate Faehrmann, who at one point wore sunglasses at 4.00. a.m. to block the lights out while we were debating banning conversion practices.

The award for timekeeper of the year, of course, goes to the Hon. Rod Roberts for his stellar debut of the most special, royal hourglass. Procedural pioneer of the year goes to the Hon. Jeremy Buckingham for asking himself a question in question time—and we note that it was actually quite well answered. My final thanks go to our personal staff. It does not matter who you work for; all of you go above and beyond to get the job done—let us be frank, not all of us are that easy to work with. A special shout-out to the Mistress of the Lolly Drawer and the person who really runs this place, Peta Waller-Bryant, aided and abetted by her brother in pink, Sam Tedeschi. Thanks to my Parliament team, Harry and Jananie, as well. May everyone have time with friends and family. May you find time to do the things that you love away from this place, and be ready to come back to do it all again in 2025.

The Hon. DAMIEN TUDEHOPE (22:01): On behalf of the Opposition, I support the motion and join with the Leader of the Government in extending seasonal felicitations to all and wish everyone a merry Christmas and a happy new year. I note that the Leader of the Government gave a very extensive dissertation about the significant number of bills, motions and questions that had been traversed by this House. When she does her felicitations next year, I would also welcome some commentary on the quality of those.

The Hon. Penny Sharpe: That is what take-note is for.

The Hon. DAMIEN TUDEHOPE: Indeed. Mr President, I start by thanking you for the work you do in this Chamber and outside it. The role that you filled in the Chamber and during the bicentenary celebrations throughout the year has been exemplary. I think the way that you control this House—sometimes under some pressure—is a credit to you and a credit to making sure this House runs in an orderly manner. I also extend my thanks to the Deputy President and Chair of Committees.

The Leader of the Government made reference to the Deputy President wrestling with the newly gifted timepiece, but I thought one of the more exciting contributions that he made was suggesting that he would make an on-the-run amendment to the standing orders. I was watching his performance when he suggested that if a member did not like his ruling, he would see them outside. I thought it was an extraordinary expansion of the standing orders by the Deputy President, a former police officer, to invite a colleague outside. In that regard, perhaps it should be a matter for consideration by the Procedure Committee in the future.

I also thank the Assistant President and all the Temporary Chairs for the work they do, sometimes late at night and sometimes under some difficult circumstances. On behalf of the Opposition, I offer my sincere thanks to David Blunt, Clerk of the Parliaments. Your advice and assistance, as the Leader of the Government alluded to, and quiet humour are an adornment to this House. I also extend my appreciation to Deputy Clerk Steven Reynolds, Usher of the Black Rod Jenelle Moore and all the Clerks at the table, who do invaluable work on our behalf. I thank you all.

I express the Opposition's gratitude to the many people who make our jobs easier in this Parliament: the Legislative Council staff, the attendants, the Department of Parliamentary Services staff, Hansard, the committees team, the procedure office, the budget estimates secretariat, the Parliamentary Counsel's Office and particularly the iconic Annette O'Callaghan—the work she does is extraordinary, sometimes very late at night, and she always just seems to get it—the IT team, maintenance, security and the special constables, the audiovisual broadcast team and the all-important cleaners. All of those teams do such good work that is often unseen, and they deserve to be acknowledged and thanked because we could not function without them.

I acknowledge the hard work and resilience of members of the Opposition, particularly the shadow Ministers and the Deputy Leader of the Liberal Party, the Hon. Natalie Ward, who is indefatigable in her pursuit of the Hon. John Graham. I am looking forward to next year when we will again come to this place to exchange differences of views. The Whips never get thanked enough. The Hon. Chris Rath has truly come into his own in the role of Whip and I know has earned the respect of this Chamber.

The same can be said for the Government Whip, the Hon. Bob Nanva, who I know contributes greatly to the smooth running of the Rail, Tram and Bus Union and of this House. I congratulate him on the result that I am sure he negotiated today, and not the Premier. I extend that appreciation to Cooper Gannon and Max Kennedy in the Whips' offices, where we all know the real work is done. The Deputy Whips—what do you say? The Hon. Wes Fang and the Hon. Cameron Murphy are two sides of the same coin. They are both mavericks, rogues and troublemakers. In any case, I know they both often feel "compelled to speak", even when they were not going to. They provide some of the colour and movement that exists in this place.

I thank the Leader of the Government for her capable management of her team, as well as her collaborative approach in dealing with the Opposition. Most importantly, I thank her for keeping my seat warm until 2027. I have to mention the power behind the throne and thank Peta Waller-Bryant for her work keeping this House moving. I know only too intimately that the real work is not done at this table but at Peta Waller-Bryant's desk. Whatever is happening in this House, you will know it from her before you know it in the House. Peta, thank you for your work and your wisdom. I congratulate you because if we had held Friday sittings, I would have blamed you. I would not have blamed the Government; I would have blamed you because you had the responsibility to make sure that did not happen, and you achieved that outcome. I acknowledge the Hon. John Graham for his attempts to keep the Thursday music tradition alive.

The Hon. John Graham: Attempts!

The Hon. DAMIEN TUDEHOPE: They were only attempts, but some of the lines have been pretty good. I am happy to loan you Richard Egan on a Thursday if you want. For a small fee, I am happy to give Richard to you to ensure that your work is elevated. Although, I have to say, you were significantly challenged today. The performance by the Hon. Mark Buttigieg on the run in bringing some lyrics to mind, which clearly indicated that I was always on his mind, was something to be marvelled at. I suggest to you that you might like to lift your game.

I acknowledge our wide and diverse crossbench. Last year I spoke about the frosty relationship. That has accelerated even more so in the past 12 months as we have all found a common goal in holding the Government to account. I thank each of you for the constructive and open way in which you deal with the Opposition, and

I look forward to continuing to work together after a well-deserved summer break. We have some things in mind that we can work on.

The Deputy Leader of the Opposition, the Hon. Sarah Mitchell, is a rock, a Nationals warrior and a true Coalitionist. The work that she does for the Opposition and for regional New South Wales is exceptional. I could not ask for a better deputy in this place. I thank her for all that she does. It would be remiss of me not to thank the staff of the Hon. Sarah Mitchell: Millie Burnett, Kate Pike and Sally-Anne Giliam. They bring wonderful joy and energy to our offices and their work is greatly appreciated. I thank my own staff, Richard Egan and Sam Tedeschi, for the work that they do for me, and for their contribution to the Opposition and the Legislative Council as a whole. In fact, up in my office I said that I might write a few things down. Sam Tedeschi made the comment, "It will be the first time you've written something for a while." I then reflected that he was probably right.

Richard's musical contributions will live on in the history of this House. I am sure that they will appear in David Blunt's next book, and they will obviously remain in *Hansard* for years to come. What do you say about Sam Tedeschi? I wanted to back Jeremy Buckingham's point of order, which I thought was a pertinent intervention, if for no other reason than you would have said that someone appearing like that in this place brings it into disrepute. But "a force of nature" is the only way that you could describe Sam. Sam, you have the ability to deal with everyone in this place, even people you do not agree with or people who potentially annoy you—and there are very few people who annoy you, but there are some, and you do not hold back in letting us know in private. I thank you for all you do, Sam, because I certainly could not do the job that I do without your intervention.

I also thank Bo Ok and Clem Hall for the wonderful assistance they have given me over the past year, as well as Dimitry Palmer, who left my employ earlier in the year. I have to finish by looking in the crystal ball. The Hon. Mark Buttigieg said that he does not have a crystal ball. Well, I do. I have looked into my crystal ball. I wanted to see what 2025 would bring. There were a couple of things that I foresaw. The first is that the Hon. Anthony D'Adam will cross the floor. That will be the first thing. Then the Hon. Mark Latham will join The Greens in an effort to bring down Peter V'landys. The Hon. Robert Borsak and the Hon. Mark Banasiak will join the National Party shortly after the Hon. Wes Fang sees the light and joins the Liberal Party. He will take over as Leader of the Opposition and immediately sack Sam Tedeschi.

The Hon. Mark Buttigieg is going to win preselection for the seat of Barton and join the Federal Parliament, and we will be rejoined in this place by Shaoquett Moselmane. The Hon. John Ruddick will shortly leave us and accept an appointment to join the Trump administration. Finally, a prediction that has only just been germinating is that the Hon. Jeremy Buckingham will be nominated for and accept membership of the Australian Club. I end by wishing everyone a merry Christmas, a happy new year and a wonderful break that is hopefully filled with family, friends and loved ones. Enjoy the rest and we will see you again in 2025.

The Hon. SARAH MITCHELL (22:14): As we wrap up the 2024 sitting year, I have the great joy and privilege of offering seasonal felicitations—my favourite phrase that we say throughout the whole year—on behalf of the New South Wales Nats. What a year it has been. It has been challenging, rewarding, fun in some ways and always a reminder of what a privilege it is for all of us to serve the people of New South Wales. It has been a big and in some ways bittersweet year for the Nats. We said farewell to Bronnie and Sam. It is definitely a bit quieter without Bronnie, and we miss them. They are great friends and colleagues. We hope that we will be able to see our friend Sam in Federal Parliament in the not-too-distant future.

It was lovely to welcome Scotty back after his gap year. It is like you never left, but it is good have you back and on the tools. Wes, all I can say is that you have been as passionate as ever and we love you for it. As a team we look forward to having a new person join us in the new year, and we have some great candidates putting themselves forward. Look out, because the Nats will be fully locked and loaded and ready to fight hard for the bush in 2025.

The other thing I wanted to mention about my Nats colleagues is something I have spoken about in the House before: the different way we do our jobs. We often talk about being a Nats family. Last night I was having dinner with a few of the Liberal members and they were saying, "How come you guys always get to keep that really good party room on level 12? It's the most coveted real estate in this building." I think part of the reason we have had it for so long is that this place really does become our home away from home. We cannot go home and see our families. We are down here a lot and it is really hard. When we get together and fire up the barbeque on a Monday night, the sense of community is really special and is something that all Nats members value, and Nats members in the upper House certainly feel that as well.

The other point is that we would find being away from home difficult without the support of our partners and families. It is hard when you are away for days and days at a time. It still happens in opposition, more than some of us probably thought it would. I personally thank my family: my husband, Ant, and my daughters, Annabelle and Matilda. Tilly is turning seven on Saturday. She is very excited that mummy is going to be home

for her birthday, so I thank members for making sure I could do that. I know that Scott and Wes will not get to speak, so I give a shout-out to Zoe, Casper, Atticus and Audrey on behalf of Wes and Mes, Darcy and Henry for Scotty. I know how much the love and support you all give means to them.

We could not do what we do without the tireless efforts of our staff. I acknowledge all the Nats Legislative Council staff who have worked for us this year: Millie Burnett, Sally-Anne Giliam, Kate Pike, Bridget Joyce, Lachlan Barnsley, Georgia Saeck, Jayden Whaites, Nick McCann, Fran McLoughlin, Hugh Hogan and Annabelle Shackleton. Thank you for everything you do; you are absolute rock stars. We could not do our jobs without you. I also give a shout-out to Rory Cunningham and Candice Giannakos, who work with Dugald Saunders but also provide great support and friendship to us on level 11. A big thank you also to Sam Tedeschi and Richard Egan. I love working with you guys. We work hard but, gee, we have a lot of laughs and a bit of fun in our little level 11 domain.

To the Leader of the Opposition, what can I say about Damo? When I was first elected in 2011, never did I think I would ever stand here in 2024 and say that one of my best mates in this place is a silver fox, far-right Liberal, but here we are. It is true, because I love him to bits. You do such a great job leading us and we have a lot of fun. Thank you for everything you do. Thanks also to Nat, the Deputy Leader of the Liberal Party, for your hard work and friendship with us Nats—well, most of us Nats. I have to say that the Nat and Wes *Kumbaya* moment this year had to be seen to be believed. It was fabulous and we love working with you and the rest of the Liberal team. We get on very well and do some great things.

I thank my colleagues across the aisle: Penny, John, all the other Ministers and Government members, and all their staff. It is really hard to be a Government staffer. It is high pressure and high stakes, so I say thank you to all of your teams, particularly for when they engage with us. It really means a lot. Also thank you to the real "Leader of the Government", Peta, who is in the gallery. To the crossbenchers, thank you again for your friendship and engagement and for the debates across the year and the camaraderie. Real and genuine friendships form in this place that should be valued and honoured, and it is important that continues. We might not always agree, but we all bring passion and commitment into the Chamber. The one thing we can all agree on, however, is that we are so much better than the other place, which is something we should always be very grateful for.

Mr President, thank you for your service this year, particularly in this bicentenary year. I know a lot has been going on, and it has been wonderful to watch such a fabulous celebration. Thank you to you and your staff for everything you do. To Deputy President Rod Roberts, Assistant President Peter Primrose and all the Temporary Chairs, it is a tough gig. I did it when I first came into Parliament. Sometimes it can be really daunting, but you all do a great job of keeping us all in check.

I thank the broader parliamentary team for all their efforts this year, especially with the bicentenary celebrations: David Blunt, Steven Reynolds, Stephen Frappell, Susan Want, Jenelle Moore, Beverly Duffy and all the Legislative Council team, including the committee staff and the attendants. I also thank Hansard, catering, the cleaners—especially those who look after us up our end of level 11—the special constables and the library staff. One of the things I have done this year, for the first time in 13 years, is borrow books from the library. It is amazing. One of the benefits of opposition is that you have time to borrow books, not that I have read them all. They are lovely down there and they do a great job. It is a wonderful space. I am also grateful for the media monitoring, assistance with bills and the research that they do. It is very much appreciated. I thank the IT team as well, and everyone who keeps this place running. Thank you. You make this place work well, and your efforts do not go unnoticed.

As we close out the sitting year, I hope everyone has a chance to step back, take a breath and spend some quality time with family and friends over the holiday season. The break is a time for all of us to be grateful for the incredible privilege of serving in this place, to celebrate what we have achieved and to look forward to what lies ahead. I thank everyone for their work, their support and their friendship this year. Merry Christmas. Happy New Year. Here's to an even better 2025.

Dr AMANDA COHN (22:19): On behalf of The Greens, I offer our heartfelt seasonal felicitations. That genuinely sounds like something that we made up, but it turns out that is actually the name of the debate. As a new member, I have learned a lot over the past 20 months. This is a unique workplace in many ways, although some things were very familiar to me, having worked for years in public hospitals. For example, division bells, just like medical emergency pagers, seem to go off as soon as you sit down to enjoy a hot cup of tea. Just like working in a hospital, I have learned to eat when I can and use the bathroom when I can, because you do not always know when the next chance is coming. Similarly, sweets really help on a night shift—please do not tell my diabetic patients that. Thank you, Peta.

In many ways, of course, this workplace is unique. In most workplaces, a special occasion is celebrated with a box of Cadbury Favourites or a supermarket mud cake, but here our truly bizarre tradition is to celebrate by mounting ever more photos of ourselves on the walls.

The PRESIDENT: More to come!

Dr AMANDA COHN: I am still not used to starting every day by standing through a prayer that reminds me that this place was never meant for people like me to be here. I knew that this would be a workplace with an unusual frequency of conflict. We are all elected by different constituencies of the people of New South Wales to present and defend different points of view. I was not sure which would be the greatest conflict in the New South Wales Parliament. Would it be between the Labor Party and the Liberal Party; between the Shooters, Fishers and Farmers Party and the Animal Justice Party; between the Liberal Party and the National Party; or between the right wing and the left wing of the Labor Party? Now I hope we can all agree that it is in fact between members of the Legislative Council and members of the Legislative Assembly.

It was alleged to me by a Legislative Assembly member that the reason we generally treat each other better than Legislative Assembly members treat each other is because we share dinner together during our dinner breaks. I laughed at the notion that we all actually took that time as a break or that we chose to eat together. However, I can now attest that carpooling together from Tamworth to Dubbo between regional inquiry hearings is really what we need to be able to see each other as human beings despite our political differences.

I hope there are a few things that we really can all agree on. Firstly, that in the debate raging about whether Legislative Council or Legislative Assembly members work harder, the answer is, of course, nurses and midwives. Secondly, that it is always a huge relief when the President finally calls Wes Fang to order. Finally, that the only person here who is always right is David Blunt.

On a very serious note, one of the most important things I have learned is that the New South Wales Parliament is a workplace for hundreds of people—really good public servants who care about democracy, who strive to make sure our democratic institution functions as well as it can, and who are very kind when MPs need to be reminded of a process more than once.

It is important to thank everyone, and I deeply and sincerely apologise if I have missed anyone in my current tired state at this point of the night and this point of the year. Thank you to the facilities and maintenance staff, to the IT team and the audiovisual broadcast team, to the cleaning staff, to the catering and hospitality staff—especially Kylie, who knows my coffee order, and Keith, who seems to always be rostered on when we are sitting late.

Thank you to Hansard, committees staff, Library, Education and Research staff, security, the new Aboriginal Liaison Officers, the entire staff of the Department of Parliamentary Services, the attendants of the Legislative Council, and the Black Rod and her team. I thank the Clerks of the Parliament, particularly the Legislative Council. Thank you to the Procedure Office and the Parliamentary Counsel's Office. On a very personal note, thank you to the members of the LGBTQIA+ Taskforce.

Finally, I thank the very best people who work here—they are, of course, the Greens staffers. Thank you to Grace, Dan, Pat, Jess, Laura, Lucy, Angus, Therese and Lulu. Of course, the very best are Alice, Josh, Kit, Jeremy and Manon. We could not do anything that we do without you. The Greens wish you all a safe and happy holiday season. We also offer our thanks to all the public servants who continue to work over the break that we are very lucky to have.

The Hon. EMMA HURST (22:24):

As you all know, now is the time
For my annual vegan felicitation—in rhyme

Every year we give each other Christmas cheer
But not before commenting on the happenings here

We started out this year with passion and devotion
But we're still waiting for Sue to finish her notice of motion

There's an inquiry on cats
And we've lost half the nats

And with no Bronnie there's no commotion
When I read my turkey motion

And while Tedeschi's fashion copped a bit of flack,
Suvaal memorised the standing orders front to back

And while debates sometimes turned into rants
Others used contributions to mention their underpants

But when long nights get us down
And we feel we might drown

The leaders are here to steer the ship,
Along with the House's pet favourite, the Government whip

For me I couldn't achieve anything without my team
And their weekly Bowie and nudibranch theme

Fighting for kangaroos in the US,
Passing a bill to ban animal tests,

And bigger than winning the puppy farming wars
I ticked off a commitment to knock down doors

Of course none of this is possible without each parliamentary team,
Appreciation for whom should always be the theme

So a heartfelt thanks to all who play
An essential part in our every day.

To those who keep the Chamber running smoothly
For your guidance and help, we thank you profusely

Thanks to Hansard for sifting through our rowdy rabble
You must be really, *really* good at scrabble

To the committees team, buried in inquiry after inquiry
You must be relieved this year is *nearly* at expiry
Thank you for your patience and reports, and sorry for the woe
There's only live export, cats and mining left to go ...

To the Clerk and Procedures, so wise and clear
You keep us running smoothly, year to year

To the bastion that is the PCO,
Your drafters and team really do glow

The team at the bar and Café Quorum where we dine,
We're always grateful for your coffee (and your wine!),
It's a welcome chance to chat and sit,
Thank you for always putting up with our ... wit.

To Security, DPS and the police,
Thank you for always keeping the peace,
You fix, help and guard both day and night,
With humour and banter keeping it bright.

To the press gallery and the library crew
Thank you for reporting, researching and all that you do
And to the cleaners who keep this place looking chic
Thank you for your work, week after week.

Fellow MPs, I hope your x-mas wishes come true,
This break truly feels well overdue.

To my tireless team—Tess, Emily and Sarah
You guys are working to make the world fairer

As we all wind down and settle the pace,
Know that we are all fighting for a better place,

I wish you all well, as we see out the year,
Just think, several weeks without hearing Wes say 'Hear, hear!'

The Hon. JEREMY BUCKINGHAM (22:27): I rise to offer my Christmas or seasonal felicitations to everyone here. I do so as a proud Labor backbencher—sorry, I mean as a member of the Legalise Cannabis Party. As we approach the festive season, it is my great honour and joy to stand before you and express heartfelt gratitude on behalf of everyone here in our parliamentary community. Christmas is a time for reflection, celebration and togetherness, and today we gather to recognise the outstanding contributions of so many individuals who make this place not just a workplace, but a community. To the Department of Parliamentary Services cleaning staff of Rolf, Robert, Bradley, Carmen, Gloria, Greg, Johnny, Julian, Susan, Miguel, and Murium, you embody the spirit of quiet dedication and excellence. Your hard work ensures that every corner of this building is pristine—except, of course, the party rooms—providing us all with a clean and welcoming environment in which to work.

To the team at Cafe Quorum of Paola, Jack, Sam, Mark, Kylie, Keith, Jimmy, Agustina, Angela, and Maria, your warm smiles, warm food, delicious coffee and exceptional service brighten our days. To the Parliamentary Research Service team of Nicola, Dan, Tom, Christine, Lenny, Cristy, Rowena, Anita, Donna, Alba, and Damian, your intellect and tireless support are the backbone of my cheat sheets. To the Department of Parliamentary

Services Facilities and Building team of Kelly, Peter, Tim, Josh, Asha, and Walter, your expertise ensures that everything runs smoothly. To the IT Services Service Desk, Cybersecurity and Network Infrastructure teams including Helen, Duncan, Aamir, Ferdous, Jacob, Ibrahim, Jeanine, Kevin, Sal, Luke, Wen, Rachelle, Stephen and Angelo, you are our lifeline in a complex digital world.

To the Legislative Council Procedure Office staff Taylah, Angeline, Madeleine, Stephen, Rhea, Shakira, Robin, Justin, Bethanie, Irene, Andrew, Landen, Stewart, Allison and Merrin, your meticulous attention to detail makes us all so much better. To the special constables Dunne, Granger, Saisan, Hanson, Yan, Gondo, Putro, Coupeland, Gibson, Wilbers, Sritheran, Boyer, Lombardo, Jaisankac, Gilbert and Tamplin, your presence and terrible moustaches ensure that this House remains a safe and secure place for all who work here. Thank you to the entire Hansard team. It is an incredible effort to turn all the babble and interjections in this place into a coherent transcript every day. To the Legislative Council front desk staff John, Angela, Min, Sam, Dan and Katinka, your welcoming presence and efficiency set the tone for everyone entering this Chamber.

Thank you, Mr President, for stewarding and steering us through what I learnt is not a bicentenary but a "bicentenary" year—I learnt that from His Majesty the King. I was slightly disappointed that we did not get a republic, but we got an egg timer. I thank the Clerks and the Usher of the Black Rod for their work on the Wiradyuri forums, and Steven and Stephen. I thank Wes Fang for his efforts on Portfolio Committee No. 1 - Premier and Finance that led to it being defanged. I thank the leaders and deputy leaders of the Government and Opposition for running the show and working collaboratively through a lot of very difficult issues. I thank the committee team for the incredible inquiries we had into artificial intelligence, cannabis, drinking in parks, and nothing to do with Premier and Finance. May it long be so.

I thank my staff, in particular Louise Callaway who has been with me for 14 years and is the voice of temperance and stability in the office, and my new and absolutely essential staff member, Peter Foster—lock the doors. Thank you all very much. I wish you all the very best for the season in front of us and for next year. I will see you all in 2025.

The Hon. ROD ROBERTS (22:32): I take this opportunity to wish every single person in this Chamber a merry Christmas and the best of the season. I hope all members enjoy their break. It has been an honour to be the Deputy President of the Legislative Council again this year, not only performing roles in this Chamber but also, as you would know, Mr President, doing the protocol work of entertaining visiting dignitaries and attending events as representatives of the Legislative Council. That has been a tremendous honour.

I thank you, Mr President, once again for your guidance and leadership of this Chamber over the past 12 months. You are a very good man, and that is shown through your work, in particular with the bicentenary—I grew up in Bankstown, so I pronounce it bicentenary. That was an extra burden for you and your staff throughout the year along with the normal work that you do. Well done to your staff Will, Damien, Dave and Rebel. I notice most of them are here tonight. I spend a bit of time in their office, and I know that they all liaise with my team to get stuff done. I thank them all. They are a credit to you, Mr President.

To the Temporary Chairs, the Hon. Emma Hurst, Ms Abigail Boyd and the Hon. Dr Sarah Kaine, thank you very much for your assistance. We are a very good team, and we work extremely well together. A lot of people do not know what goes on behind the scenes. But, as members are aware, this afternoon I spent a fair few hours in the chair during Committee of the Whole and somebody in the President's office—I will not mention who—decided, "After the one hour break, we'll roster Rob Roberts in the chair immediately again", to which Rod Roberts very politely said, "No, that is not going to happen". And guess what? The Hon. Sarah Kaine stepped in and said, "Listen, Rod needs a bit of a break. I'll do that." I thank her very much. I want to acknowledge that.

That is, again, stuff behind the scenes that people do not see. We mesh perfectly. I do not think there has ever been a time when there has not been somebody in the Chamber ready to jump in the chair and fill it and the position has been left vacant. Members would have noticed that I left out the Assistant President, the Hon. Peter Primrose. I wanted to mention you especially, Peter. You are always available to help. "Excuse me, Peter, can you fill in for us for 10 minutes? I need to go to the loo." "Peter, I need to do this. I need to do that." Mate, you give your time generously. You are a very experienced member of this Chamber. It shows not only in your attitude but also when you take the chair. You are a very firm hand on the tiller. Thank you very much.

That leads me to the Clerk, Mr David Blunt, AM—and I can inform the House that he does actually possess those postnominals, unlike those discussed in other matters today. David—if I can be so bold as to call you David instead of Mr Clerk—I do spend a lot of time in your office discussing procedural matters for the Chamber and also seeking your guidance and assistance in my endeavours to hold the Government and the various agencies under its control to account. I thank you very much for the generous amount of time you afford me. Rachel Buist and Steven Fujiwara in your office are a credit to you. They are very good, hardworking individuals and an absolute credit to this whole building.

That leads me to the other staff of the Legislative Council: the procedure team, the committees team, the Usher of the Black Rod's office and, of course, our wonderful Chamber attendants, who are just a pleasure to be around. They make us all look much better than we actually are. I thank them. I would like to particularly recognise those who have had the daunting task of sitting beside me at the chair at the table during Committee of the Whole throughout the year. Let us hope I have not missed anybody. There are Steven Reynolds, Stephen Frappell, Stewart, Susan, Beverly, Sharon, Merrin, Allison, Jenelle and Maddie. You all make me look much better than I am. Anybody who knew the truth would be in shock. But the hard work comes from the Clerks. That was evident today. I do not usually like to point out one particular individual, but I acknowledge the work that Allison did today in providing those running sheets to all the members who had amendments—how smooth did that make the process work? That was not me; that was the staff. I recognise them.

I acknowledge the rest of the Department of Parliamentary Services staff: catering, cleaning and Hansard. I acknowledge those in the salary branch and their good work, in particular. Keep it coming, guys. In all seriousness, I also acknowledge the special constables. They have held this building together and held us all together and made our lives much easier. Peta Waller-Bryant—the Chamber whisperer, as I call her—it is a pleasure to see you every Tuesday and Thursday morning in my office when we discuss what Government business is going to be and what committees we will be rolling into and so on. It is a pleasure to see you every morning, Peta. I am going to mention Sam Tedeschi—I mentioned him last year; I will mention him again—in his pink suit. He pulled me up and said it was "salmon". I said, "Mate, once again, I grew up in Bankstown. That's pink. That's not salmon. Where we come from that's pink." Once again, thanks for your friendship and assistance throughout the year.

That leaves me with my own staff: Alexandar Ristevski, Matej Slavicek and, of course, Dan Connor. One could not wish for three harder working people. They are three of the most loyal individuals you will ever find—extremely loyal. That is a very difficult characteristic to find in people these days, in particular in politics, but I have struck gold in the three staff that I have. In closing, I hope you all have a good break and indulge in too much food and alcohol, like I will—pork, turkey, crabs, prawns et cetera. I am sorry, Emma, to upset you. I say that in all sincerity. But that is what I am going to do. I will also have some fruit cake and some pudding. I urge people who are having the same to watch out for the glacé cherries. Those who are fans of Sir Norman Fry will know exactly what I am saying and, for those who do not know, please go upstairs immediately after this and Google Sir Norman Fry and watch out for the glacé cherries.

The PRESIDENT (22:39): I thank all members for their delightfully Dickensian seasonal felicitations and for the many kind words and acknowledgements that were shared today. I will try to keep this brief, but I hope members will indulge me as I do not have the chance to put my thoughts on record throughout the year, and I would like to note a few things down for the *Hansard*. It is at moments like this that we all become extremely conscious of the fabric and history of this remarkable institution of which we are all honoured to be a part and of the many extraordinary people that we have the privilege to work with. We are all conscious of the immense contribution that this place makes to the people of New South Wales.

It has been a significant year for the Legislative Council. As was acknowledged by the Leader of the Government and the Leader of the Opposition today, we have celebrated the "bicentenary" in a way that enhanced the understanding, history, powers, privileges and diversity of our Legislative Council. We reflected on our past and grappled with our history. There are some milestones from the past 200 years that we are all deservedly proud of, whilst others were, at times, more challenging to examine. As we celebrated the evolution of the Legislative Council into the robust house of review that we see today, there were many opportunities for outreach, engagement and genuine connection.

Looking back over the past 12 months of bicentenary activities, I have personally never been prouder to be part of this incredible institution. Moreover, I have been genuinely overwhelmed by the support of members from all sides who have demonstrated this through their participation in, promotion of and engagement with all aspects of the program. This really should not have actually come as much of a surprise. Genuine engagement, collegiality, intellectual rigour—and the "willingness to do the work," as the Hon. Sarah Mitchell says—are hallmarks of this place. Its members and the political and parliamentary staff work every day for the people of New South Wales.

Understanding the significant weight of the role of President, I have always endeavoured to be fair and consistent in and out of the Chamber, and to represent the office, the Legislative Council and the Parliament of New South Wales with the dignity and respect that it deserves. However, this is a team sport. Actually, scratch that—what do I know about sport? This is an orchestra where every one of us plays our part, and I am so grateful to every single one of the musicians for what they do to keep this place humming along. Members have rightly listed many names and acknowledged the dedication and skill of so many members of our parliamentary community tonight. I echo their praise, and I associate myself with every comment they made.

I could wax lyrical for hours thanking and naming literally every member of our parliamentary community, but the Hon. Jeremy Buckingham has already done that, and it was appropriate for him to do so. They have all played their role in this year's success, but I will limit myself to the following individual comments. I start with the Deputy President, the Hon. Rod Roberts. Thank you for your steadfast partnership, your sense of honour and fairness, your dignity, your decency and your integrity. I have so enjoyed spending time with you this year, particularly while on the road for the regional roadshows. I think I can speak for every member in this Chamber when I say that we all feel 100 per cent confident when you are sitting in the chair.

I thank all of the Temporary Chairs, including Ms Abigail Boyd, the Hon. Emma Hurst, the Hon. Dr Sarah Kaine and the Father of the House, and Assistant President, the Hon. Peter Primrose. The Hon. Rod Roberts is quite right when he says that it is quite special, and genuinely wonderful, to have such genuine camaraderie amongst this group. This is a selflessness that is rare in parliaments around the world. I wish you all a very peaceful break a long, long way away from this place. I thank the Clerk of the Legislative Council, David Blunt, AM. Perhaps he will one day be David Blunt, AC, but we should not foreshadow anything. His wisdom, leadership and generosity know no bounds. Every day, working with David is an absolute delight and a privilege. Having seen it up close, I say this place would literally be so different if it were not for this man sitting right here. We are all so lucky to have him.

He has also amassed an exemplary team of extraordinary people: Steven Reynolds, Beverly Duffy, Stephen Frappell and all of the staff who work under them. I hope they have the time to relax and rejuvenate before we do it all again next year. I make particular mention of Vanessa O'Loan and her team. She seamlessly delivered the sixty-seventh Commonwealth Parliamentary Conference, which was an outstanding six-day program for over 700 delegates from 56 countries. Vanessa and the 110 volunteers from the Department of the Legislative Council, the Department of the Legislative Assembly and the Department of Parliamentary Services made this Parliament shine on the world stage. Every single part of the program was perfectly executed. Thank you to them all.

To Jenelle Moore, the Usher of the Black Rod, thank you—and I know you are steadfastly not looking at me—for the hours and hours of work and unwavering commitment that you show towards the Legislative Council. Your efforts in the lead-up to the royal visit, which were acknowledged by the palace itself, have made a transformative impact on this Parliament. This year your team has performed above and beyond, from regional roadshows, seminars, exhibitions and forums to commissioning artworks and music compositions—and that is on top of the very important day-to-day Chamber support, tours and diplomatic engagements. They have been magnificent. I thank them all and wish them all a very restful holiday.

In this Chamber, I pay special tribute to the Leader of the Government, the Hon. Penny Sharpe, and her office, particularly the wonderful Peta and her permanently stocked top drawer. To the Leader of the Opposition, the Hon. Damien Tudehope; and Sam, his sartorially splendid spirit guide; the Whips and their team, especially the extremely efficient and unflappable Max; and all members and their staff—we all spend many hours together and are united by our passion for this place, whatever political background we come from. The opportunity to make an impact for the people of New South Wales is at the heart of every single person who works in the Chamber.

I also acknowledge many people outside the Legislative Council. To Mark Webb, the head of the Department of Parliamentary Services, and his entire team, you spend most of the year attending to other people's needs, whether it is through catering, facilities, the library, Hansard, cleaning, the special constables, education and engagement, IT, HR, finance, or everyone else who lays the foundations that allow us to discharge our duties as members. Thank you for everything you do and the problems you solve each and every day, particularly the ones that we never see. I speak for all members when I say that we are particularly looking forward to the completion of the lift program. I hope that, over the break, they truly can enjoy some quality time for themselves.

To my good friend the Speaker, Greg Piper. I thank him for his genuine friendship and collaboration. It is an honour to serve with him and to partner with his team, led by Jason Gordon. I hope that he, his team, the wonderful Helen Minnican, the Clerk of the Legislative Assembly, her team and all those in the other place enjoy quality time with friends and family right across New South Wales. To the Governor of New South Wales, Her Excellency Margaret Beazley, AC, KC, and Mr Dennis Wilson, we have seen a lot of each other this year, something I hope will continue. It is always a delight. She is a magnificent representative for this State. I wish her a wonderful Christmas and summer. To the Premier's Department and the Department of Foreign Affairs and Trade, thank you for your assistance in organising so many meetings with the Consular Corps and so many significant events throughout the year. I thank them and I hope that we will have a deep continued partnership in 2025. It is a real honour to work with them to enhance diplomatic relations and deepen economic and cultural opportunities for this State.

To those partners outside Parliament, new and old, from those who participated in bicentenary programs like artist Kim Healey—I think that all members agree that that incredible piece of art looks like it should always

have been there and always was; it is a beautiful acknowledgment of the 60,000 years of history of this State and nation—to the Sydney Conservatorium of Music, the Supreme Court of New South Wales, St James' Church and the many visitors to our Parliament and participants in all our programs and committees, I am incredibly grateful for your contribution.

To my team, led brilliantly the indefatigable Will Coates and including throughout the year Rebel Neary, Dave Smith, Damian Spinks, Jack Lyon, Greg Dezman and Cameron Ceiley, I simply could not do this job without you. Your passion, diligence, integrity, decency and intelligence are clear to me, and many others in this Chamber, every single day. It has also been a lot of fun. Thank you.

Members, this year we have implemented updates to our standing orders, taken democracy across the State through regional roadshows, held an incredibly successful Open Day with over 3,000 people visiting our Parliament on the Council's 200th birthday, and grown engagement with the Parliament and democratic processes both here in Macquarie Street and throughout New South Wales. We hosted a royal visit from His Majesty King Charles III, unveiled an Acknowledgment of Country sculpture in our forecourt and a significant Aboriginal artwork in the Parliament's Fountain Court.

We delivered a body of work through conferences, seminars, exhibitions and events that has grown the understanding of, and the engagement with, the Legislative Council and will live on as a record of this nation's first Parliament for future generations. We have reflected, celebrated and imagined. We have reviewed, examined, inquired and debated. We have improved the efficacy and impact of this House. We have worked diligently, we have worked together and we have achieved a lot. I am so grateful to each and every one of you. Thank you. I wish you all the very best for the summer break and cannot wait to continue the important work of this House in 2025. Thank you all.

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

Motion agreed to.

Documents

DARREN STAPLETON

Variation of Order

The PRESIDENT: According to standing order, I advise the House that on Thursday 21 November 2024 the Cabinet Office requested to vary the scope of an order for papers regarding the employment of Darren Stapleton. An agreement was reached between the member who moved the order, Ms Abigail Boyd, and the Cabinet Office, which I have certified. The varied due date of the order is Wednesday 18 December 2024.

I table the agreement. The question is that the varied terms of the order be agreed to.

Motion agreed to.

Special Adjournment

SPECIAL ADJOURNMENT

The Hon. PENNY SHARPE: I move:

That this House at its rising today do adjourn until Tuesday 11 February 2025 at 12.30 p.m. unless the President, or if the President is unable to act on account of illness or other cause, the Deputy President, prior to that date, by communication addressed to each member of the House, fixes an alternative day or hour of the meeting.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. PENNY SHARPE: I move:

That this House do now adjourn.

RECYCLING

Dr AMANDA COHN (22:52): As a Green, I unsurprisingly love recycling. I am an enthusiastic supporter of sharing-economy initiatives by local councils, like tool libraries and toy libraries. As former deputy mayor of Albury, I am so proud of my regional community's Halve Waste initiative that aimed to achieve 50 per cent diversion of waste from landfill by 2020 and succeeded in that aim through kerbside food and organics collection well ahead of most councils in New South Wales, even tackling difficult products to recycle like pallets and mattresses. The program has been so successful that in 2023 a new goal of 80 per cent diversion by 2030 was set.

Of course, the most important part of that work is reducing waste at its source and particularly plastic production. The action that is needed by the New South Wales Government includes product stewardship, so that companies that profit from single-use products and packaging, and that adopt strategies like planned obsolescence, bear some responsibility for the problems they have created.

It is those companies who should bear the cost of cleaning up the waste crisis we find ourselves in, and not individuals, councils and ratepayers. In the meantime, we need far more recycling infrastructure on our way towards a circular economy in New South Wales. The proposed Plasrefine plastics recycling plant in Moss Vale would be one of the largest in the entire country. The proposed \$88 million facility aims to accept and process up to 120,000 tonnes of plastic per year.

Submissions to the Independent Planning Commission [IPC] on this development close next week. The local community, backed in by their council, have strongly argued that this is the wrong site for this project—in a rural area close to residential properties and a riparian corridor in a Sydney drinking water catchment area. It is cruel that a planning issue that stems from it being proposed at such an unsuitable location has created a conflict between environmental priorities, especially as the Southern Highlands community has so many brilliant and passionate environmental activists who want action on waste. In its submission to the IPC, the council stated:

Concerns regarding emerging contaminants such as PFAS remain unresolved in the Assessment Report. These unresolved and emerging risks may be considered acceptable in another location, however the primary argument is that these risks are unacceptable in a drinking water catchment area, immediately adjacent to a first order riparian corridor and to an extensive area of residential development.

A young family living 800 metres away from the proposed site is rightly concerned about advice raised in public meetings that the proposal suggests residents stay indoors to minimise the impacts of air emissions from the operation of the facility. Though the applicant defends that this advice was taken out of context and that the Plasrefine facility's emissions were not expected to independently cause daily exceedances of safe PM2.5 levels, it acknowledged the potential for exceedances on days when background pollution levels were already high. This is hardly comforting. I thank and acknowledge the exceptional voluntary efforts of the community action group Say No to Plasrefine, as well as newly elected councillor Heather Champion, who has hit the ground running, doing fantastic work supporting and representing her local community, who want and deserve a different site for this project.

New South Wales needs appropriate locations for recycling infrastructure—ones that do not unnecessarily encroach on residential areas and do not risk human and environmental health. The State Government needs to step up and lead the development of this infrastructure through a statewide strategy, because the status quo of private companies making development applications in a broken planning system that does not prioritise health and environmental outcomes—and that overrides councils—is delivering terrible outcomes, like this one in the Southern Highlands.

AMAZON WORKPLACE PRACTICES

The Hon. Dr SARAH KAINE (22:56): As we head into the holiday season, and with it the season of sales from Black Friday to Boxing Day, I thought it was time to update a classic Christmas tale. In the cold, relentless march of the modern marketplace, where gold gleams brighter than goodwill, there lies a tale of toil, woe and neglect—a tale that echoes Dickensian hardship, but in the digital age. Imagine, dear reader, a vast warehouse stretching endlessly under flickering fluorescent light. Here, amidst the hum of conveyor belts and the thrum of scanning devices, Amazon's workers labour with neither cheer nor comfort, their conditions as stark as the snow-covered streets of old London.

The ghost of Christmas past: In years gone by, Amazon's promise was swift delivery and low prices—a marvel of modern ingenuity. But behind the convenience for customers, workers toiled under gruelling schedules, expected to meet impossibly high productivity targets. Stories emerged of employees denied sufficient breaks, including some who were driven to urinate in bottles to avoid penalties for time spent away from their posts. Injuries abounded, yet safety measures lagged, and the spectre of past negligence haunted every corner.

The ghost of Christmas present: Today, while billions flow into Amazon's coffers, many workers remain locked in a battle for basic dignity. Seasonal employees often face precarious contracts and earn wages barely above the minimum required to survive. Warehouse conditions can be punishing—extreme temperatures, relentless surveillance and quotas so high that even the most industrious soul feels the weight of exploitation. Let us not forget the delivery drivers, scurrying like harried mice, pressured to meet the insatiable demands of next-day delivery, their smiles as fleeting as the morning frost.

The ghost of Christmas yet to come: What lies ahead if this course remains unaltered? Without intervention, the chasm between corporate greed and worker wellbeing may widen. Will the future hold a reckoning for such inequities, or will society turn a blind eye, lulled by the comforts of one-click shopping? Can the chains that were

forged by exploitation be broken, or will they rattle for generations to come? There is still time for redemption—a chance for Amazon, like Scrooge, to awaken from its profit-driven slumber and embrace the spirit of fairness and humanity. With living wages, safer working conditions and respect for its workers, this tale could end in joy rather than despair.

Oh, dear reader, may we not forget the lesson from Dickens: The measure of success is not in riches but in the care we extend to one another. Let us hope this Christmas for a brighter chapter for Amazon's workers—a story of transformation, justice and goodwill to all.

CHRISTIANITY

The Hon. DAMIEN TUDEHOPE (22:59): The Gospel of Matthew recounts the search of Magi—wise men from Persia who studied the stars—for a newborn king whose birth was indicated by the appearance of a new star. Their search took them to the palace of King Herod the Great in Jerusalem, but the newborn king was not found in that palace. The learned Jewish scholars in Herod's court cited the writings of the prophet Micah, which pointed to the small village of Bethlehem as the place where the long-hoped-for Messiah would be born. King Herod asked them secretly when the star signalling the birth of the new king had appeared and instructed them to return to him when they had found the child.

In Bethlehem, the wise men "saw the child with his mother Mary, and they bowed down and worshiped him. Then they opened their treasures and presented him with gifts of gold, frankincense and myrrh. And having been warned in a dream not to go back to Herod, they returned to their country by another route." Matthew reports that after the wise men failed to report back to King Herod the Great, he was furious and ordered all the male children in Bethlehem and its surrounds to be killed. The Roman pagan writer Macrobius reports in his *Saturnalia* that:

When it was heard that, as part of the slaughter of boys up to two years old, Herod, king of the Jews, had ordered his own son to be killed, the Emperor Augustus remarked, 'It is better to be Herod's pig than his son'.

Three days after Christmas, the Christian church observes a feast in honour of those young boys who were slaughtered out of hatred for the child Messiah. The French poet Péguy writes winsomely of those infant martyrs:

These simple children play with their palms and their martyrs' crowns,
That is what is going on in my Paradise. Whatever can they play at
With palms and martyrs' crowns.
I believe they play at hoops, God says, and perhaps at quoits
(at least I believe so, for do not think
that they ever ask my permission)
And the palm forever green they use apparently as a hoop-stick

It is a part of the Christian approach to life to see the triumph of life and love in the midst of death and hate. The gifts given by the Magi to the Christ child include myrrh, used to anoint the corpse of a dead man. While Christmas is very dear to Christians, the central Christian feast is Easter, when Jesus Christ, having died and been buried, rose bodily from death never to die again. Péguy's poetic conviction that those infant boys slaughtered by the vicious King Herod now play hoops and quoits before the Heavenly Father is reflective of this Christian orientation. In a world where the slaughter of innocent unborn children is seen by many as a harmless medical procedure, the Feast of the Holy Innocents, alongside the entry of the eternal Son of God into our world in the womb of Mary of Nazareth and his humble birth in Bethlehem, remind those who have eyes to see and ears to hear of the value of every irreplaceable human life from its beginning to its natural end.

GABRIEL GOVINDA

Ms CATE FAEHRMANN (23:03): I have recently been contacted by a couple who live in Bunyah, which sits at the foothills of the Barrington Tops National Park. They have discovered a mineral exploration licence application lodged over their land by a Western Australia company called Pinpoint to prospect for gold. The application covers an area of 81 square kilometres where there are many farms, lifestyle blocks and people's homes and livelihoods. It is not a greenfield site. The couple did a rudimentary Google and Australian Securities and Investments Commission [ASIC] search into the company behind the exploration licence, Pinpoint. They found that the ultimate shareholder is one individual, Gabriel Govinda, the very same Gabriel Govinda who, in 2023, pleaded guilty to 42 charges of market manipulation.

Govinda was sentenced to a jail term of 2½ years but was released immediately on a five-year good behaviour bond. He used 13 different trading accounts, held in the names of relatives and friends, to manipulate 20 different listed stocks. His conduct occurred before reforms in March 2019 that increased maximum penalties. Those same offences now could lead to a 15-year jail term. He ran the schemes across mining exploration and resources, including Brumby Resources, BBX Minerals, AVZ Minerals and Taruga Gold.

But how can he be allowed to do this all again? The couple's, again, rudimentary investigation found that the company secretary of Pinpoint is Julia Maria Beckett, who is also company secretary of Calidus Resources Limited and a number of private companies. Calidus Resources Limited recently went into voluntary liquidation, owing Macquarie Bank \$61 million. What have we stumbled across here? It is the dubious world of speculative and opportunistic "nickel and dime" mining share trading, a world where shonky speculators are lured by get rich quick schemes that dupe people out of their livelihoods and savings.

Breaking it down, here is how it works. First, the operators set up a private company structure and apply for an exploration mining mineral licence using a third-party agent. Second, once the application is granted, the company sells its exploration licence to a mining company, ideally a listed one, usually for a mixture of cash up-front or shares. Third, the cash payment is minimal, with the balance of the purchase price covered by an issue of shares in the mining company that is purchasing the exploration licence. Fourth, the shares issued by the mining companies are usually of a very low value per share, hence the term "nickel and dime stocks".

Fifth, the private company starts spruiking the prospects of the mining company that has purchased the exploration licence, in the hope that the price of the shares it received from the mining company increases. Sixth, once the price starts rising, the company starts offloading the shares it received from the mining company, a practice known as "pump and dump". It is not unusual for mining companies to run out of money and collapse in a pile of debt, their share price crashing and becoming worthless.

The fallout can be massive. Significant environmental damage occurs, with no avenue for compensation to impacted landowners. For those landowners who sold their properties to the mining company in exchange for shares, there is the loss of their homes and livelihood with no recourse. For those shareholders who purchased shares in the spruiking process, there is the loss in value to their share portfolio on the collapse of the mining company's share price. The narrative above sounds extreme, but it is happening regularly.

A few days ago I was alerted to a further exploration licence application for a 555 square kilometre area inland of Coffs Harbour. The applicant is Gold Mines Pty Ltd, and the ultimate shareholder is again Gabriel Govinda. Have we learnt nothing? Have we not been here before? It is frighteningly reminiscent of the network of companies that Eddie Obeid used to make millions of dollars from corrupt coalmining deals. Yet these constituents have been told that there is no mechanism to object to an exploration licence application and that the department undertakes a rigorous assessment process prior to any final decision on the application. I put this on the record tonight: If it has taken a couple of people impacted by a gold exploration licence to find this, surely it is barely scratching the surface. The least that can be done is that these people be declared not fit and proper to hold an exploration licence.

HOUSING SUPPLY

The Hon. ANTHONY D'ADAM (23:08): In politics, there is always a temptation to prioritise the appearance of action over addressing the substance of a problem, especially when the solutions are complex, expensive or risk upsetting powerful stakeholders. This is true of the problem of housing. We know we do not have enough of it, and we are not building enough to meet demand. But too often the solutions proposed are shaped not by the needs of the public but by the interests of powerful groups that stand to benefit—developers, real estate agents and land bankers often cloaking self-serving proposals in the language of the public good.

Should we as a society accept the idea that housing is simply another product to be traded in a market? Housing is a basic necessity of life—a human right, not a commodity. Yet public policy has been skewed to facilitate the commodification of housing, turning it into an asset class. Negative gearing and capital gains tax concessions have entrenched that idea, incentivising housing as an investment rather than a home. That has had profound consequences. Housing has become a cornerstone of retirement income strategies, pitting asset-owning older Australians against younger Australians who rent or are seeking to purchase a home. That has weakened the political support for public policies that could substantively address the crisis, such as the direct provision by the Government of social and public housing or alternative ownership models that help de-commodify housing, like cooperative housing and community land trusts.

Some argue that planning controls are the issue—that restrictive regulations hinder supply. But deregulation will not fix the underlying problems. Before we embrace a prescription based on a deregulation of the planning system, we should understand that comes at a cost, which is borne by communities. The cost takes the form of more intensive use of local infrastructure—crowded public transport, more traffic on local roads, not enough parking, crowded schools, busier hospital emergency departments and doctors' surgeries, and strains on pools, parks and green space. Those are externalised costs shifted onto individuals that make our cities less liveable and erode quality of life. We should also understand that those costs are being shifted to maintain profitability for the private development industry.

Development is not a right, yet we have allowed public policy to be written as if it were. Take Lidcombe Public School, where rezoning in the catchment has produced massive population growth that has outpaced investment. That has left families to grapple with overcrowded classrooms, overstretched facilities and strained local roads inadequate to deal with the additional pick-up and drop-off traffic produced by surging enrolments. In the school, play space has been progressively reduced to accommodate demountables and eventually new buildings. The cost of developer profits is borne by parents and children.

Reform of the planning system is held up as a solution but frequently falls short. Increasing density can only be achieved in an equitable way when development is accompanied by adequate infrastructure upgrades, but too often the reality is that communities are short-changed. I fear that the Housing and Productivity Contribution scheme will not generate sufficient revenue to meet the infrastructure needs. The consequence will be that amenity and quality of life are eroded while developers reap the benefits.

It is also true that rezoning confers undeserved windfall gains. That makes the delivery of additional infrastructure after the fact much more expensive, as the public must pay the premium conferred on landholders by the rezoning in order to acquire land for infrastructure. It also now appears that pulling the planning system reform lever is not working. Despite the significant reforms undertaken so far, delivery of new dwellings is falling short of a sufficient rate to meet National Housing Accord targets. According to the Urban Development Institute of Australia spokesperson Stuart Ayres, the reason is:

When you've got high interest rates and high building costs, the cost to build for a developer often outstrips the price that future customers are willing to pay.

There you have it—even though the Government has done pretty much everything they have asked for, developers still claim they cannot make a profit, so they sit on development approvals and do not start construction. What is the answer? It begins with challenging the assumptions underpinning our housing crisis. If our diagnosis is wrong, our solutions will miss the mark. We need to shift the focus from incentivising private sector driven development for profit to prioritising direct public delivery of housing. If we want to fix the housing crisis, the Government needs to get into the housing construction business. It needs to roll up its sleeves and build houses itself. Housing policy should aim to de-commodify housing, invest in public and social housing, and explore innovative models like cooperatives that put people before profits. Housing is not just a political issue; it is a moral one. It is time we stopped treating it as a market product and started treating it as what it truly is: a fundamental human right.

YEAR IN REVIEW

The Hon. JACQUI MUNRO (23:13):

'Twas the night before recess, when all through the House,
Not a member was sitting, not even the broad-toothed mouse (rat).
The bills passed seemed thinner than the Deputy President's hair,
With our hopes that the people of New South Wales would care.

But to think on this 200th year, it is with fondness I share,
Some good times worth repeating, if you'll sit and bear.
The President, I hope, will consider me pithy,
Continue to rule with wide latitude and not send me to the Procedure Committee.

So Comrade Tudehope took us to his days at Woodstock,
While the Chamber sat and listened in delight and shock.
Natalie Ward as always was the friend of the commuter,
And scared the department of transport into using a new recruiter.

Chris Rath bashed the unions, and the NIMBYs too,
And made Stalin blush with his whipping of the Coalition crew,
Aileen MacDonald fought for justice for the youth of our State,
Hosting friends of events with groups only great.

In question time Maclaren-Jones jumped to her feet,
While Minister Houssos glared silently, answer apparently complete,
Farlow chaired Roschill, between V'landys and Mark
While polite on the outside all he was thinking was fffffffaa ...

Rachel Merton took a stand for our mighty flag,
For cash, the curriculum, the crown—who we met, what a brag!
Susan Carter opined with cultured references we missed,
Like the plight of Nanki-Poo and the Mikado's moral twist.

This year Faraway got back benched then left for Calare;
Bronnie named Wes Fang as reason for her absence of hair,
We learned of Barrett in Grease, an undoubtable show stopper
And Sarah wrangled them all like brumbies escaping a 'copter.

Buckingham put himself on the line to investigate a suspicious looking cake,

Martin threw off his party shackles, giving this place everything but fake,
Borsak and Banasiak brought us fish, farms and guns,
Latham is still chasing Racing NSW, we look forward to more runs.

We all expect Ruddick to return with a suntan from Argentina,
And The Greens will be great swimmers after their trip to Newcastle Marina,
While I don't have time to get to every Labor member
If I did, we might be here till December.

I will note the Treasurer's new house spending \$4.3 mil—not meek!
Where you might offer the Minister for Housing a room for 200 a week.
Minister Graham, we were sad to miss a final song from you today.
And Buttigieg, we're rooting for you, Minister for Multiculturalism, one day!

Thank you to the staff, whether political or practical,
Thank you for giving us the best advice, radical, tactical and clinical.
Without you the place really falls apart
And we hope you'll take our thanks from the heart.

Though we end the year with the unions on top
Waiting for an Innovation Blueprint that may never drop
While homes are delayed and cost of living skyrockets
We will keep working in this place to help people's hip pockets.

If Hurst gets her way there'll be no turkeys coming this Christmas
But no matter what your brekkie, lunch or dinner guest list
I hope it's filled with loved ones, food, blessings and joy.
And you're ready to return here in 2025 fresh for your employ.

It is such a privilege to serve in this place with such amazing colleagues and staff. I hope to bring a focus on innovation and technology, and the opportunity—and sometimes the risks—that they bring us in New South Wales. I hope it is a good summer for everybody, and an even better 2025.

SHINE ART PRIZE

The Hon. MARK BUTTIGIEG (23:17): On Friday 1 November I was fortunate to represent Minister Sophie Cotsis to launch the second in-person exhibition for the icare and Accessible Arts Shine Arts Prize. It was great to be surrounded by such creativity and expression. One of icare's core purposes is to care for the people of New South Wales and ensure those who need it most are looked after. The Lifetime Care and Support Scheme and Workers Care program provide lifelong treatment, rehabilitation and care services for more than 2,000 people who have been severely injured in a motor vehicle accident or a workplace in New South Wales. The impact of a severe injury can spread across various aspects of daily living and people often struggle to get into meaningful leisure activities following their injuries.

I know that icare is proud to provide support to help people in lifetime care and workers care with their recovery and adjustment to life after their injuries. One of those supports is the Shine Arts Prize, which was developed to showcase lifetime care and workers care participants' artistic talent and recognise art's role in maintaining wellbeing and encouraging community participation. The partnership between icare and Accessible Arts NSW, the peak arts and disability organisation in New South Wales, supports entrants with their art practice. A total of 59 entries were submitted by 38 artists across the visual arts, music and children's categories, with all artworks centred on the theme of "My favourite things". The winning artworks were chosen by an independent panel of three judges who considered the artworks based on their artistic merit, quality and connection to the theme. The artworks I witnessed that day were of a very high calibre, and I was honoured to celebrate the launch and present awards to the category winners.

The winner of the Visual Arts category was Paisley Flower for her work, *The Ocean*. The winner of the Music category was Wayne Williams for his singing performance titled *Warwick Farm*. Wayne was also an award recipient in 2022. The winner of the Children Under 15 category was Isla Davies for her beautiful *Felted Fairies and Unicorn*. This year, the judges also awarded a highly commended award to Brigitte Bullen for her work *Juxtaposition*. The People's Choice Award was awarded to Liam Raybould for his photographic piece *Sunset*.

The award for the overall winner of the 2024 Shine Arts Prize went to Zac for his portrait, *Everything is Possible*, of Perry Cross, AM, the renowned motivational speaker and spinal research advocate. I would like to take a moment to share a quote from Zac about what this piece means to him. Zac says, "Perry Cross is a very inspirational and motivational human being. He reminds me every day that a life with disability is worth living. He has gone above and beyond, proving to everyone that you can still have goals and dreams and pursue them, even if your life takes a different path to what you had ever expected. Surrounding myself with people who motivate me is one of my favourite things as it helps me to stay positive and remember that, with determination, everything is possible." I offer special thanks to icare & Accessible Arts New South Wales for this great initiative.

I go to many functions and see a lot of things out there in the community, but this was particularly touching because it is a really good program that the Government is funding for 2,000 people who have been severely injured by a motor vehicle accident or a workplace accident and who get lifetime care. This particular program recognises people's ability to take a new path in life and manifest what they are feeling through the arts—music, visual arts, and a whole range of the other categories that were awarded. I was particularly struck by Wayne Williams. I had a chat with him after the function. He told me if it was not for this program he would have committed suicide. He took up the guitar late in life after being run over by a massive tipper truck at the Oran Park development. He learned how to play the guitar from scratch and express himself in a way that he would never have been able to do prior to his injury. This is a really great initiative, and it reminds us that government can do truly great things when it wants to. Merry Christmas.

The DEPUTY PRESIDENT (Ms Abigail Boyd): The question is that the House do now adjourn.

Motion agreed to.

The House adjourned at 23:21 until Tuesday 11 February 2025 at 12:30.