

PERROTTET REACHES OUT TO BALANCE-OF-POWER MPs

# Libs seek poll-loss ‘insurance’

EXCLUSIVE

YONI BASHAN  
NSW POLITICAL  
CORRESPONDENT

NSW Premier Dominic Perrottet is attempting to revive bills put forward by independents and crossbenchers but blocked by the government, in an effort to appease balance-of-power MPs ahead of “Super Saturday” by-elections.

With four by-elections to be held at the weekend, The Australian has learned that Mr Perrottet’s office has taken steps to collect a list of previously scrapped bills that could be resurrected with government support – a move described as insurance in case the Coalition slips further into minority government.

Polling and sentiment in the Liberal-held seat of Bega suggests the possibility of a historic loss for the Coalition, which would further reduce the government’s authority in the lower house and deepen its reliance on non-government MPs to pass laws.

Two former Liberal cabinet ministers, currently sitting on the

crossbench, have also told The Australian that their continued support for government legislation could no longer be guaranteed, adding further strain to Mr Perrottet’s position.

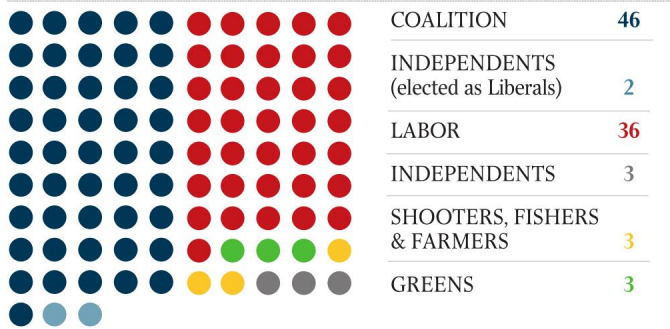
The Australian has confirmed that the Premier has actively courted independent and minor party MPs since his elevation to the leadership in October, and has been seeking to enhance lines of communication first opened by Gladys Berejiklian.

Since late November, the Premier has held meetings with numerous independent and crossbench MPs, including members of the Shooters, Fishers and Farmers Party, One Nation and others. The Australian has confirmed.

Discussions with Wagga Wagga independent MP Joe McGirr led to a \$1m allocation of government funding for a health-related feasibility study within his electorate.

Relations were further cemented in late December when Mr McGirr was invited to participate in a press conference with Mr Perrottet. Two weeks ago, deputy Liberal leader Stuart Ayres held a press conference with Lake Macquarie independent Greg Piper.

## STATE OF THE LOWER HOUSE



## BY-ELECTION BATTLES

**BEGA**  
Held by: **Andrew Constance**  
(Lib, former minister)  
Margin: 8.19%  
**TOO CLOSE TO CALL**

**STRATHFIELD**  
Held by: **Jodi McKay**  
(ALP, former leader)  
Margin 1.78%  
**TOO CLOSE TO CALL**

**MONARO**  
Held by: **John Barilaro**  
(Nat, former deputy premier)  
Margin: 2.53%  
**LIKELY NATS HOLD**

**WILLOUGHBY**  
Held by: **Gladys Berejiklian**  
(Lib, former premier)  
Margin 24.41% (v Greens)  
**LIKELY LIBERAL HOLD**

“You can see from the movement of ministers that this is our insurance policy (in the event that seats are lost),” a government official told The Australian, pointing to the decisions as a tactic to curry favour.

“Those (events) could have been done in Nationals seats.”

Asked about plans to revive legislation that the Coalition previously voted down in parliament, a government spokesman said the Premier continued to have an

“open-door policy” when it came to the crossbench.

“Under his premiership, bills will be judged on merit and he has met with members of the crossbench in the ordinary function of parliament,” the spokesman said.

The increase in political diplomacy is a product of concern around further seat losses, according to officials.

Polling in Bega and feedback from campaigners in the field have raised doubts over the Liberal Party’s prospects of retaining the seat, held with a 6.9 per cent margin.

Despite it being a Liberal electorate since its creation in 1988, changing demographics have led Liberal strategists to believe the seat will swing firmly towards Labor. In addition to that contest, ballots will also be conducted in the Labor seat of Strathfield, in the Liberal seat of Willoughby, and the regional seat of Monaro, held by the Nationals.

A loss in Bega would reduce the government’s existing minority position to 45 seats out of the 93-seat Legislative Assembly, further reducing its ability to pass legislation without cross-party support.

Until recently, the Perrottet-government was able to rely on the support of two former Liberal cabinet ministers, John Sidoti and Gareth Ward, both of whom moved to the crossbench over separate investigations into their conduct.

They have denied wrongdoing, and both have consistently supported the government’s legislative agenda.

Asked whether this support would continue, Mr Ward said it could not be guaranteed because he would “always put his electorate before his party”.

“It doesn’t matter whether I’m in the government or on the crossbench, my electorate is who put me in parliament and I will assess each piece of legislation on its merits,” the Kiama MP told The Australian.

Mr Sidoti, the member for Drummoyne, answered similarly, saying his support was contingent upon “what the government provides for my constituents”.

“The idea of them (the Perrottet government) presenting legislation without briefing me and thinking I’ll vote with them like a puppet – they’re dreaming,” he said.

## Booster deadline hits disability staff

EXCLUSIVE

STEPHEN LUNN  
SOCIAL AFFAIRS EDITOR

Victorian disability service providers are concerned that care for people with disabilities may be compromised as they struggle to meet a government-imposed booster shot deadline for workers.

With just three days to go to deadline, provider Able Australia says fewer than six in 10 of its carers in Victoria have received a booster shot. ONCALL, an NDIS service provider, says it is still uncertain about the vaccine status of about 700 of 1800 care workers required to have the booster before February 12.

The groups say while they fully support mandatory vaccination of their workers, the tight time frame since the government’s public health order was made in mid-January, worker exhaustion and a lack of clarity over booster eligibility have led to confusion.

“It is an absolute rush to the deadline for us, as we have about 56 per cent of our staff who have provided their vaccination evidence so far. It is a significant strain on the organisation to continuously follow up workers for this information,” Able Australia chief operating officer Lynette McKeown said.

“We have been operating on a very tight time frame, with our people in Covid isolation, people working extra hours because their colleagues are isolating, and so their capacity to access vaccination centres has been difficult.”

On January 10, Victorian Health Minister Martin Foley announced orders requiring that workers in residential aged care, health care and disability care who were eligible for a booster before January 12 must receive it by February 12 as a condition of work. The remainder who work in disability care must receive it by March 12.

ONCALL Group Australia

executive director Laura Green said she was still waiting on 700 support workers who were required to be boosted by this Saturday’s deadline. ONCALL workers provide direct care to about 450 NDIS participants, and casual staffing solutions for about 2000 specialist accommodation sites for other NDIS providers.

“Omicron has made for a chaotic and disrupted January for everyone, and our employees are no different. On top of that, we have had almost 100 of our workforce impacted by Covid or household close contacts on any given day,” Ms Green said.

“Those who have had Covid have also been hearing conflicting messages and insufficient communication from the government, which says they should have a booster as soon as their symptoms clear but some GPs who say wait a bit longer.

“If these carers aren’t able to work, the result could be that the support for people with disability is disrupted.”

The sector has been uncertain about whether disability carers, already doubled vaxxed, can rely on an exception to the booster mandate for those providing essential services or to maintain quality of care.

Sarah Fordyce, Victorian state manager of National Disability Services, the peak body for non-government disability service providers, said clarity had been sought from the government.

A Victorian government spokesman said it was “working with the disability sector and other sectors to monitor third-dose vaccine uptake and ensure third-dose requirements don’t unduly impact on workforce capacity”.

“Protecting our critical workers and the vulnerable community members they look after from coronavirus has always been our priority, and Australia’s medical experts have clearly stated that two doses simply doesn’t provide enough protection against this virus,” the spokesman said.

possibly can in the two biggest states in our nation.

“That might mean we don’t have a perfect approach,” he said, hinting a third dose mandate might apply to Victorians but not international visitors.

“I want everyone to get three doses and I’ll do nothing that would make it less likely that people who live here get three doses, so you’re not going to be getting me sending messages that ‘Oh, two is enough’, because I think what’s going to happen quite soon is ATAGI’s going to say, ‘Well, two isn’t enough’.

“Let’s try and have a consistent approach... we’re not going to see Victorian disadvantaged.”

“In fact, we’ve worked very hard to have the most consistent arrangement certainly between the two biggest states, because I think that’s in the interests of Victorians (and) the people in NSW.”

## Cop’s macabre warning prophetic



(A)MANDA PARKINSON

Zachary Rolfe, centre, leaves Darwin Supreme Court; body-cam footage of Kumanjayi Walker threatening police, below



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Prosecutor Philip Strickland SC has been eager to show the jury that policing remote Aboriginal communities requires a soft touch and that Constable Rolfe, who is ex-military and was a member of a town-based Immediate Response Team, did not follow his training.

“Working in remote communities is – can be – quite, quite challenging,” Constable Hand

told the court. “You live there, and you want to, if you need to arrest somebody or deal with somebody, you want to do it as peacefully as possible, without the use of unnecessary violence because that can have consequences later on with (the) family.”

Senior Constable Lanyon Smith said Warpiri men used violence for show. “They brandish nulla-nulla, sticks, trampoline poles,” he said.

“In their minds, they’re trying

to impress upon their family that they’re a strong person.”

Constable Rolfe’s defence lawyer, David Edwardson QC, argued that the “axe incident” materially changed the way police were obliged to deal with Walker because it marked a serious escalation from his previous behaviour.

“We can see from the explanation that you’ve given to this jury, everything turns on the time, place and circumstance of a par-

ticular incident... how one matter might present to one police officer on a particular day might be quite different to another police officer... (and) the extent to which the threat is imminent and deployed might be different on one occasion from another,” he asked Senior Constable Smith, who agreed.

The case is likely to turn on what Constable Rolfe perceived when firing the fatal shots. The trial continues.

‘We acknowledge there are issues, and we are endeavouring to fix them as quickly as possible’

ANNASTACIA PALASZCZUK  
QUEENSLAND PREMIER

but it failed to act. In another inquiry, tabled to parliament in October, former director-general of Premier and Cabinet Kevin Yearbury made the same recommendation which Ms Palaszczuk accepted on Wednesday.

After weeks of scathing integ-

rity allegations from former senior public servants, Ms Palaszczuk also apologised to those who felt they were not listened to when raising concerns.

“There were some people who said that they felt that they weren’t listened to, and I apologise if they feel that way,” she said.

“If they feel they can’t complain to their supervisor, there are a whole range of areas across government they can complain. Yes we do acknowledge there are issues, and we are endeavouring to fix them as quickly as possible.”

On Wednesday, Dr Stepanov made her first public appearance since The Australian revealed she

## Truckies on job but not on books

EWIN HANNAN  
WORKPLACE EDITOR

Workers are likely to find it harder to pursue sham contracting claims after the High Court ruled two truck drivers engaged exclusively by a company for decades were not employees.

Workplace law experts said two High Court rulings on Wednesday built on gains made by employers through last year’s Rossato decision, upholding the primacy of contracts even where the actual employment relationship was very different to the terms of the contract.

Lawyers said the rulings were also a big win for gig economy operators pushing back against union attempts to have workers classified as employees rather than independent contractors.

The two drivers, Martin Jamsek and Robert Whitby, left high school at 14 and 15 respectively, and were engaged as employees for the first nine years they worked for the company.

In 1986, the company asked its five drivers, including Mr Jamsek and Mr Whitby, to become contractors, warning their jobs could not be guaranteed if they refused. They accepted the offer, set up a partnership with their wives and bought trucks.

For 30 years, they worked largely the same hours each week, delivering goods for the company, and carrying its logo on their trucks and clothing. The men had taken court action seeking payment for outstanding long-service leave and superannuation entitlements.

Rejecting the Full Court of the Federal Court’s finding that the men were employees, the High Court said the reasons of the Full Court suffered from two errors of approach, including the significant attention devoted to the manner in which the parties actually conducted themselves over the decades of their relationship.

“The character of the relationship between the parties in this case was to be determined by reference to the rights and duties

created by the written agreement which comprehensively regulated that relationship,” the High Court said.

It said the fact the contract might have been brought about by the exercise of superior bargaining power by the company did not alter the meaning and effect of the contract. It said the “task of raking over the day-to-day workings of a relationship spanning several decades is an exercise not to be undertaken without good reason, having regard to the expense to the parties and drain on judicial time involved in such an exercise”.

University of Adelaide law professor Andrew Stewart said the reasoning “effectively redraws the line between employment and contracting”.

“It makes it clear that as long as a business gets its contract right, it can engage a worker as a contractor and have that hold up in court, even if the reality of the relationship is very different to what the contract says,” he said. “That’s the big take-out from today.”

He said five out of seven judges said “the reality is irrelevant, the contract is all that matters”.

“Even if it’s an overstatement to say that’s an invitation to sham contracting, it’s how it’s going to be interpreted by many businesses and their advisers... an opportunity to make employees into contractors,” Professor Stewart said.

“The is a big victory for form over substance and widens a loophole in the operation of our labour standards. It’s always been unlawful to agree to receive less than the minimum wage if you are still an employee but it’s always been possible to avoid the application of a minimum wage by agreeing to be a contractor instead if that characterisation holds up in court.

“Today’s decision means that it is far more likely that when there’s a dispute about employment status, well drafted contracts will prevail over the economic reality of a work relationship.”

## Labor MP backs vote to refer Andrews to IBAC

RACHEL BAXENDALE  
VICTORIAN POLITICAL  
REPORTER

Victorian Labor MP Kaushaliya Vaghela has crossed the floor to support her former factional ally Adem Somyurek’s motion to refer Daniel Andrews’s alleged role in the “red shirts” rort to corruption watchdog IBAC.

The motion passed Victoria’s upper house on Wednesday, 19 votes to 17, with the support of the Coalition and nine of 12 crossbenchers. Greens leader Samantha Ratnam, Animal Justice Party MP Andy Meddick and Reason Party MP Fiona Patten sided with Labor.

Ms Vaghela’s decision to cross the floor comes after ALP powerbrokers in December dumped her as a candidate for the November state election, and after IBAC heard in November that her husband received taxpayer-funded salaries from three other MPs to do factional work.

Ahead of the vote, Mr Somyurek used a speech in favour of his motion to accused the Andrews government of destroying the public service and government agencies by stacking them with “ALP activists and mates”.

A clause in the motion asks IBAC and the Ombudsman to investigate allegations “that ALP activists are ‘stacked’ into the public service, thus compromising objectivity and professionalism and increasing the risk of corruption”.

“Going to a government department is like going to a state conference of the ALP. Looking at a list of departmental heads, or not heads, but high up, is like looking at a Labor Party branch list,” Mr Somyurek told parliament. “This is where you have corruption creeping into your system. Trust in government institutions is very important.

“If people think that the Premier or the government have got people embedded in the police force, people embedded in IBAC or the integrity bodies, well they’re not going to trust those august bodies, are they?”

“We need to be able to say that the head of the government, Mr Andrews, does not have his tentacles within the police force or the integrity bodies.”

Asked if he was suggesting that organisations such as the police and IBAC had been compromised, Mr Somyurek, who was speaking under parliamentary privilege, said: “Odd things have happened, but I’m not a conspiracy theorist.”

He also repeated allegations he made in evidence to an IBAC investigation, accusing the Premier of being responsible for the “red shirts” scheme, which saw the ALP misappropriate almost \$400,000 of taxpayers’ money.

Asked earlier to respond to Mr Somyurek’s claims, Mr Andrews said: “I’ve got no response to that person. I’m just not getting into a debate with him about anything, ever.”

RACHEL BAXENDALE

## More freedom for lobbyist watchdog after interference claims

LYDIA LYNCH

Queensland Premier Annastacia Palaszczuk will give the state’s lobbyist watchdog greater independence from her government after allegations of political interference in the Integrity Commissioner’s office.

Nikola Stepanov, who regulates lobbying and provides conflict-of-interest advice to MPs, has been pushing to be separated from the Public Service Commission after a laptop was allegedly seized from her office last year.

The Australian last month revealed Dr Stepanov had sought

financial approval from the PSC, which has budgetary oversight of her office, for an independent examination of a laptop she suspected had been tampered with during the 2020 state election.

Her requests were allegedly denied by the PSC and the former head of the Department of Premier and Cabinet, Dave Stewart. The laptop was allegedly seized by officials from the PSC soon after and its contents wiped.

The government was warned three years ago, in a review of the public sector by barrister Peter Bridgman, that locating the integrity commissioner’s budget under the PSC was “not appropriate”,

believed the government tried to have her sacked after she raised concerns of “suspicious” conduct. Ms Palaszczuk has strongly denied the allegation.

Appearing before a parliamentary committee into the local government watchdog, under review after accusations it tried to strong-arm elected officials and the media in its investigations, Dr Stepanov said her office was slashed from eight full-time staff to one at the same time her workload increased. “Under the Act I cannot delegate the advice functions, so each advice is from me... so it does make it very difficult to meet demand.”

Questions to Dr Stepanov about the seizure of her laptop, under investigation by the Crime and Corruption Commission, and the government’s ties to lobbyists were blocked by Labor backbenchers who said they were irrelevant to the local government inquiry.

Opposition spokesman Jarrod Bleijie said if Ms Palaszczuk was genuine in her encouragement for public servants to come forward on integrity issues then Dr Stepanov should have been allowed to answer questions. “What Dr Stepanov... probably wants to be fair, is to sit in front of a royal commission and explain the situation.”