

# LEGISLATIVE ASSEMBLY

Tuesday 8 November 2005

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**Mr Speaker (The Hon. John Joseph Aquilina)** took the chair at 2.15 p.m.

**Mr Speaker** offered the Prayer.

## ELECTORAL DISTRICT OF PITTWATER

### Issue of Writ

**Mr SPEAKER:** I inform the House that, in accordance with section 70 of the Parliamentary Electorates and Elections Act 1912, on 31 October 2005 I issued a writ for the election of a member to serve in the room of John Gilbert Brogden, resigned. The particulars of the writ are: nomination date, 4 November 2005; polling date, 26 November 2005; and return of writ, 16 December 2005.

## ADMINISTRATION OF THE GOVERNMENT

**Mr SPEAKER:** I report the receipt of the following message from Her Excellency the Governor:

MARIE BASHIR  
Governor

Office of the Governor  
Sydney 16 October 2005

Professor Marie Bashir, Governor of New South Wales, has the honour to inform the Legislative Assembly that she re-assumed the administration of the Government of the State on 16 October 2005.

## ASSENT TO BILLS

Assent to the following bills reported:

Confiscation of Proceeds of Crime Amendment Bill  
Crimes Amendment (Road Accidents) (Brendan's Law) Bill  
Criminal Procedure Amendment (Prosecutions) Bill  
Civil Liability Amendment (Offender Damages Trust Fund) Bill  
Defamation Bill  
Gaming Machines Amendment Bill  
Residential Tenancies Amendment (Social Housing) Bill  
State Emergency and Rescue Management Amendment Bill

## COUNTER-TERRORISM MEASURES

### Ministerial Statement

**Mr MORRIS IEMMA** (Lakemba—Premier, Treasurer, and Minister for Citizenship) [2.24 p.m.]: Today New South Wales law enforcement agencies struck a blow in the fight against terrorism. Our front line faced its first test. In the early hours of this morning more than 360 New South Wales police, together with more than 100 Federal officers, executed search warrants on 13 premises in Sydney's west. This was a co-ordinated strike against a cell that our police and intelligence agencies believe was planning a terror attack on home soil. The co-ordinated raids followed years of investigative work involving New South Wales and Victorian police and the Australian Federal Police.

There are now six men in New South Wales custody and a number have also been detained in Victoria. The Commissioner of Police, Ken Moroney, has advised that intelligence was received that a group was making arrangements to stockpile chemicals and other materials capable of making explosives. Security agencies believe that they have severely disrupted the group's activities. Any person who believes that there is no threat to our State and our nation from terrorism should think again. The threat of terrorism is real, it is dangerous and our commitment to fight it is unrelenting.

Preliminary oral advice from Commissioner Moroney confirms that one of the people of interest was involved in an incident with police from the Green Valley Local Area Command. As a result of that incident,

this person of interest sustained gunshot wounds and is currently being treated in hospital under police guard. I am advised that he is currently in a serious but stable condition in hospital. An independent critical incident investigation team has been formed to investigate the circumstances of that incident. In doing their duty many of these officers put their own lives at risk. The incident at Green Valley confirms the direct danger faced by the officers involved.

Today's operation marks the culmination of months of police work, bringing together law enforcement and intelligence agencies from around the country. The results that have been achieved are testament to the co-operation and unity among the various law enforcement agencies. On behalf of the people of New South Wales I would like to thank the New South Wales police and their colleagues in other police forces and security agencies for the work they have done and the work they are doing. I congratulate them on their success to date. I reaffirm the commitment of both the Government and the community to stand resolute with them in our fight against terrorism.

**Mr PETER DEBNAM** (Vaucluse—Leader of the Opposition) [2.27 p.m.]: I join with the Premier in confirming that the Opposition stands as one with the Government in implementing counter-terrorism measures in New South Wales and across Australia. I want to congratulate the police, the military authorities and the Federal police on their actions today. I was told this morning about this particular incident and I made the point that if those authorities needed to take decisive action today, we would all stand right behind them. I have said in this House that we are all of one mind on terrorism and counter-terrorism measures. All Australians understand that terrorism is the biggest threat confronting us today. We need to make sure that we are prepared in every way to meet that threat. Our State departments and agencies will be the front-line response to any incident and they must have the necessary staff, resources and training to deal with it. The police must also have the resources to carry out their intelligence role, which is so critical in the fight against terrorism.

I have made the point in a number of speeches in this House, especially in relation to fighting terrorism, that all wisdom does not reside on the Government benches. We need to ensure that everyone in this House contributes to counter-terrorism strategies. I will put on the table once more the suggestion that I first made in October 2001 that this House and the people of New South Wales would benefit if a day were set aside to discuss counter-terrorism measures. We have held a Drug Summit, tax summits and business summits. It is now time to hold a counter-terrorism summit to ensure that the necessary resources and funding are put in place to fight and prevent terrorism, and to ensure that the resources are in place—

*[Interruption]*

The Minister for Roads has a contribution?

**Mr Joseph Tripodi:** Get on with it!

**Mr SPEAKER:** Order! The Leader of the Opposition has the call.

**Mr PETER DEBNAM:** It is critical that the Parliament not only put in place the resources necessary to fight and prevent terrorism but also ensure that the emergency services have the resources to deal with any incident. We can all contribute to that. I have also raised budget preparedness. Perhaps the Public Accounts Committee could specifically look at the structure of the State budget in terms of dealing with this emerging terror. We certainly join with the Premier in thanking the various authorities and police for their action today.

#### **DISTINGUISHED VISITORS**

**Mr SPEAKER:** I welcome to the public gallery the Irish Consul General, Anne Webster, and members of the Irish Joint Committee on Education and Science led by Deputy Michael Moynihan, the Chairman of the committee.

#### **UNPROCLAIMED LEGISLATION**

**Mr SPEAKER:** Pursuant to standing orders, I table a list of legislation unproclaimed 90 days after assent as at 8 November 2005.

**CHILD DEATH REVIEW TEAM****Report**

**Mr Speaker** announced the receipt, pursuant to section 26 of the Commission for Children and Young People Act 1988, of the report entitled "Annual Report—January-December 2004."

**Ordered to be printed.**

**COMMISSION FOR CHILDREN AND YOUNG PEOPLE****Report**

**Mr Speaker** announced the receipt, pursuant to section 26 of the Commission for Children and Young People Act 1988, of the report entitled "Annual Report 2004-2005."

**Ordered to be printed.**

**INDEPENDENT COMMISSION AGAINST CORRUPTION****Report**

**Mr Speaker** announced the receipt, pursuant to section 78 of the Independent Commission Against Corruption Act 1988, of the report entitled "Annual Report 2004-2005."

**Ordered to be printed.**

**OFFICE OF THE CHILDREN'S GUARDIAN****Report**

**Mr Speaker** announced the receipt, pursuant to section 190 of the Children and Young Persons (Care and Protection) Act 1998, of the report entitled "Annual Report 2004-2005."

**Ordered to be printed.**

**POLICE INTEGRITY COMMISSION****Report**

**Mr Speaker** announced the receipt, pursuant to section 103 of the Police Integrity Commission Act 1996, of the report entitled "Annual Report 2004-2005."

**Ordered to be printed.**

**AUDITOR-GENERAL'S REPORT**

**The Clerk** announced the receipt, pursuant to section 52A of the Public Finance and Audit Act 1983, of the report entitled "Auditor-General's Report—Volume Three 2005—Total State Sector Accounts."

**TREASURER'S REPORT**

**The Clerk** announced the receipt, pursuant to section 51 of the Public Finance and Audit Act 1983, of the report entitled "Report on State Finances 2004-2005".

**LEGISLATION REVIEW COMMITTEE****Report**

**The Clerk** announced the receipt, pursuant to section 10 of the Legislation Review Act 1987, of the report entitled "Legislation Review Digest No. 13 of 2005", dated 7 November 2005.

## PETITIONS

### Gaming Machine Tax

Petitions opposing the decision to increase poker machine tax, received from **Mrs Judy Hopwood, Mr Malcolm Kerr** and **Mr Andrew Tink**.

### Alstonville Bypass

Petition requesting that the Alstonville Bypass be completed by the end of 2006, received from **Mr Donald Page**.

### Southern Tablelands CityRail Timetable

Petition requesting changes to the Southern Tablelands CityRail timetable, received from **Ms Katrina Hodgkinson**.

### North-west Rail Link

Petition requesting that the north-west rail link be completed by 2010, received from **Mr Wayne Merton**.

### Murwillumbah to Casino Rail Service

Petitions requesting the retention of the CountryLink rail service from Murwillumbah to Casino, received from **Mr Neville Newell** and **Mr Donald Page**.

### CountryLink Regional Rail Services

Petition requesting retention of CountryLink regional rail services, received from **Mr Adrian Piccoli**.

### Same-sex Marriage Legislation

Petition opposing same-sex marriage legislation, received from **Ms Katrina Hodgkinson**.

### Anti-Discrimination (Religious Tolerance) Legislation

Petition opposing the proposed anti-discrimination (religious tolerance) legislation, received from **Mr Barry O'Farrell**.

### Jingellic Public School Site

Petition requesting the transfer of the Jingellic Public School site and buildings to the Tumbarumba Shire Council for retention as a community facility, received from **Mr Daryl Maguire**.

### Colo High School Airconditioning

Petition requesting the installation of airconditioning in all classrooms and the library of Colo High School, received from **Mr Steven Pringle**.

### Lismore Base Hospital

Petition requesting that Lismore Base Hospital remain an accredited centre of excellence, received from **Mr Thomas George**.

### Yass District Hospital

Petition opposing the downgrading of existing services at Yass District Hospital, received from **Ms Katrina Hodgkinson**.

### **Breast Screening Funding**

Petitions requesting funding for BreastScreen NSW, received from **Mrs Judy Hopwood** and **Mr Barry O'Farrell**.

### **Muswellbrook Midwifery Program**

Petition requesting the implementation of a community midwifery program in Muswellbrook, received from **Mr George Souris**.

### **Kurnell Sandmining**

Petition opposing sandmining on the Kurnell Peninsula, received from **Mr Barry Collier**.

### **Isolated Patients Travel and Accommodation Assistance Scheme**

Petition objecting to the criteria for country cancer patients to qualify for the Isolated Patients Travel and Accommodation Assistance Scheme, received from **Ms Katrina Hodgkinson**.

### **Recreational Fishing**

Petition opposing any restrictions on recreational fishing in the mid North Coast waters, received from **Mr John Turner**.

### **Crown Land Leases**

Petition requesting the withdrawal of changes to the rental structure of Crown land leases, particularly enclosed road permits, received from **Ms Katrina Hodgkinson**.

### **Water-Access-Only Property Policy**

Petition requesting a review of the water-access-only property policy, received from **Mrs Judy Hopwood**.

### **Willoughby Traffic Conditions**

Petition requesting a regional management plan for the Pacific Highway at Willoughby, including a traffic study for Artarmon, received from **Ms Gladys Berejiklian**.

### **Edinburgh Road, Castlecrag, Traffic Conditions**

Petition requesting a right turn arrow for traffic travelling west on Edinburgh Road, Castlecrag, turning north onto Eastern Valley Way, received from **Ms Gladys Berejiklian**.

### **Naremburn Bike Path**

Petition requesting an alternative route to the proposed bike path in the vicinity of Naremburn shops, received from **Ms Gladys Berejiklian**.

### **F6 Corridor Community Use**

Petition noting the decision of the Minister for Roads, gazetted in February 2003, to abandon the construction of any freeway or motorway in the F6 corridor, and requesting preservation of the corridor for open space, community use and public transport, received from **Mr Barry Collier**.

### **Barton Highway Dual Carriageway Funding**

Petition requesting that the Minister for Roads change the Roads and Traffic Authority's priority for Federal AusLink funding for the Barton Highway to allow the construction of a dual carriageway, received from **Ms Katrina Hodgkinson**.

**Murrumbateman Traffic Conditions**

Petition requesting a safe crossing of the Barton Highway at Murrumbateman, received from **Ms Katrina Hodgkinson**.

**Tumut River Junction Bridge**

Petition opposing the indefinite closure of the Tumut River Junction Bridge, received from **Ms Katrina Hodgkinson**.

**Old Northern and New Line Roads Strategic Route Development Study**

Petition requesting funding for implementation of the Old Northern and New Line roads strategic route development study, received from **Mr Steven Pringle**.

**Forster-Tuncurry Cycleways**

Petition requesting the building of a cycleway in the Forster-Tuncurry area as shown on plans of the State coastal cycleway, received from **Mr John Turner**.

**Macdonald River Signage**

Petition requesting that the Macdonald River be provided with signage stating "4 or 8 knots, no skiing, no wash", received from **Mr Steven Pringle**.

**QUESTIONS WITHOUT NOTICE**

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**LANE COVE TUNNEL VENTILATION SHAFT**

**Mr PETER DEBNAM:** My question is directed to the Premier. Which Ministers signed off on the secret relocation by 65 metres of the Lane Cove tunnel ventilation shaft from under a roadway to under the apartment block that collapsed last week?

**Mr MORRIS IEMMA:** In the concept plan the lateral ventilation tunnel that intersects with the off ramp tunnel was proposed to be closer to the Pacific Highway. During the detail design phase the ventilation tunnel was moved further west to accommodate certain requirements.

**Mr SPEAKER:** Order! The Premier has the call.

**Mr MORRIS IEMMA:** Those requirements included fire and safety precautions with an egress point every 120 metres. Information on the changes was provided to the Air Quality Community Consultative Committee in 2004. Lane Cove Council is represented on that committee. Further, I am advised that information on the location of the ventilation tunnel was provided to local residents by letter dated 16 September from Thiess John Holland.

**Mr Peter Debnam:** Point of order: My point of order relates to relevance. The question is which Ministers signed off. Which clown signed it?

**Mr SPEAKER:** Order! There is no point of order. The Premier is answering the question he was asked.

**Mr MORRIS IEMMA:** Residents received a letter dated 16 September with an attached map from Thiess John Holland informing them of the changes. I am further advised that the Roads and Traffic Authority examined the changes and found that they were consistent with the planning approval for the project.

**COUNTER-TERRORISM MEASURES**

**Mr TONY STEWART:** My question without notice is addressed to the Premier. What is the Government's response to community concerns about the threat of terrorism?

**Mr MORRIS IEMMA:** In light of recent events, both in recent weeks and indeed this morning, it is appropriate to update the House on the Government's efforts to reach an agreement with the Commonwealth on strong new counter-terrorist legislation. I stress at the outset that the operations, of which I informed honourable members a moment ago, were conducted under anti-terrorism legislation that was previously passed in this House. Nonetheless, as I have stated, I am advised that the recent changes to Commonwealth law are likely to assist in the prosecution process of this morning's events. In late September, at the request of the State Premiers, a national summit on counter-terrorism measures was convened in Canberra. The Prime Minister and State Premiers attended the conference. I am pleased to advise that a package was successfully negotiated with the Prime Minister.

The package balances the dual imperatives of protecting individual rights and providing tough new laws to deal with the threat of terrorism. The package includes control orders for up to 12 months to restrict the movement of those who pose a terrorist risk to the community; preventative detention for up to 14 days; stop, question and search powers in areas such as transport hubs and places of mass gatherings; and banning organisations that advocate terrorism. At the same time, following lengthy discussions with the Commonwealth—as well as numerous personal discussions I had with the Prime Minister—I can inform the House that we have also secured the inclusion of a range of appropriate safeguards, such as judicial oversight of control and preventative detention orders, including judicial review of the merits of a case, not just of questions of law on the use of these powers. In discussions on these matters New South Wales was particularly assertive with the Commonwealth, and I am pleased with the outcome of our efforts.

We also argued for parliamentary oversight of the use of this legislation with a requirement that the Federal Attorney-General report annually to the Parliament on the operation of both orders. Similar powers of parliamentary oversight by existing parliamentary committees will be included in the New South Wales legislation. New South Wales also strongly argued the case for the need for the right to legal representation for anyone subject to control or preventative detention orders—and that has been agreed to by the Commonwealth. Other areas where the States succeeded in negotiations with the Commonwealth include a 10-year sunset clause applying to the new laws and a Council of Australian Governments review of the laws after five years. I can also advise the House that the final legislative package represents what the States argued for in the way of additional safeguards and what we agreed to in principle and in the subsequent communiqué so far as tough new laws are concerned.

It is a balanced and good outcome for national security. It is an outcome that, as I said, balances the rights of individuals with the need for tough new laws to protect our citizens against the threat of terrorism. The New South Wales Government will, in accordance with the agreement, in this session of Parliament bring forward legislation that will ensure police and security agencies have the powers they need to combat terror while at the same time ensuring the safeguards and accountability that I have just outlined. The legislation is currently being drafted and will be introduced in this House soon. I believe the package represents that appropriate balance between the need for stronger laws and the protection of individual rights. The final package reflects the determination of all to ensure that we do everything possible to protect our citizens against the threat of terrorism.

#### **LANE COVE TUNNEL VENTILATION SHAFT**

**Mr ANDREW STONER:** My question is directed to the Minister for Roads. Given last week's Lane Cove tunnel collapse and today's secret shaft scandal—

**Mr SPEAKER:** Order! The honourable member for Illawarra will come to order.

**Mr ANDREW STONER:** —when will the Minister take responsibility for the project's problems and implement the Coalition's six-point rescue plan, including—

**Mr SPEAKER:** Order! The Minister would like to hear the question.

**Mr ANDREW STONER:** —a full safety audit and release of all documentation, including tunnelling and construction safety protocols?

**Mr JOSEPH TRIPODI:** That is the longest question I have ever heard. The honourable member attempted to embrace a whole range of concepts, but failed to do so. No-one could possibly work out what exactly he was seeking. Today, this Government has tabled in this House the project deeds around the M7 and

the Lane Cove tunnel. That is a higher level of accountability than ever existed, compared with his side of politics. We have now tabled the project deeds for the three contracts. We have made available to the public the project deeds for the three major projects that have been the subject of attention by the Opposition. This Government will continue to work with local communities to get better results, and to help motorists get around Sydney. This Government stands by the projects. We have taken the hard decisions and stand by the projects that we are implementing. This Government has a fantastic record when it comes to the delivery of infrastructure and we will continue to work to advance the interests of motorists in New South Wales.

**Mr Andrew Stoner:** Point of order: My point of order is one of relevance. The Minister does not seem to have understood the question. It is about a full safety audit and tunnelling and construction safety protocols.

**Mr SPEAKER:** Order! The Leader of The Nationals should understand the standing orders. This is question time; it is not a debate. Has the Minister completed his reply?

**Mr JOSEPH TRIPODI:** As we all know, last Wednesday a very serious incident occurred on Epping Road.

**Mr SPEAKER:** Order! The Chair would like to hear the Minister's response.

**Mr JOSEPH TRIPODI:** Above all, I am thankful that nobody was injured. Of course, one group of people was upset about the fact that no-one was injured, that is, the group of people over there on the other side of the House. But those on this side of the House are very happy about the fact that nobody was injured and nobody was killed.

**Mr Peter Debnam:** Point of order: I find that offensive and I ask—

**Mr JOSEPH TRIPODI:** You have made an art form of tragedy. Sit down!

**Mr SPEAKER:** Order! The Leader of the Opposition has the call.

**Mr Peter Debnam:** I find that offensive, every member of the Coalition finds that offensive, and I think every member of the community would find that offensive. I ask him to withdraw that comment.

**Mr JOSEPH TRIPODI:** The Opposition has made an art form of human tragedy. It is an absolute disgrace. I am thankful that nobody—

**Mr SPEAKER:** Will the Minister withdraw the comment?

**Mr Peter Debnam:** I will take another point of order if he is not going to withdraw that comment. Are you going to withdraw the comment?

**Mr JOSEPH TRIPODI:** It is a fact. I am thankful that nobody was injured and that all the residents of the Kerslake unit block escaped safely.

*[Interruption]*

Exactly! What about the member for Coffs Harbour? An absolute disgrace!

**Mr SPEAKER:** Order! The Leader of the Opposition has taken objection to the Minister's comment. I ask the Minister to withdraw it.

**Mr JOSEPH TRIPODI:** I withdraw it. Above all, I am thankful that nobody was injured and that all the residents of the Kerslake unit block escaped safely. It is too early to say what caused this collapse, but I am pleased that the investigation is well underway. The experts are out there looking at structural issues, and finding the answers. WorkCover, an organisation with a strong record of getting results, is conducting an independent investigation. WorkCover had its specialist tunnel expert on site early on the morning of the incident as part of its efforts to understand exactly what happened. I am also pleased that Thiess John Holland has brought in emeritus professor Ted Brown, a world expert in soil and rock mechanics, to review the geotechnical issues associated with the incident.



I am also pleased that Thiess John Holland has recognised that this was a very traumatic experience for the residents concerned, and has been supporting those residents with accommodation. In terms of compensation, the builders of the tunnel have already offered to buy units from residents at pre-collapse market value. This means that residents of units that have been deemed by experts as safe have the choice to move back in or to sell their units to the company. I welcome assurances by the company that residents will not be worse off because of this incident. The company has, as is appropriate, pledged to cover all costs associated with moving should residents wish to sell and relocate.

I have received advice from the Roads and Traffic Authority today that the claims that the ventilation tunnel had been moved without advising the community and council are not correct, and that the changes to the ventilation tunnel location were detailed in the community liaison group meeting on 10 November 2004. Further, Lane Cove Council representative Mr John Lee attended the meeting, and the minutes of the meeting show that Thiess John Holland provided a construction update detailing the proposed changes. The Lane Cove tunnel builders have also advised that a letter—with a map attached showing this change—was sent to residents. I am also advised that the final positioning of the ventilation shaft is consistent with the planning approval given in 2002.

### SCHOOL SECURITY

**Mr MICHAEL DALEY:** My question without notice is addressed to the Minister for Education and Training. What action is the Government taking to improve security at New South Wales schools?

**Ms CARMEL TEBBUTT:** I thank the honourable member for Maroubra for his question and his interest in the safety of New South Wales schools. Nothing is more important than the safety of teachers and students in our schools. Fire and security incidents in schools can have a devastating impact on our teachers, students and the community generally. Over the past few weeks I have heard first-hand from the school community at Kelso High School about the impact of the recent fire at the school on the teachers, students and parents, and about the loss of school property as a result of that fire. The impact of such an incident can be devastating and it can take a long time for a school community to recover.

School property is particularly vulnerable during school holidays. I am pleased to inform the House today that during the upcoming Christmas holiday period there will be an increased security effort on a number of fronts. Firstly, the Safety and Security Directorate of the Department of Education and Training, which was established in 2002, has a close relationship with the NSW Police Dog Squad, which helps in responding to security breaches at schools. Last school holidays the Safety and Security Directorate trialled the implementation of state-of-the-art communications equipment. The trial of the push-to-talk equipment was a resounding success. It is lighter and more compact than a portable radio; indeed, it is no bigger than a mobile phone.

This may not seem significant until one considers the type of equipment that security guards and police carry around with them. Carrying this very light equipment, security guards and police can respond much more effectively to security incidents when they occur. The technology also eliminates communication black spots, making contact between the Safety and Security Directorate's monitoring headquarters at Blacktown and the people on the ground much easier. Following the successful trial, 30 of these push-to-talk devices will be made available to members of the police Dog Squad as part of the stepped-up security effort for the Christmas holiday period.

Also on hand will be a new intelligence analyst who has just been appointed by the Safety and Security Directorate. The analyst, a former employee of NSW Police, will work closely with police to help identify any particular patterns of criminal activity that require a response. Much of the crime that occurs in school grounds is opportunistic, but it is a sad fact that some of it is not, and it requires the detailed attention of a person with that sort of intelligence experience. Our schools are valuable assets and the community also plays a significant role in protecting them. The Government is increasing local awareness through the School Watch campaign. Our aim is for every school to have the school security unit number displayed on the notice board for everyone to see. The Government has the toughest measures in place in the country to protect our schools.

The new communications equipment and the appointment of an intelligence analyst complement a range of measures already in place. We are spending \$6 million on security fences this year, with another \$5.5 million to be spent on security guards to patrol our schools. The experts in the Safety and Security Directorate—which is headed by former assistant police commissioner Ike Ellis—are working hard to reduce

incidents such as vandalism and arson in schools. Their efforts are producing outstanding results, and they deserve our congratulations.

The installation of security fences in schools is proving highly successful in deterring opportunistic crime. Since 1996 security fences have been installed in 359 schools, at a cost of more than \$31.5 million. The Government's 2003 Safer Schools Plan committed to providing security fencing to 200 schools by 2007, at a cost of more than \$20 million. The benefits of security fencing have been analysed by the Department of Education and Training. In 40 schools that had security fencing installed in 2003-04 there was a 64 per cent reduction in trespass and a 58 per cent reduction in break and enter. That is a significant reduction in opportunistic crime, as a result of having school security fences in place. These are significant improvements, and we are building on them.

However, although security fencing is effective, it must be part of an overall security plan. That is why we also have dedicated security guard patrols, electronic surveillance and security alarms, lockdown devices designed for computers and other equipment, and security grilles on windows and doors. The Government has contracted 24-hour-per-day mobile guard patrol services in identified high-risk areas and during school holidays. Once again, this is working. The comparison between the July 2005 school holidays and the corresponding period in 2003 shows an overall reduction in fires in schools of 42 per cent. The Government is delivering on its commitment to make schools safer and more secure. As we approach the Christmas holiday period the community can be confident that we are doing everything we can to both deter opportunistic crime and respond to more sophisticated crime activity.

#### **LANE COVE TUNNEL VENTILATION SHAFT**

**Mr ANTHONY ROBERTS:** My question is directed to the Minister for Roads. Given that the Lane Cove tunnel ventilation shaft was located 65 metres away from its planned location, can the Minister guarantee that there are no other secret variations to the publicly and legally approved Lane Cove tunnel contract?

**Mr JOSEPH TRIPODI:** The Roads and Traffic Authority [RTA] today confirmed that some changes were made to the Lane Cove tunnel ventilation system after the project was approved. The RTA examined these changes and found that they were consistent with the planning approval. This was final detailed design work, which was always meant to be done after planning approval. Information on these changes was provided to the Air Quality Community Consultative Committee in 2004. Lane Cove council is represented on that committee. Information on the location of the ventilation tunnel was provided to local residents via letters from Thiess John Holland on 16 September 2005. A map was attached to the letter. Furthermore, the RTA advises that no Ministers signed off on the variation to the ventilation tunnel; it was handled by the RTA as a routine variation.

#### **BROKEN HILL AND CENTRAL WEST STATE EMERGENCY SERVICES**

**Mr PETER BLACK:** My question without notice is addressed to the Premier. How is the Government helping the communities of Broken Hill and other western towns affected by the recent natural disaster?

**Mr MORRIS IEMMA:** This week marks an important milestone in the history of one of the State's most valued emergency services. The New South Wales State Emergency Service [SES] is this week celebrating the fiftieth anniversary of its formation. The establishment of the SES 50 years ago followed catastrophic floods that swept through the Hunter Valley and the State's central and north-west regions in February 1955. The commitment of our SES volunteers is again being illustrated following the mini-cyclone that hit Broken Hill last Sunday night and heavy rainfall and widespread flooding through the central west and other areas last night.

I am advised that the SES is currently evacuating the 720 residents of the township of Eugowra, near Orange, in expectation of flooding this evening. The Government has declared natural disaster areas for both Broken Hill and the central west. This will provide assistance for communities in Broken Hill and the Cabonne shire. The Government is monitoring other areas to assess whether the declaration needs to be extended, particularly with flooding expected in a number of other areas tonight.

The honourable member for Murray-Darling will attest that Sunday night's freak storm was intense, with driving rains causing flash flooding and winds of up to 150 kilometres an hour. I am advised that about 100 homes were damaged by falling trees, branches and flying debris. I am advised that public infrastructure, including the Duffy Street Park tennis courts and facilities, was also damaged. As always, members of the SES turned out in the wind and rain to answer about 150 calls for help. I am advised that the SES expects to have all

the jobs in the area completed this afternoon. The recovery operation was led by the Broken Hill SES unit, with additional SES crews travelling from Dubbo and Sydney to assist their colleagues.

**Mr Peter Black:** Great people.

**Mr MORRIS IEMMA:** Indeed. As the honourable member for Murray-Darling says, they are great people. Assistance was provided by members of other emergency services, including New South Wales Fire Brigades and NSW Police. The Minister for Emergency Services visited Broken Hill yesterday to inspect the damage and thank the emergency services for their efforts. This morning he visited Cabonne shire to inspect flood damage with local SES volunteers. Heavy rainfall and flash flooding were reported overnight across the central west and other areas, including Molong, Trundle, Wagga Wagga, Orange, Parkes and West Wyalong. I have already spoken of the impact on the residents of Eugowra, and I am further advised that Molong has experienced its worst flood since 1956, with several shops and homes flooded. The local SES crew also rescued a woman, her child and four others from a vehicle trapped in rising waters. The Department of Community Services is establishing an evacuation centre at Parkes today.

SES volunteers perform heroic tasks in the most difficult of conditions. As we are seeing this week, their willingness to help others—often at considerable risk to their own safety—embodies the very best of the Australian spirit. Over the past 50 years SES volunteers have played a role in some of the State's most significant natural and human disasters, including the Sydney hailstorm, the North Coast floods, the Thredbo landslide and the Newcastle earthquake. I place on record our thanks to each and every volunteer for their hard work over the past 50 years in helping people in need. We owe them all a great deal.

On Saturday the community will have a chance to thank the volunteers when the SES stages a grand anniversary street parade through the centre of Sydney. I am sure they will receive a warm welcome as they parade up George Street to the Town Hall. The Government was pleased also to support the striking of a commemorative fiftieth anniversary medallion for each SES member in recognition of his or her valued service to the community. I wish them all the best for their fiftieth anniversary celebrations.

#### **CROSS-CITY TUNNEL INDEPENDENT COMMISSION AGAINST CORRUPTION INVESTIGATION**

**Mr ANDREW STONER:** My question is directed to the Minister for Police. Why did the Minister fail to refer the cross-city tunnel corruption allegations to the Independent Commission Against Corruption [ICAC] when he became aware of them two years ago?

**Mr CARL SCULLY:** Members would be aware that it is a convention of this House that when matters are before the ICAC they should not be discussed. I look forward to my discussions with the ICAC. That question is obviously one that members of the commission will ask me and I will be more than willing to answer it.

#### **NEW SOUTH WALES FIRE BRIGADES COUNTER-TERRORISM CAPABILITIES**

**Mr MATTHEW MORRIS:** My question without notice is directed to the Deputy Premier. What is the latest information on training fire brigades officers to respond to major incidents?

**Mr JOHN WATKINS:** Just a few hours ago I joined the Commissioner of New South Wales Fire Brigades to inspect a new \$1 million counter-terrorism response training vehicle. In light of developments over the past 24 hours we are all keenly aware of the importance of ensuring that our emergency service crews have the most up-to-date equipment and training so they are prepared to respond to a terrorist threat. This new 500-horsepower, 27-tonne, 18-metre semitrailer is just one small part of the Government's commitment to counter-terrorism measures—a commitment to ensure we continually build on our resources, training, personnel, equipment and the powers we use to attack terrorism.

**Mr SPEAKER:** Order! There is too much conversation on the Opposition benches. Members will resume their seats.

**Mr JOHN WATKINS:** This year alone, the New South Wales Government committed more than \$187 million to counter-terrorism measures across all New South Wales government departments. We have put in place laws to ensure that our police, emergency service workers and corrective services staff have the power

they need to properly address the threat of terrorism in New South Wales. Emergencies like the September 11 attacks and the London Underground attacks have shown the world how vital the role of firefighters and other emergency rescue workers is in the minutes and hours immediately after a terrorist attack.

**Mr SPEAKER:** Order! The Minister is answering a question of fundamental importance to all of us. Members engaging in conversation will show some respect and listen to the Minister's reply. That direction includes the honourable member for Gosford and applies to Government members as well as members of the Opposition.

**Mr JOHN WATKINS:** The new emergency response vehicle is a semitrailer which replicates a confined space environment. Firefighters from all areas of New South Wales can be trained to work in an environment that replicates a collapsed building, in which a person may be trapped. The vehicle can be rapidly deployed across the city or to any part of the State at a moment's notice. It will also serve as a stand-alone command and control centre that could be rapidly dispatched to the scene of an emergency. The vehicle has all the equipment on board to sustain a team of firefighters. For example, it contains 42 chemical suits and absorbent equipment to protect firefighters responding to a chemical, biological or a radiological attack. It has an incident command centre, including communications equipment such as telephones, faxes and the most modern radios. The semitrailer has its own generator, enabling it to operate independently of its environment. This is vital, considering that most major emergencies affect power and water supplies.

The firefighters I met this morning have been trained to the highest international standards, but it is essential that firefighters continue to update and maintain that training to keep their skills up to date. Experts in this field often refer to the golden hour—those moments immediately after an attack when emergency workers have the best chance of saving victims of a terrorist attack. This vehicle will be used to provide training to all 6,000 firefighters in New South Wales to ensure that they have the training they need to rescue victims of a terrorist attack. It would also prepare the scene for specialist urban search and rescue [USAR] units that would arrive to conduct more complicated or difficult rescues. New South Wales is at the forefront of counter-terrorism and disaster response capability, with 185 firefighters trained to the elite level of urban search and rescue. As part of an ongoing program to bolster search and rescue capability, a further 75 firefighters will take part in USAR training by July next year. New South Wales is leading the nation in counter-terrorism and natural disaster response training.

NSW Fire Brigades trained 26 interstate rescue specialists from South Australia, the Australian Capital Territory, the Northern Territory and Western Australia for 17 days at Holsworthy. Training included locating victims using seismic listening devices, snake-eye search cameras, gas detectors, drilling, cutting and rubble-breaking tools. NSW Fire Brigades boasts 185 firefighters capable of responding to incidents that would involve tunnelling and deep excavation, such as at Thredbo in 1997. More than 70 ambulance, police canine rescue and engineering personnel have also been trained to respond and support fire and rescue officers.

This year there has been a major \$8.5 million upgrade of specialist counter-terrorism equipment for all Fire Brigades crews. This includes putting mobile hand-held gas detectors in every fire station in the State. Today I saw a demonstration of how these detectors would be used to identify a hazardous substance and safely remove it. The professionalism of the firefighters on show today was stunning, and we thank them for their commitment and the level of training in which they have involved themselves. We are putting thermal imaging cameras in more and more fire stations across the State. These hand-held military spec cameras can be used to identify people trapped in a collapsed building: they can detect the body heat emanating from a person who may be up to 30 metres away or buried under concrete and other building materials.

Firefighters will use the cameras to find victims faster than ever before, which will help us to rescue more people during those initial moments that can mean the difference between life and death. NSW Fire Brigades is the lead agency in New South Wales for dealing with chemical, biological and radiological attacks, and for rescuing people from collapsed buildings following an explosion. New South Wales continues to lead the way in counter-terrorism, training and preparedness by being the only State to have not just one but two of these specialised vehicles.

The vehicle is part of the Government's commitment to provide the families of New South Wales with a world-class fire and rescue service that is ready to respond 24 hours a day, seven days a week. Police, the State Emergency Service, fire services—all emergency services—continue to work relentlessly to ensure that we are prepared in the event of a terrorist incident in this State, something we hope will never occur. On behalf of all members of this House I put on record again our gratitude to all members of the front-line emergency services for their outstanding work, their training and their preparedness. They do an outstanding job.

**PREMIER'S DEPARTMENT DIRECTOR GENERAL AND CROSS-CITY TUNNEL INDEPENDENT COMMISSION AGAINST CORRUPTION INVESTIGATION**

**Mr PETER DEBNAM:** My question is to the Premier. Will he finally take charge of his Government and order his director general, Col Gellatly, to stand aside while his failure to report cross-city tunnel corruption allegations is investigated by the Independent Commission Against Corruption?

**Mr MORRIS IEMMA:** As the Leader of the Opposition would be aware, an ICAC inquiry is taking place, and that is the appropriate place for it to be dealt with. Mr Gellatly, like the Government, will co-operate with the inquiry.

**SOCZEROOS WORLD CUP QUALIFIER**

**Ms ANGELA D'AMORE:** My question without notice is directed to the Minister for Tourism and Sport and Recreation. What arrangements are in place for fans to get behind the Socceroos at the upcoming World Cup qualifier at Sydney Olympic Park?

**Ms SANDRA NORI:** It has been a very good year for sporting events in Sydney, particularly in the last quarter, with the International Cricket Council [ICC] competition and successful A1 Grand Prix of Nations over the weekend, as well as great rugby league and AFL seasons. We have had a successful football year with the commencement of the new A league competition, resulting in extraordinary interest in the playoff between the Socceroos and Uruguay on 16 November at Telstra Stadium. It is expected that about 22,000 national and international guests will attend, with an estimated \$14 million to be generated into the economy. The match is already a sell-out.

A live site will be set up similar to the one that was set up for the St George-Tigers preliminary final, to ensure that fans who were unable to obtain tickets have an opportunity to enjoy the game and the ambience of Sydney Olympic Park. The live site will be at the Overflow at Sydney Olympic Park, opposite Telstra Stadium, just down from the Novotel. It was decided to set up the live site because the match was a sell-out and because of the tremendous interest in football. Latest figures show that the interest in football is growing, with an annual growth of 30 per cent in women participating in the code. Indeed, 279,000 adults and 186,000 children played soccer in 2003. An audit is carried out every three years, and I am looking forward to the next round of figures in 2006.

The Socceroos have not played in the World Cup since 1974 in Germany, where we were beaten by England. Last year they had a good year and beat England. They also had good performances this year against Germany and Argentina. The live site will start at 5.00 p.m. and there will be food stalls, bars and a competition for the best dressed Socceroos fan. The live screen, which is seven metres by four metres, will go into action at 8.00 p.m. Sydney Olympic Park has put \$40,000 towards the live site—it will obviously receive a percentage of the profit from the food and beverage sales—and the National Australia Bank has also sponsored it. Sydney Olympic Park and its management are well versed in professionally managing major events through their experience with the Sydney Olympic Games and the Rugby World Cup.

On the night of the game there will be extensive security measures both at the stadium and at the Overflow. There will be significant upgrade of security personnel both within and outside the stadium. There will be a very strong police presence, including mounted police and sniffer dogs. Bag searches will take place at all the entry gates and there will be maximum utilisation of the Sydney Olympic Park operations centre, including extensive use of closed-circuit television. A specific flare strategy will be implemented in an attempt to prohibit the use of flares sometimes seen at soccer matches. These measures will also be used at the live site.

I am sure members of the House will join with me in wishing the Socceroos a great game and every success. They are fit and ready; they appear to be in form for the first of their two games against Uruguay this weekend. In particular, Brett Emerton and Lucas Neill are having a particularly good year and were instrumental in Blackburn Rovers' win over Charlton Athletic FC. It was also good to see Harry Kewell back out on the field for Liverpool. We all wish Mark Viduka well in leading the team and wish all the players well in their game this weekend.

I want to warn fans of the traps involved in buying tickets from scalpers. They should be aware that there is no way to check whether those tickets are genuine or copies. Even if they are genuine they can be cancelled if their resale breaches the conditions of the original sale. Fair Trading endorsed the conditions of sale

used by both the NRL and the ARU in their attempts to restrict the activities of scalpers. Scalpers should be aware that it is against the law to sell tickets outside Telstra Stadium or Aussie Stadium or places that are not official ticket offices.

### **LANE COVE TUNNEL VENTILATION SHAFT**

**Mr JOSEPH TRIPODI:** I wish to provide a supplementary answer, and correct the record. In my answer to a question from the honourable member for Lane Cove regarding changes to the Lane Cove Tunnel I referred to the Air Quality Community Consultative Committee as the group to which information was provided. The correct name of the group is the Construction Community Liaison Group No. 3.

**Questions without notice concluded.**

### **BUSINESS OF THE HOUSE**

#### **Urgent Motions: Suspension of Standing and Sessional Orders**

##### **Motion by Mr Carl Scully agreed to:**

That standing and sessional orders be suspended to allow the consideration of both notices of motions for urgent consideration given this day in the order of presentation and for the following speaking times to apply:

Mover	10 minutes
Member next speaking	10 minutes
Two other members	5 minutes each.

### **RICE INDUSTRY**

#### **Urgent Motion**

**Mr PETER BLACK** (Murray-Darling) [3.40 p.m.]: I move:

That this House:

- (1) condemns the Howard Government for its continued failure to support the New South Wales rice industry against the National Competition Council's deregulation policy;
- (2) recognises the success of the New South Wales rice industry and the net public benefit of existing marketing arrangements for domestic and export rice sales—as well as the important role these arrangements play in supporting an industry worth \$800 million a year and employing over 8,000 people in this State;
- (3) notes the refusal of the Prime Minister, despite repeated requests by the New South Wales Government on behalf of the New South Wales rice industry, to override the recommendation of the National Competition Council in respect of rice marketing arrangements; and
- (4) urges the State Coalition to join the New South Wales Government in its efforts to secure an adequate transition period for the New South Wales rice industry to new domestic marketing arrangements.

We last debated matters relating to rice in an urgent motion on 18 October. Since then we have had either sins of commission or sins of omission by a number of people, some in this House and some elsewhere. I will go through them in order. First, in response to two pieces of correspondence from our Premier, dated 22 September and 17 October—the letter of 17 October immediately preceded the debate in this Chamber on 18 October—I refer to a response received on 7 November from the Prime Minister. The letter stated:

Thank you for your letters of 22 September and 17 October 2005 regarding the National Competition Council's assessment of New South Wales' compliance with its National Competition Policy obligations, particularly with regard to domestic rice marketing.

As you would be aware, the process for determining NCP payment penalties was agreed by all jurisdictions and intervention by the Australian Government prior to finalisation of the assessments would be inconsistent with that process.

However, I understand you are concerned that as a result of the payment penalty recommendation by the NCC you are being compelled to deregulate domestic rice marketing, which you claim will adversely impact on NSW growers and exporters and may be detrimental to the export industry. I am advised that the NCC only recently finalised its assessment, and that the proposed actions by the NSW Government to deregulate its domestic rice marketing satisfy the NCC. Accordingly, we would anticipate that the proposed payment penalties in relation to rice marketing for 2004 and 2005 (totalling some \$26 million) are likely to be made available to NSW.

Importantly, the penultimate paragraph stated:

You also expressed disappointment that the Australian Government has not committed to establishing a national rice export desk. Unfortunately, previous efforts by the Commonwealth in this regard failed to gain the necessary support from the other jurisdictions.

I have provided a copy of this letter to the Treasurer, who has portfolio responsibility for matters relating to National Competition Policy.

That letter is an outrage. It is an affront to this Government, all members of this Parliament and, in particular, rice growers. The Prime Minister of Australia is saying that, because we have expressed disappointment that he is not committed to establishing a national rice export desk, it is all because previous efforts by the Commonwealth "in this regard failed to gain the necessary support from the other jurisdictions". The other jurisdictions are Victoria, the Northern Territory, Western Australia, et cetera. However, the problem is that rice is grown in New South Wales; we produce 98 per cent of all rice grown in Australia. The other jurisdictions have no interest whatever in the matter, and for the Prime Minister of Australia to hide behind this rot is complete and absolute nonsense.

We need to look at some of the statements made since the debate on 17 October, out in the real world, not in the rarefied world of John Howard in Canberra and his National Competition Council [NCC]. I want to talk about the real world in the rice industry. I have a number of similar press releases that I want to read onto the record. The first, which is dated 18 October—the date of the previous debate—is from Laurie Arthur, a great leader of the Ricegrowers Association, and is headed, "Disbelief at decision to deregulate rice industry". Why would he not disbelieve it? Let us be blunt and honest about this. The decision was forced on New South Wales because of the continuing threat to fine this great State \$26 million under the fraud known as the national competition policy if we did not yield.

The Deniliquin *Pastoral Times* of 21 October states, "Rice deregulation: We had no choice, says minister". It is a great article and I commend the *Pastoral Times* to honourable members. Another article in the *Pastoral Times* of 21 October is headed, "RGA 'disbelief' at rice industry deregulation". An article in the *Rural Times* of 21 October is headed, "Decision over rice unpopular". The Griffith *Area News* of 21 October is headed, "Disbelief at moves to deregulate industry". How about this for something absolutely dopey! An article in the *Area News* of 21 October is headed, "MLC should fight: Piccoli". The article states that the honourable member for Murrumbidgee has called on the Hon. Tony Catanzariti to cross the floor of the upper House to vote against what has been forced on New South Wales.

It is a simple fact of life that the shadow Minister in this House wants to cost New South Wales \$26 million under National Competition Council payments if the Hon. Tony Catanzariti crosses the floor in the upper House to enable us to keep our export desk and domestic market arrangements. The editorial in the *Area News* of 21 October states that because of the Federal Government's action "the Riverina and rice will suffer". Here we go! Here is a king hit for us! This will tell people who is supporting John Howard on this matter. An article in the *Rural* on 4 November is headed, "Rice group welcomes changes". The article stated:

Chairman of the Organic Rice Movement and rice farmer for 16 years, Peter Randall, represents pioneering organic rice growers, and said he welcomes deregulation of the domestic rice industry.

I do not know who these organic rice growers are, but in a survey undertaken earlier this year by the Rice Growers Association some 600 growers said, "No way, keep the single desk. We will not go down the same tube as coal went down with the Japanese market." However, three growers said, "Let's deregulate." John Elliott would have been one of them if he were still a rice grower. Why he is not in gaol, because he sold rice from Water Wheel and paid the growers nothing, I do not know. Three organic growers want to get rid of the marketing arrangements, and that is an absolute disgrace.

I have mentioned the honourable member for Murrumbidgee. Today we have seen another disgrace in relation to this matter. Yet again we saw the Leader of The Nationals in New South Wales asking questions about nothing pertaining to the bush. We have seen his performance in recent months: talking about water for Sydney, tunnels in Sydney, anything other than the bush. He has not talked about rice in southern New South Wales. He has shown no leadership whatsoever—a problem with The Nationals in New South Wales. We get more leadership from the Liberal Party in southern New South Wales than we ever get from The Nationals.

There is one great exception: Kay Hull. When I mention Kay Hull I also think about her opponent within The Nationals, John Cobb. Recently in a debate I was asked how low could I get, and I nominated John

Cobb. He wanted to be Federal Minister for Agriculture. He reminds me of a Texan—big hat and no cattle. He is the would-be, wanna-be Federal Minister for Agriculture, but he says not a word about the rice industry. He leaves it to Kay Hull, who crossed the floor on Telstra. Full marks to her. She got exceptional circumstances assistance for rice growers and was criticised in The Nationals party room in Canberra. Kay Hull stands out consistently and persistently with no support from John Cobb whatsoever. I congratulate the Liberal Party because it is doing a damn sight better job in southern New South Wales than The Nationals. They will go to oblivion at the 2007 election and they will not have party status in this House.

**Mr ADRIAN PICCOLI** (Murrumbidgee) [3.50 p.m.]: I again put on record that The Nationals and the Liberal Party will oppose legislation to deregulate the rice industry in New South Wales. People in my part of the world are calling the honourable member for Murray-Darling "Peter Slack" because he is not able to influence the New South Wales Labor Government in any way. I agree with them. I was recently in Deniliquin with councillors from different councils in the area and somebody referred to Peter Slack. I thought it was pretty funny because it is absolutely right. Perhaps half the rice grown in New South Wales will be grown in the new seat of Murray-Darling. The Minister for Primary Industries is not a friend of the honourable member for Murray-Darling, Peter Slack. I saw the honourable member's Christmas letter to the Minister in which he condemned the Minister for closing the Murrumbidgee College of Agriculture and other disastrous things.

Peter Slack was very critical of the Minister, and I agree with him. However, being critical and putting out a friendly little Christmas newsletter does nothing. The honourable member needs to go to caucus and do something about the Murrumbidgee College of Agriculture. The honourable member promised the Minister a month in Deniliquin. Flying in at taxpayers expense once a month is great, but how about getting a good announcement for Deniliquin or for Murray-Darling? People want to see the honourable member do something and change the New South Wales Government's decision about deregulation. The honourable member should go in to bat for the rice industry and for his electorate instead of squealing and blaming The Nationals and the Federal Government—blaming everybody except himself.

The honourable member for Murray-Darling might not have noticed, but he is sitting on the Government benches. The Government controls the legislation and what happens in New South Wales. Therefore, he has a great opportunity to influence events in New South Wales. I urge the honourable member for Murray-Darling and the Hon. Tony Catanzariti, a Labor MLC from Griffith—another important part of the rice-growing world—to influence the New South Wales Labor Government to oppose this deregulation legislation. We will certainly be opposing it. We do not have the numbers in the lower House, but that is not necessarily the case in the upper House. More is to come in respect of the deregulation.

A couple of weeks ago an almost identical motion for urgent consideration was moved by the honourable member for Murray-Darling. It received an interesting response in some local media. The headline of the Deniliquin *Pastoral Times* of Friday 21 October read, "RGA 'disbelief' at rice industry deregulation". The *Land* headline read, "Deregulation move stuns rice industry". The Leeton *Irrigator* of Friday 21 October contained the headline, "SunRice quick to denounce govt's rice decision". On 27 October the *Rural Times* headline read, "Calls to save rice industry". Shepparton News Online carried the headline, "Plans for rice deregulation bring criticism". Shepparton is not even part of the New South Wales industry and does not grow rice. Victoria grows a bit of rice. The *Irrigator* of 23 October stated, "Leeton farmer says decision too ideological". Plenty of people are critical of the New South Wales Government because of its decision to deregulate the rice industry. The article in the *Pastoral Times* of 21 October stated:

SunRice and the Ricegrowers Association of Australia have expressed their disappointment at plans to deregulate the domestic rice market in NSW by 2006.

The article quoted the Ricegrowers Association president, Laurie Arthur, as saying:

I accept that the NSW government was under enormous pressure from the federal government which was threatening to withhold payments as part of their competition policy.

But it is disappointing that the NSW government chose to act now as the rice industry is still in negotiations with the federal government, having proven our arrangements meet the NCC's net benefit requirements.

We therefore believe that this act is premature.

SunRice chairman, Gerry Lawson, is also quoted in the *Land* as saying:

It is disappointing that the New South Wales Government has chosen to act while the industry is still negotiating with the Federal Government.



A number of people involved in the rice industry are critical of the New South Wales Government. We cannot just be critical of Peter Slack. That is not fair. We know what he is capable of and not capable of, so let us give him a bit of latitude. We must also question the Minister for Primary Industries. I remind the honourable member for Monaro that Paul Keating signed off on the National Competition Council [NCC]. It was a Labor Government creation in 1996. When the NCC was created the States were asked which industries should be deregulated. Guess who listed the rice industry? Bob Carr! That is why every couple of years the rice industry has to justify why it gets to retain vesting powers. Over the past 10 years those justifications have been made.

When the honourable member for Mount Druitt was Minister for Agriculture he was prepared to have a go for New South Wales industry. He had a big department with lots of staff and he got his department to put together a case, together with the rice industry, to argue why the vesting powers ought to be retained. It proved that there was a \$45 million public benefit to having the vesting powers in place, and the National Competition Council accepted that. The present Minister for Primary Industries has not made such a submission because he is too lazy. That is the hallmark of this Labor Government, especially over the past four or five years. It is lazy.

Time and again it needs extra money because it cannot rein in spending. It has introduced vendor duty, land tax, Crown roads and fishing taxes. It needs more money and it has increased taxes because it is too lazy to introduce any sort of meaningful reform. Of course, the unions have the Government tied up with their donations and the like. This is a classic example of such laziness. What are the public servants in the Department of Primary Industries doing if they do not have to make a submission to the National Competition Council [NCC] in defence of the rice industry? I move:

That the motion be amended by leaving out paragraphs (1), (3) and (4) with a view to inserting instead:

"(2) calls on the New South Wales Minister for Primary Industries to table his submission to the National Competition Council in defence of the rice industry."

**Mr STEVE WHAN** (Monaro) [4.00 p.m.]: For the second time in a few weeks the honourable member for Murrumbidgee, who purports to represent many rice farmers in New South Wales, has rambled on in this House. He did not speak for his allotted 10 minutes, he was not prepared and he gave no thought to the future of the rice industry. He rambled on for virtually his entire speech. It is a disgrace that the honourable member purports to represent rice growers in New South Wales. He seems to be unaware that yesterday the Premier received a letter dated 3 November 2005 from the Prime Minister again rejecting the efforts of New South Wales to avoid deregulation of the rice industry. The honourable member kept referring to old press clippings that predated that letter.

Once again, the honourable member for Murrumbidgee said that New South Wales taxpayers should be prepared to face a \$26 million slug by the Federal Government. Once again, the Opposition is not willing to back up the people of New South Wales. The New South Wales Government has made efforts over a number of years to convince the Federal Government that the existing rice marketing arrangements in New South Wales are suitable and do not pose a disadvantage to Australian consumers. Indeed, there is a net advantage to the consumers of New South Wales. In 2004 the Minister for Primary Industries in talks with the NCC was able to convince the council to suspend the penalty payment.

The State Government has carried out three reviews of the rice industry, all of which have shown that the rice marketing arrangements currently in place are of benefit to Australia and the people of New South Wales. The Premier has written twice to the Prime Minister in defence of the arrangements. The National Competition Council has consistently advised that it will not accept the current marketing arrangements. It has stated that if we retain the current marketing arrangements New South Wales will get sluggish with a \$26 million penalty. The honourable member for Murrumbidgee seemed content to say that New South Wales should cop that penalty.

**Mr Adrian Piccoli:** Hear! Hear! I do say that.

**Mr STEVE WHAN:** The honourable member for Murrumbidgee says "Hear! Hear!" He says we should cop a \$26 million penalty. That money represents 350 teachers, five primary schools or any number of infrastructure projects that our electorates in rural New South Wales need. His comments go hand-in-hand with the Opposition's unfunded promises worth \$16 billion. They have no idea about budgeting for this State. The honourable member for Murrumbidgee has confirmed by his interjection that he believes that New South Wales taxpayers should pay the \$26 million penalty. It is very clear to the people of New South Wales what the Opposition stands for. It stands for only one thing: backing up John Howard. It is not interested in the people of

New South Wales. It is certainly not interested in protecting the rice industry, which has an export value to New South Wales of more than \$64 million a year.

The Opposition is not willing to back up this industry. It wants it both ways. It says the rice industry should not be deregulated, but it also says the people of New South Wales should cop a \$26 million slug. It cannot have it both ways. The Government has led on this issue, but we have seen nothing but hypocrisy from the Opposition. Opposition members have had three years to pick up the phone and tell John Howard or their colleagues in Canberra that they are not willing to stand by and let them slug the people of New South Wales with a \$26 million penalty. As I said a few weeks ago when I spoke on this issue, the Liberal Party is willing to make the people of New South Wales pay because it believes the slug will place a political penalty on the State Government. At the Liberal Party State council meeting John Howard said:

I want to say on behalf of my Federal parliamentary colleagues that we will do everything we can to bring about a change of government in New South Wales at the next State election.

This mob in Opposition, The Nationals, who pretend to stand up for rural New South Wales, have strayed far from what used to be a fundamental part of their platform. They are a disgrace to rural New South Wales. It is about time they had the guts to stand up for the farmers and the people of New South Wales. They are a bunch of utter sellouts.

**Mr DARYL MAGUIRE** (Wagga Wagga) [4.05 p.m.]: I am pleased to join the debate on this very important issue. The rice industry in New South Wales supports 27,500 people directly in the farming community. This figure has a multiplier effect. New South Wales produces almost all of the rice for Australia. Rice production is undertaken in the Murrumbidgee Irrigation Area, the Coleambally Irrigation Area and the Murray Valley Irrigation Area. These three areas are part of the Murrumbidgee and Murray statistical divisions. In 2001 increased plantings resulted in a 50 per cent rise in production to approximately 1.6 million tonnes. In 2001-02 approximately 589 million tonnes of paddy rice were produced worldwide. Australia produced 1.25 million tonnes of paddy rice in 2001-02. Production volumes have steadily increased since the 1950s.

Information from the Australian Bureau of Statistics reveals that approximately 200,000 tonnes of rice were grown in 1951. Approximately 405 million tonnes of rice were consumed in 2001-02. Up to 40 million people across the globe eat rice every day. Our Australian industry exports to 70 countries and is the first Australian agricultural industry to initiate biodiversity enhancement and greenhouse gas strategies. The Australian industry generates more than \$500 million worth of value-added exports annually. Australian rice growers are the most efficient and productive in the world. Production has increased by 50 per cent, and that production increase was gained with a net drop in water usage of about 60 per cent.

I put that information on the record so that honourable members and the wider community understand the importance of the rice industry to New South Wales and Australia. Therefore, I was shocked by some of the headlines that the honourable member for Murrumbidgee read onto the record about the deregulation of the rice industry and the statements by leading commentators about their disbelief at the proposed deregulation. I have listened carefully to the debate and the reasons given by the Minister as to why deregulation is necessary. This industry is critical to parts of the region where the honourable member for Murrumbidgee, the honourable member for Murray-Darling and I reside. The economic benefit that the industry provides to the region demands that we do more than just quote statistics and figures and throw insults at each other in this debate.

When one considers the scale of the New South Wales budget and the fact that the Government allocates many billions of dollars, \$26 million is not a large amount. It may appear to be when one looks at specific projects, but when considered in the context of the overall budget and the billions of dollars managed by the Government, it is not a large amount. Let us have some progress on the issue. I suggest to honourable members opposite, including the honourable member for Murray-Darling, that Government and Opposition backbenchers get together to identify waste and mismanagement, whether it be in Federal Government operations, State Government operations or the operations of both governments, so that the money can be made up and the rice industry can continue in its current form.

**Mr Steve Whan:** Why don't we just ask John Howard to give us money?

**Mr DARYL MAGUIRE:** What I am suggesting requires the honourable member to put on his thinking cap. Honourable members on the backbench who can identify waste and mismanagement, be it at a Federal or State level, should put a submission together, go to the Minister and say, "Here is the solution to your problem." Time and again all we hear is rhetoric and the suggestion that we put out a hand to the Federal

Government. I am saying to members "Here is your chance." When the bill comes before this House I fully expect that those who have spoken in this debate and other members who support the rice industry will vote with the Coalition against the bill.

**Question—That the words stand—put.**

**The House divided.**

**Ayes, 47**

Mr Amery	Mr Gibson	Mr Orkopoulos
Ms Andrews	Mr Greene	Mrs Paluzzano
Mr Bartlett	Ms Hay	Mr Pearce
Ms Beamer	Mr Hickey	Mrs Perry
Mr Black	Mr Hunter	Mr Sartor
Mr Brown	Ms Judge	Mr Shearan
Ms Burney	Ms Keneally	Mr Stewart
Miss Burton	Mr Lynch	Ms Tebbutt
Mr Campbell	Mr McBride	Mr Tripodi
Mr Chaytor	Mr McLeay	Mr Watkins
Mr Collier	Ms Meagher	Mr West
Mr Corrigan	Ms Megarrity	Mr Whan
Mr Crittenden	Mr Mills	Mr Yeadon
Ms D'Amore	Mr Morris	<i>Tellers,</i>
Mr Debus	Mr Newell	Mr Ashton
Ms Gadiel	Ms Nori	Ms Saliba

**Noes, 33**

Mr Aplin	Mrs Hopwood	Mrs Skinner
Mr Armstrong	Mr Humpherson	Mr Slack-Smith
Mr Barr	Mr Kerr	Mr Souris
Ms Berejikian	Mr Merton	Mr Tink
Mr Cansdell	Ms Moore	Mr Torbay
Mr Constance	Mr Oakeshott	Mr J. H. Turner
Mr Debnam	Mr O'Farrell	Mr R. W. Turner
Mr Draper	Mr Page	
Mrs Fardell	Mr Piccoli	
Mr Hartcher	Mr Pringle	<i>Tellers,</i>
Mr Hazzard	Mr Richardson	Mr George
Ms Hodgkinson	Mr Roberts	Mr Maguire

**Pairs**

Ms Allan	Mrs Hancock
Mr Price	Ms Seaton

**Question resolved in the affirmative.**

**Amendment negatived.**

**Motion agreed to.**

**COUNTER-TERRORISM MEASURES**

**Urgent Motion**

**Mr PETER DEBNAM** (Vaucluse—Leader of the Opposition) [4.24 p.m.]: I move:

That this House supports Federal and State Government counter-terrorism measures to protect the people of New South Wales.

As I said today following the Premier's ministerial statement, it is important that we get out the message that this House is united in dealing with terrorism and ensuring that we have the appropriate counter-terrorism measures in place. I wish to briefly outline the history of terrorism and its impact on Australia. Recently there was a

second bombing in Bali, and Australians were killed and injured. The first Bali bombing occurred in October 2002, when many Australians were killed and injured. The London bombings occurred in July this year, when one Australian was killed and many Australians were injured. Many deaths and injuries occurred as a result of the Madrid bombings and, of course, many Australians were killed in the September 11 terrorist attacks. Indeed, we have had terrorism on our shores in Sydney, as evidenced in incidents in the central business district and an attack on the Hakoah Club in 1984. Thankfully, no-one was killed in those incidents.

The point we make continually about terrorism is that what we are seeing at present is an attack on all Western democracies. In the past our lack of response to terrorism was best summed up by Henry Kissinger shortly after the September 11 attacks in 2001 when he said, "For ten years we have been living in a fool's paradise." To some extent, there remain people in Australia who still do not understand the full implications of being prepared for terrorism, preventing it, and then responding to any incident that takes place.

Over the years we have discussed the vulnerability of infrastructure. A number of measures are needed to detect any suspect activity in relation to the protection of infrastructure. It must also be acknowledged that terrorist attacks have largely moved beyond simply attacks on infrastructure: terrorists are looking to achieve a maximum number of casualties in their attacks. It is absolutely critical in any State government's response to terrorism that Federal and State authorities work hand in hand to ensure that their intelligence services work closely together, and that if there is an incident State governments are at the forefront of the emergency response with regard to both police and hospitals.

As I have said on a number of occasions in this House, we need to ensure that each of those services has appropriate resources. In a speech in this House in October 2001, shortly after the September 11 attacks, I made the point that we should look at what is being done in Parliament, in government agencies and in the community to prevent terrorism and to deal with the impact of any terrorist attack. At that time I seriously suggested, and I reiterate today, that it is probably about time we devoted at least one day to discussing counter-terrorism measures, given that over the last decade the Parliament has held summits on tax and drugs. I have suggested publicly and privately to the Government that not all wisdom in dealing with terrorism and counter-terrorism resides on the Government benches, and that it would be worthwhile to engage every member of Parliament in discussing counter-terrorism measures.

One of the points I made four years ago was that the budget was under pressure and needed review to ensure that substantial contingencies were built in from a counter-terrorism perspective. Today that is just as important, if not more important, than it was four years ago. The budget is now under even more pressure, and we need to make sure that police and intelligence-gathering agencies, as well as hospitals, have built-in contingencies. We need to ensure that our hospital budgets are not screwed down to the last bandaid. Currently there is a budget crisis in New South Wales, and it is important that the budget be reviewed with counter-terrorism in mind. I have continually suggested to the Government that counter-terrorism should be addressed in a bipartisan fashion. I know it is sometimes difficult to deal with such matters in that way, but this is a new challenge for the people of New South Wales and for the Parliament.

One of the recommendations I made in 2001 regarding the budget—and it is equally valid today—is that the Public Accounts Committee should be charged with reviewing the implications on the budget of the funding of counter-terrorism measures so that the necessary resources can be put where they are especially needed. I also suggested—and, again, it is still valid today—that it would be appropriate to establish a standing committee to deal with counter-terrorism so that members of Parliament are involved in assessing both the Government's strategies and the resources necessary to fund each of the government services that would be required to respond to a terrorist attack.

Given the threats around the world, particularly to Western democracies, all of us understand that it may well be inevitable that Australia will be the subject of a terrorist incident—and I suggest it would probably be in New South Wales. For that reason it is appropriate to call on the Government today to respond to those suggestions—as I called on it to do four years ago—to see what the Parliament can do in a united and bipartisan fashion to increase our preparedness to prevent terrorism and to respond to any attack that may occur. I again put on the record our gratitude to the police, the military and the intelligence services for the efforts they make in fighting terrorism, both here and around the world. Our gratitude goes to all the Federal and State police officers who again put their lives on the line during this morning's operation to serve the community.

**Mr TONY STEWART** (Bankstown—Parliamentary Secretary) [4.31 p.m.]: The New South Wales Government has made counter-terrorism a priority in the wake of tragedies such as 9/11 and the London and

Bali bombings and has significantly boosted the State's counter-terrorism capacity. That has not been a one-off response. It is part of a continuing program to build our police tactical capacity, to test our command systems in realistic exercises, and to examine our legal system to ensure we have the necessary powers in place to deal with terrorism. The latest initiatives to keep New South Wales at the forefront of preparedness for a terrorist attack include new covert investigative powers. The Terrorism Legislation Amendment (Warrants) Act 2005 creates a new State offence of being a member of a terrorist organisation and establishes a specialised covert search warrants scheme for use in investigating this new offence, as well as in preventing or responding to likely terrorist acts.

The covert warrants scheme will allow both the New South Wales Police Counter-Terrorism Coordination Command and New South Wales Crime Commission to enter and search premises without having to make that known to the occupier. A Supreme Court judge will determine when the occupier is to be notified, but the Act permits notification to be delayed for years, if need be. The Act also permits the obtaining of listening device warrants that permit the operation of listening devices for up to 90 days, the current maximum being 21 days. These new powers will improve the capacity of police to track the work of terrorist operatives. Evidence suggests terrorist suspects take time to settle in a new country and build up connections, and they wait for instructions or opportunities.

These new laws will give police the power to observe terrorist suspects covertly over long periods and develop vital intelligence about their networks. We saw how effective these covert operations can be this morning throughout Sydney and Melbourne. A number of checks and balances are in place to ensure appropriate use of covert search warrants and other measures in the legislation. Covert search warrants will be available only in relation to Commonwealth terrorist offences, they can be issued only by a Supreme Court judge and the Police Integrity Commission will be responsible for investigating complaints in relation to their use.

These new powers complement those already provided through the enactment of the Terrorism (Police Powers) Act 2002. These powers support police in responding to an imminent terrorist threat and in apprehending terrorists after an attack. The Act gives police the power to cordon off areas, facilitate search powers and control movement into and out of the target area. This morning was the first time the extraordinary terrorism powers in the Act have been used. Thankfully, as a result of these enforcements, the police forces of this country may have prevented a catastrophic act of terrorism in this country, in either Melbourne or Sydney. There was no way that the operations today both here in New South Wales and in Victoria could have been achieved if there had been any degree of fragmentation between the law enforcement agencies. It is clear from the results that the fragmentation in co-ordination between agencies that has occurred elsewhere in the world did not occur in Australia this morning.

Clearly, we observed and noted levels of fragmentation that have occurred in other jurisdictions and have learnt from those mistakes. What happened in the aftermath of September 11 was an example of co-ordinating agencies not talking to each other. The ongoing message for agencies today in dealing with terrorism throughout the world, and particularly in Australia, is that they need to talk to each other. The Act ensures that will happen, because it has the support of the Federal Government, through the Prime Minister, and, importantly, the Premiers of each State. I am pleased to report that the New South Wales Premier keenly ensured that the final legislative framework was along the lines that the Premiers discussed in their peak conference with the Prime Minister earlier this year. The legislation ensures that the necessary checks and balances are in place and that there is an opportunity for judicial input into the way the legislation is dealt with. A collaborative effort has resulted from a focussed investigation.

New laws have also been introduced targeting both terrorists and criminal behaviour that could be linked to terrorism. Those laws include the creation of a cyber sabotage offence, new explosive offences, and tougher penalties. The Premier's counter-terrorism task force is continuing to review and monitor our laws to ensure they are relevant in the context of the modern terrorist. The New South Wales Police Counter-terrorism Coordination Command was created in the wake of the Bali bombing to co-ordinate the expertise of police in investigating and preventing terrorism. This highly specialised command has a staff of almost 500, including a permanent presence at Sydney International Airport, to ensure the rapid flow of intelligence. The Government boosted the NSW Police budget by \$2.1 million per annum to fund the Counter-terrorism Coordination Command. In addition, the Government has spent more than \$14 million on new equipment for use in the event of a terrorist attack. That equipment includes a new helicopter for counter-terrorist response, a bomb containment vessel and three bomb disposal robots.

The Counter-terrorism Coordination Command's counter-terrorist skills are regularly tested in ongoing exercises. Those exercises have included Explorer and Mercury, and more are planned. They provide NSW

Police with valuable training in responding to a terrorist incident. The exercises will be a key feature of police training in the lead-up to the hosting by Sydney of the Asia Pacific Economic Co-operation [APEC] conference in 2007. In one sense, the job of being prepared to deal with terrorism will never be complete. The nature of terrorism changes rapidly, and that is why we must remain ever-vigilant against the threat. The New South Wales Government is committed to maintaining counter-terrorism measures as a priority.

In the wake of the terror attacks in the United States in 2001, the United States Congress initiated the 9/11 Commission Investigation. The most important finding of that commission was that intelligence sharing and working co-operatively are paramount in combating terrorism. As I mentioned, such co-operation is of extreme importance between the agencies, which include police in this State and other States and, of course, the Australian Federal Police, the Australian Security Intelligence Organisation and other intelligence services. Clearly, what occurred today demonstrates we are working well in this co-operative framework, and getting results. As I said, the New South Wales Government is committed to working co-operatively with the Commonwealth and other State Governments to ensure the safety of our communities.

This issue is beyond politics, and the Government will treat it that way. I am pleased that Kim Beazley, the Federal leader of the Labor Party, has taken the correct approach and stated publicly the need to co-operate with Federal and State government initiatives to deal with this dire threat. On behalf of the people of New South Wales, the Premier and the Minister, I thank the New South Wales police, their Victorian colleagues, the Australian Federal Police and security agencies for their great work in using their intelligence in such a fruitful and co-operative framework.

Today's events leave us in no doubt that we all need to be vigilant in our efforts against the threat of terrorism. We need to be alert but not alarmed. We need to ensure that we have the necessary tools to deal with the threat, and New South Wales has done this by ensuring that our police work with other agencies. This has the strong support of the Premier. The threat is real and dangerous. We will continue to work co-operatively with our Federal counterparts and other relevant agencies to minimise the risk of terrorism.

**Mr ANTHONY ROBERTS** (Lane Cove) [4.41 p.m.]: I pay tribute to the leadership of the Federal Government, particularly, the measured and calm leadership of the Prime Minister, John Howard, the Attorney-General, Philip Ruddock, the Australian Federal Police led by Mick Keelty, and ASIO led by Paul O'Sullivan. I also congratulate NSW Police, led by Ken Moroney, and I acknowledge Lieutenant Colonel Bill Pickering from the Department of Foreign Affairs for his assistance in preparing this material today.

Transnational terrorism confronts us with a new kind of foe. It is diverse, complex, adaptable and continually evolving. It is uncompromising and global in reach, and its operation is highly networked. Its approach is asymmetric, using unconventional and unexpected means to wreak maximum damage. It is of a scale that was previously unknown. Terrorism is a form of asymmetric warfare: an approach that uses non-traditional methods to counter an opponent's conventional military superiority. It uses unconventional means to attack unexpected targets. It turns perceived strengths into weaknesses and exploits vulnerabilities to deadly effect. It may also involve the capability to attack an adversary with means for which they are unprepared or incapable of responding in kind.

The new transnational terrorists have adopted a strategy that responds to the unprecedented dominance of the United States of America and other highly developed Western countries in all aspects of conventional military power. The terrorists therefore seek means other than conventional warfare with which to confront the West. Terrorism pits clandestine methods against open societies. It uses small teams whose operations are cheap, but demands a response that is enormous in scale and expensive in resources. It exploits the foundations of civil society, such as principles of human rights, efforts to avoid civilian casualties, and adherence to the rule of law—including the laws of armed conflict.

The terrorists' asymmetric approach demands a sustained, comprehensive and co-ordinated response at national and international levels, incorporating a wide range of Australia's assets. It is a tribute to our system of government and the professionalism of our security and law enforcement services that very close professional harmony and co-operation have resulted in the arrest of suspected terrorists before an act of terror could be perpetrated. As the Prime Minister said, this has been a splendid example of agencies at a Commonwealth and State level working together for a common purpose, and that purpose is the protection of the people of Australia.

Once again, I congratulate the Prime Minister and the Premiers of each State on their prompt support for the change that was made to the law last week. I do not doubt that without their prompt support and co-

operation it may not have been possible to effect that change in the swift and effective way that transpired. In all its endeavours to deter terrorism the State Government has had the support of the Leader of the Opposition and the State Coalition, and it will continue to have that support in its attempts to prevent acts of terrorism occurring on Australian soil and against Australian people.

Our wonderful country, with its fantastic freedom and democratic processes, has been viewed by some with malicious and envious eyes. The truth is that we have potentially been the target of militant and fundamentalist groups since our involvement in the liberation of East Timor. It is an absurdity to think that we would be immune from a possible terrorist attack. Every country, including Australia, is a potential terrorist target and, like many countries around the world, Australia has been on a heightened security alert since 11 September 2001. The horrific events of Bali have clearly shown that Australia, along with a great many countries, is already a target for international terrorism. Terrorists such as Al Qaeda hate the values and the way of life of free peoples in societies such as Australia, and these people would not stop targeting us even if we had a different position on Iraq, for example.

It is likely that the people of New South Wales and this country will be living with increased security for the foreseeable future. Terrorism, unfortunately, has changed the world and security may never return to the relaxed levels most of us grew up with. What is being done to protect us? We have the national security and law enforcement agencies, including ASIO, the Australian Federal Police, the defence forces, as well as New South Wales security forces and the Police Force, which have been significantly upgraded. A national counter-terrorism plan is in place, detailing how Australian, State and Territory governments and national security agencies work together to detect, prevent and respond to terrorism, as we saw only this morning. At a Federal level, about \$1.4 billion is being spent to strengthen Australia's counter-terrorist capability.

I want to make it quite clear that there is no reason for us to change our normal routine or domestic holiday plans other than to allow additional time for increased security checking. It is important that we do not allow the threat of terrorism to change the way of life that we value so highly. We live in a magnificent country. It is a country that people died for and we are very proud of it. I commend this motion to the House and I once again congratulate the Federal and State governments and the police forces on their work this morning.

**Ms KRISTINA KENEALLY** (Heffron) [4.46 p.m.]: I support the motion. The Premier recently attended the Council of Australian Governments [COAG] meeting in Canberra with the Prime Minister and other State and Territory leaders. The meeting was productive and co-operative, and resulted in in-principle support for a range of new legislation. Specifically, COAG agreed that the Commonwealth will amend its Criminal Code in order to better deter and prevent potential acts of terrorism. The agreed amendments include providing for control orders; preventative detention for up to 48 hours to restrict the movement of those who pose a terrorist risk to the community; and the proscribing of organisations that advocate terrorism.

States and Territories will enact laws to effect measures which, because of constitutional constraints, the Commonwealth cannot do. These measures are: preventative detention for up to 14 days; and stop, question and search powers in areas such as transport hubs and places of mass gatherings. COAG noted that most States and Territories already had or had announced stop, question and search powers. COAG will review the new laws after five years and they will sunset after 10 years.

Intense negotiations have been conducted between State and Commonwealth officials over recent weeks on these new laws. The New South Wales Government has now finalised negotiations with the Commonwealth Government on the counter-terrorism laws. This morning's events demonstrate why Australia needs tough laws in the fight against terror. We need strong laws with strong safeguards. The New South Wales Government has reached agreement with the Commonwealth on additional safeguards that will allow strengthened review of preventative detention orders. Merit review in the first 48 hours of a preventative detention order is an important safeguard that the New South Wales Premier has insisted on. The Commonwealth is prepared to act to preserve the role of the judiciary in this process.

During the negotiations we secured safeguards from the Commonwealth on a number of issues, including judicial review of control orders, judicial merit review of preventative detention, and shoot-to-kill provisions. In relation to control orders, the Federal Attorney-General must consent to the Australian Federal Police making an application to a court for the issue of a control order. The court must be satisfied, on the balance of probabilities, that issuing the control order would substantially assist in preventing a terrorist act, or that a person has trained with a listed terrorist organisation. The court must also be satisfied, on the balance of probabilities, that each of the controls in the order is reasonably necessary, and reasonably appropriate and

adapted for the purpose of protecting the public from a terrorist act. Normal judicial review processes will apply to decisions to issue or revoke control orders.

In relation to preventative detention, detention for any period beyond 24 hours will depend on a judicial officer being satisfied that there are reasonable grounds to believe that making the order would substantially assist in preventing a terrorist attack or, where a terrorist attack has occurred, in preserving evidence. A person detained will not be able to be questioned, except to confirm their identity. Any preventative detention order, as well as the treatment of the person detained, will be subject to judicial review, and a person detained will be given an opportunity to contact a lawyer. Consistent with Australia's international human rights obligations, any person being preventatively detained must be treated humanely and with respect for his or her human dignity and must not be subjected to cruel, inhuman or degrading treatment. Failure to treat a detained person in accordance with these obligations will be an offence punishable by two years imprisonment.

The new powers will also be subject to parliamentary oversight. The Federal Attorney-General will have to report to Parliament each year on the operation of both control orders and preventative detention. The package represents an appropriate balance between the need for strong counter-terrorism laws while at the same time preserving important individual liberties that those of us in democratic societies value, including the right to legal representation and judicial review.

**Motion agreed to.**

## **COUNTRY RAIL SERVICES**

### **Matter of Public Importance**

**Mr IAN ARMSTRONG** (Lachlan) [4.51 p.m.]: I ask the House to note as a matter of public importance country rail services in New South Wales. When I framed the motion this morning I wanted to draw attention to the state of rail lines, the future of rail lines and their management in New South Wales. However, during the day I learnt that the matter is far more urgent than I thought it was this morning, in many respects because of the extraordinary rainfall we have had across much of New South Wales—in the north west, the central west, the south west and the Riverina—in the past 24 hours, and the flooding that is currently occurring. As the honourable member for Orange said this afternoon, Eugowra is about to experience its second highest flood in history.

The roads and rail lines of inland New South Wales have been inundated with unprecedented rainfall, which has not occurred for many, many years. We are just coming through—hopefully, we are through it—the longest and toughest drought statistically in more than 100 years. That means that many places have now gone for up to five years without their normal seasonal rainfall. Most areas of New South Wales have certainly suffered for three years. The ground has contracted enormously; thus we hear reports in many towns, and indeed suburbs of Sydney, of cracking in brick buildings which has not been seen before. As I said in the House a couple of weeks ago, cracking is also occurring in many roads across New South Wales. The roads crack because of the dryness; when it rains the water runs into the cracks and gets under the bitumen. Then the bitumen starts to lift in pieces ranging from about the signs of one's hand up to pieces perhaps a square metre in size. That is happening across the State but particularly on the road from Young to Temora. The edges are breaking off the roads.

I turn now to the problem regarding rail lines. We have had a number of inquiries into the future of rail branch lines used for carting wheat in New South Wales. Indeed, a couple of years ago the Government set up the Grain Infrastructure Advisory Committee [GIAC], which involved a number of major players in the industry. The committee had representation from New South Wales Farmers, the New South Wales Grain Growers Association, the Australian Wheat Board, GrainCorp Ltd, Pacific National, the Local Government Association of New South Wales and the Shires Association of New South Wales, the New South Wales Labor Council, the Roads and Traffic Authority, the Rail Infrastructure Corporation and the Office of the Co-ordinator General of Rail.

The committee met and subsequently released a report, which in essence recommended that four branch lines be suspended, another four be considered into the future and another four be considered for closure. It simply means that the bulk of the freight-carrying capacity of the New South Wales rail system for wheat has been in some form of hiatus since then. It was estimated that it would cost about \$170 million to bring these rail lines up to a reasonable standard to cart an average crop of about 18 million to 22 million tonnes to its ultimate destination, the port.



The Government has flirted with this for some time but it has not made a commitment, except it closed the Rankin Springs to Barmedman line. It has announced that it will close the line from West Wyalong to Burcher, and it is still reviewing a number of other lines. The Government will not say whether it will upgrade the line from Ungarie to Lake Cargelligo, bearing in mind that this year Lake Cargelligo could produce a crop of 170,000 or 190,000 tonnes on what is known as an 18-pound line. It should be a 23-pound line so the trucks can go straight through to port. But on Monday of this week, 7 November, the Government made an announcement about trains in New South Wales. It was very exciting! We raced to our letterboxes to get the announcement. The press release stated that the Labor Government would undertake a considerable upgrade of rail in New South Wales by painting the railway stations. The Government will provide \$1.7 million to paint the railway stations, to pretty them up a bit.

**Mr Daryl Maguire:** And then they lock them up so you can't get into them.

**Mr IAN ARMSTRONG:** That is probably quite reasonable because there will not be any trains going past the stations; there will not be much ash or dust and so forth. So painting the stations in pretty colours will keep out the white ants. The railway station at Young is one of the most attractive railway stations in inland New South Wales. It is a beautiful old station, circa 1910 or 1915, and white ants are merrily eating all the timber out of it. Can I persuade Government Ministers to do something about it? Can I persuade the Government to lease the railway station to the local council—with some assistance to control the white ants—to convert it into a tourist centre? No! Instead of undertaking a practical solution with a co-operative Young Shire Council, the Government's answer is to leave the railway station as it is and let the white ants live in it.

So the New South Wales Farmers Association—the premier farmers organisation in this State—rightly said on 7 November that they called on the Minister for Transport to look at the real issues facing country rail lines, rather than glossing over them with a coat of paint. GIAC member Angus McNeil said that the announcement of the Country Station Renovation Program worth \$1.7 million is insulting to rural communities that have had their rail lines closed over the past few months. I could go through a lot of the detail in the report brought down by the GIAC some months ago but it has been done before. Having had some experience with these matters, I simply say this. Unless the Government quickly realises that it is facing an enormous disaster in terms of inland transport, it has real problems.

Unless grain is kept on rail this year, unless the rail lines are kept open and brought up to a standard that enables the grain to be carted quickly, the grain will go on roads. I assure the Minister that even if an extra 30 per cent of the New South Wales wheat crop for 2005 is put on roads in western New South Wales, the Riverina, the central west, the south west or the lower north west, we will see one of the most massive break-ups of roads, and in many cases streets—in towns such as Forbes and Parkes the silos require street access—and the cost of remediation of the roads will exceed by far the \$25 million to \$30 million necessary to bring some of the lines up to an ordinary standard to cart this crop. The Minister is in an invidious situation. It is too little too late, and now he has a double-whammy. If he does not fix the lines I sincerely believe that he will be bitten not only by the wheat farmers and the wheat industry, which is disfranchised in terms of getting its product to port, but also by motorists and motoring organisations, which are saying that we have a major crisis on our hands.

Today I raise this matter of public importance as an appeal to the Government to recognise that those branch railway lines should have had the \$160 million spent on them as promised to bring them up to standard. That has not happened. We are now probably within a week or two—depending on how much more rain there is in the next few days—of this year's harvest getting under way. We are now within two weeks of seeing B-double trucks, grain trucks, rumbling into virtually every country railway station across inland New South Wales. It is surprising how effectively the crop will come in. We are now on the cusp of hearing every country radio station, every country member, including Country Labor members, saying we have a major disaster on our hands.

I ask the Premier and the Deputy Premier to act now. They do not have a choice. They will lose both the rail lines—which they have turned their backs on for the carting of grain—and the roads unless they act in the next 10 days. They must recognise this is a major calamity of economic significance and of significance to the export industry of this country. Wheat is one of our major export industries. Australia is not a big producer of wheat but we are one of its major exporters. Many European countries, such as Italy, France and England, produce more wheat than we do, but they consume it domestically. We produce around 30 million tonnes a year, and that is basically an export industry.

The Deputy Premier, and Minister for Transport should revisit tonight the GIAC report on the factors involving the carting of wheat and the neglect of the railway lines. He should tell his department that we have a

serious problem on our hands and it should advise him by tomorrow afternoon how to stop the roads collapsing as well as how to get the wheat to the ports to satisfy our export orders. The Government is in danger of losing export orders, the roads, the rail system and the confidence of those who voted for its Country Labor members.

**Mr JOHN WATKINS** (Ryde—Deputy Premier, Minister for Transport, and Minister for State Development) [5.01 p.m.]: I welcome the opportunity to talk about the Government's commitment to providing safe and reliable transport services for the people of New South Wales, wherever they live—rural or city areas. I know how important local transport services are to those living in remote areas of the State. I have travelled to many of those areas and spoken to many people who depend on passenger transport and goods transport. The day-to-day activities of country people often depend on rail services.

We have embarked on an unprecedented investment in the State's rail network, both city and country. A lot of that investment has been in the city but there has been significant investment in country New South Wales to enable the passage of interstate and intrastate passengers and freight. In July this year I announced that the Government would spend an additional \$69 million over the next three years on upgrades and maintenance of western New South Wales restricted rail lines. These restricted rail lines, the grain lines referred to by the honourable member for Lachlan, were laid down many years ago at much lower engineering standards than the normal country rail network. In some places sleepers and rail were laid virtually straight onto the bare earth, without the normal ballast one gets on a more highly engineered rail line.

For many years those lines worked. They have a different type of locomotive and carriage. They work at a much slower speed and a much lower tonnage than those on the normal country rail network. That is the way it has always been. Quite often these very long trains would come off the track at a certain point. They would be fixed and put back on the track. The point at which there had been a failure would be fixed and on the train would go. The lines were fixed at fail. That is how they were maintained because they were built to a much lower standard.

Over recent years things have changed. The Independent Transport Safety and Reliability Regulator—which was established following the Waterfall inquiry—said appropriately that no matter whether the rail line was a passenger, goods or grain line, it had to be maintained at a particular standard and could not be allowed to fall below that standard. That placed real pressure on these restricted lines or grain lines because they were never built to that higher standard. Those lines could no longer be operated as a fix-at-fail process. A much higher standard of engineering had to apply to these remote grain lines.

That is why in July this year I announced that the Government would spend an additional \$69 million over the next three years—a large amount of money—on these restricted grain lines. The only thing they do is haul grain, but an extra \$69 million will be spent on them over the next three years. The grain lines funding package represents an additional \$15 million a year for three years over and above the \$8 million already committed. That comes on top of the \$21 million announced in April this year. That latest boost in funding for those restricted lines—this is not for the normal country rail network; it is only for the restricted lines—allows for the replacement of 212,000 sleepers, the upgrade or replacement of 72 rail bridges and the replacement of ballast along 716 kilometres of track. That work will ensure that the lines are in good order for this season's harvest and beyond.

However, a difficult choice had to be made. Some of those lines were not up to standard and four had gone into suspension. They have not been closed absolutely, but they are suspended from this season on. We received special representation from farmers along the Gwabegar-Binnaway line. Extra grain had been stored in silos along the line from last year's harvest, so despite the fact that the line was suspended farmers were still delivering grain to those silos. That grain had to be moved, so we spent some extra money to bring the Gwabegar-Binnaway line up to standard, enabling us to shift last season's grain out of those silos. That line went into suspension at the end of October. Money is being spent on 11 lines to ensure that they can bring the crop down over the next three years, and four lines are in suspension.

Work on those 11 lines will ensure that they are in good order for this season's harvest. It is important to note that the movement of grain from larger storage facilities to port is dominated by rail haulage. The Government remains committed to this being the preferred means of transport for this section of the supply chain but in the case of the initial movement of grain from the farm gate to the early consolidation points of silos, economic reforms in the grain industry and the rail freight sector mean that this part of the supply chain is much more heavily contested between road and rail operators. Road haulage has increased its share of the market throughout New South Wales.

I am advised that the current situation is being exacerbated by the investment in super silos by private participants in the grain industry. The Government does not control the grain industry. The Australian Wheat Board and GrainCorp are outside government controls and they compete with each other. They have made certain investment decisions that have impacted on the nature and quality of the grain industry in New South Wales. These large grain consolidation facilities, these super silos, have been constructed off the restricted grain line network with the intention of facilitating the movement of grain by truck from the farm gate to the point of storage.

The decision to suspend services on some restricted lines was made very carefully after comparing forecast combined peak tonnages, the cost of transporting grain from these areas by rail and road and the high cost of maintaining those lines. The extra funding announced will secure those lines while the Government continues to work towards a long-term lease arrangement for all 15 restricted lines. I acknowledge that the decision to suspend those four lines places added pressure on the councils that are responsible for the roads in those areas. I have made it clear in discussions with several councils and farmers groups that if they believe their roads are adversely affected they should make representations to the Government and we will give serious consideration to their requests. I have given that message to the councils and farmers groups that have approached me. This week I was disturbed to learn that the Grain Growers Association did not seem to be aware of various matters.

Accordingly, following a critical press release last week by the Grain Growers Association, on behalf of its members, I have arranged to meet with them in the third week of November to see whether any further measures can be taken. I will appreciate their concerns. I will listen to them and see whether we can assist with any issues. In consultation with the Opposition, I am committed to finding the best solution for the grain industry. I do not apologise for the recent expenditure of more than \$1 million on country rail stations. Country people use those stations and it is appropriate that we spend money on them. However, that does not mean that we will not attend to their other needs.

**Mr DARYL MAGUIRE** (Wagga Wagga) [5.11 p.m.]: It is refreshing to see the Minister for Transport in the House to contribute to this debate. These days most Ministers send their Parliamentary Secretaries. I congratulate the honourable member for Lachlan on raising this important issue. The Minister for Transport spoke about CountryLink, the upgrade of stations and the very important issue of grain rail lines. First, I refer to CountryLink. Whilst I acknowledge that the Minister will spend more than \$1 million on country railway stations, I indicate to him that during private members' statements I will refer to a problem encountered by one of my constituents at a railway station, which I assume will be upgraded. Although the station will look nice freshly painted, it is locked. Travellers cannot access the building and do not have security at this particular railway station. I will expand on that issue during the appropriate debate.

I have on the notice paper a motion that is due to be debated this week—if the Leader of the House does not suspend standing orders to cancel private members' day. My motion refers to The Rock to Boree Creek branch line. Over the years this railway line, which is 57 kilometres long, has had haulage of 230,000 tonnes. The Grain Infrastructure Advisory Committee [GIAC] study referred to an estimated 88,000 tonnes being moved on the railway line. In fact, that figure was underestimated by more than 28 per cent, or 34,000 tonnes. For the \$11.5 million invested on this 57 kilometres of line, the old railway lines the Minister referred to could be upgraded. Steel railway lines that are capable of lifting the axle capacity of the trains from about 19 tonnes to 23 tonnes are being taken off the main railway line from Sydney to Melbourne. Importantly, the ballast and sleepers need replacing. Already we are seeing the impact that these major silos are having on the road system.

I was pleased to hear the suggestion that councils who can demonstrate that their roads have been adversely impacted upon can put forward a proposal. I would expect their proposals would be funded immediately, because the roads are being affected. In particular, Lockhart Shire Council can give examples of the impact on its budget. The \$11.5 million will ensure that The Rock to Boree Creek line is viable for another 30 years. The grain estimates, which the committee has worked on for the past two years, will increase from more than 216,000 tonnes this year and up to 300,000 tonnes and more. The \$11.5 million will ensure that second-hand lines currently being used on the Sydney to Melbourne run will be used and that there is sufficient ballast and sleepers. It will allow the trains to exceed the 20 kilometres per hour speed limit that is currently placed on them.

To move a tonne of grain from The Rock to Boree Creek line to Melbourne port costs \$7 by truck. It costs \$1 per tonne by train. I would assume that a Government hell-bent on reducing greenhouse gas emissions would embrace the use of rail, particularly in relation to such large quantities. The statistics used by GIAC in its

study were taken in drought years. As the honourable member for Lachlan explained, we have a bumper harvest, which will mean ultimately more trucks on the road.

**Pursuant to sessional orders business interrupted.**

## **PRIVATE MEMBERS' STATEMENTS**

### **JOINT STANDING COMMITTEE UPON ROAD SAFETY STUDY TOUR**

**Mr PAUL GIBSON** (Blacktown) [5.15 p.m.]: I speak about an issue that has caused a great deal of concern in my electorate and in many other electorates. It relates to reports by the *Daily Telegraph* during and after a recent study tour to South Africa and Russia that was undertaken by members of the Staysafe committee. We returned from the tour last night. The *Daily Telegraph* could not even get that right—it reported that we returned today. I say from the outset that the reports are the greatest abuse of the written word. The *Daily Telegraph* has sunk to a new low and I call for the sacking of the three journalists involved: David Fisher, Fiona Hudson and Bruce McDougall. I do so not just because of what was written but the way it was written. The journalists reported straight-out lies to the readers of New South Wales in a sensational manner to try to get at members of Parliament. Their actions should be exposed.

The various headlines read, "Busted in Britain", "Rort back and sides", "Caught on a \$55,000 tour" and "MPs on a Russian road to nowhere". Picture this: We walked out of a pub at 8 o'clock at night in London and saw a figure in front of us. She had a beanie pulled down over her head, an overcoat right up to her ears and a scarf wrapped around her head. The only things peeping out were her little eyes. She looked like the proverbial and as soon as we saw her we said, "You're from the *Daily Telegraph*". Guess what? We were right! She asked us what we were doing. I told her the protocol of the tour and that we report to the Parliament. The *Daily Telegraph* story was a beat-up. Seven days of our 14-day tour were spent either in an aeroplane or waiting to board one. As to the "rort", from 2½ hours of photographs of the 14-day tour the *Daily Telegraph* came up with me having a haircut. That day we had been involved in six hours of meetings and discussions at Westminster. The *Daily Telegraph* reported that I was laughing while I was having my hair cut. Did it expect me to lie on the floor and cry? I walked outside and it again caught me red-handed, 10 minutes from where we were staying.

I had four T-shirts or, as the article stated, four polo shirts. I had put the dirty T-shirts into the laundry to be washed and then had the temerity to pick them up from the laundry! Afterwards the honourable member for Wagga Wagga and I went down to the first hotel we could find to buy dinner. We were there for about an hour and ate sausages and mushy peas. It was reported that we had been to a flashy restaurant when, in fact, we had been to a hotel. That was the whole exposure—picking up my washing and having a haircut, all on a day during which we had six hours of meetings. The *Daily Telegraph*, that standout newspaper, reported at greater length on Saturday that the members of Parliament were now in St Petersburg on a taxpayer-funded tour. They even got the cartoonist and author Warren Brown involved. The article stated:

ST PETERSBURG: One of the world's most beautiful cities—the splendour of the Hermitage, the canals and the gondolas, reminiscent of Venice ...

The article continued:

It is heartening to see Parliamentary Staysafe Committee crusaders, the Member for Blacktown, Paul Gibson, and the Member for Wagga Wagga, Daryl Maguire, lugging their swags business class to St Petersburg ...

Well, it was fine to suggest in a two-page article on Saturday and in today's edition of the newspaper that we were swanning about at taxpayers' expense in St Petersburg—except that we did not go to St Petersburg! The *Daily Telegraph* has stuffed up again, and stuffed up badly. That newspaper also referred to "a spokesperson for FIA". The Director of the FIA Foundation for the Automobile Society has revealed that the person spoken to was a junior telephonist. Once again the *Daily Telegraph* got it wrong. True journalists would turn over in their graves if they knew what these people were doing. I have taken legal action against the *Daily Telegraph* and that newspaper will have an opportunity in court to prove the truth of what was contained in the articles it published.

### **COOTAMUNDRA RAILWAY STATION WAITING ROOM**

**Mr DARYL MAGUIRE** (Wagga Wagga) [5.20 p.m.]: In the previous debate I referred to rail safety. In particular, I referred the Minister for Transport to the problem of accessing railway stations at night. I have received correspondence from a constituent, which I shall read onto the record. My constituent stated:

Last week I bought a rail ticket at Wagga Wagga Railway Station Ticket Office to go to Cootamundra on the XPT Train on Wednesday, 19 October, 2005 at 00.31 am arriving at 1.46 am at Cootamundra Station.

This lady has been travelling to Cootamundra each week to attend TAFE. My constituent caught the XPT on the Wednesday in question and it arrived at Cootamundra railway station at 2.00 a.m. She tried to get the door of the carriage to open but the green light did not come on and the train began to move off. My constituent was close to the buffet car and she yelled out several times that she was unable to get off the train. Finally, a lady conductor stopped the train just before it reached the end of the platform. It was then necessary for a male conductor with a key to come and open the door. I note that the honourable member for Lachlan is present in the Chamber to hear this private member's statement. My constituent was the only person to alight at Cootamundra station. She attempted to go into the station waiting room—which she normally does, because she has been travelling to Cootamundra for quite some time to attend her TAFE courses—but walked into the closed and locked door, injuring herself in the process.

A sign on the door stated that the room was closed at night because of vandalism. My constituent stated that at no time had she seen any evidence of vandalism at that station. Normally my constituent would sit in the secure, warm building at the railway station and then attend her TAFE course and return home on the 1.39 p.m. train from Cootamundra. After she alighted from the train she found she needed to go to the toilet but the waiting room was locked. My constituent, an older lady, was then faced with the indignity of having to relieve herself behind some bushes. Thereafter she walked to the Cootamundra police station to seek help and shelter, arriving there at 2.20 a.m. only to find the police station closed. She pressed the phone outside the front door of the station and a male voice answered. She asked where he was speaking from and he replied, "Wagga Wagga police station." My constituent asked where the Cootamundra police were, only to be told that he had just sent them home and no-one was there. The telephone line then went dead.

My constituent walked to a bank of four telephone booths at the Cootamundra post office to ring the 000 emergency line. In the first of these she entered all the buttons on the telephone were covered with blue dye and she was unable to read the numbers. The entire booth was covered in slogans and graffiti. In one of the three other booths she managed to dial 000. A male person answered and she related her predicament, that the police station was closed and unable to offer her assistance. He suggested that she walk to Cootamundra hospital, a mile and a half on the old scale from where she was. She would have had to walk past open parkland and she was reluctant to risk her life walking that distance at that hour of the morning. She asked the person to whom she was speaking to send an ambulance as she was not feeling well. He replied that they had all gone home and there was no help available.

My constituent had no option but to sit there, at 2.20 a.m. on a freezing cold morning. She writes that she was lucky to be wearing a couple of woollen cardigans because she believes she would otherwise have suffered from hypothermia. She would also like to point out that when she bought her rail ticket at the Wagga Wagga rail office she was not told that the waiting room at Cootamundra would be closed. As I said, my constituent, an older person, constantly uses the rail system. I would suggest to the Minister that this is but one example of a railway station waiting room being closed because of a lack of security.

I ask: What are travellers supposed to do in Cootamundra or anywhere else where these facilities are supposed to be available? People use this transport service; they depend on it. The Minister has announced an upgrade of facilities. It is all well and good to have pretty, painted railway stations but it is no good if people cannot use facilities such as toilets, and enjoy the warmth, protection and security that those buildings should offer. Perhaps the Minister should consider an initiative whereby those in possession of a current ticket would be able to swipe the ticket and gain access to waiting rooms to be safe and secure. I would appreciate a response from the Minister to a letter I am about to send on behalf of my constituent.

### GRANDPARENTS AS CARERS

**Mr JOHN BARTLETT** (Port Stephens) [5.25 p.m.]: I recently came across a statistic that indicated that 21 per cent of children under the age of 11 years are now under the care of their grandparents. I undertook some research in this regard and found that at the beginning of the nineteenth century 4 per cent of the Australian population was aged over 65 years. By 2004 that number had risen to 13 per cent, and it is projected to rise even further. According to the September 2004 family characteristics survey conducted by the Australian Bureau of Statistics, in 2003 there were 22,500 Australian families in respect of which grandparents were the guardians of their grandchildren. An estimated 31,100 children aged up to 17 years were then under the guardianship of their grandparents. Based on a 2005 report, it is estimated that 18,000 of those children were in formal statutory care.

I subsequently wrote to constituents in my electorate between the ages of 55 and 75 years and put to them that I had no right to know their business, and whether or not they were looking after their grandchildren, but if they would like to come to a meeting I would be happy to sit down with them and discuss some of the issues. During the past two months I have had meetings in Mayfield, Tomaree Peninsula, Tilligerry Peninsula, Medowie and Karuah. The interesting thing to come out of those meetings is that there is no real trend so far as the issues are concerned. There are clumps of issues, and an awful lot of issues. Grandparents are looking after their grandchildren for a variety of reasons: the death of their own child, illness on the part of their own child, postnatal depression, depression, irresponsibility, inability to cope and drug addiction are just some of the reasons these grandparents have ended up caring for their grandchildren. There was a whole mix of arrangements. There was a formal court order arrangement and there appeared to be many informal arrangements where the Department of Community Services may or may not have been involved.

I wish to address some of the issues discussed at the meetings. Some residents suggested the need for a playgroup for grandparents and their grandchildren. It was pointed out that in most playgroups grandparents were the oldest people in the room by far and there was not much interaction between the grandparents and the other people in the room. Also, the grandchild had the oldest person in the room looking after them. Port Stephens council is now looking at running playgroups for grandparents and their grandchildren. Other issues were also discussed. Terry of Warabrook said:

... it would be very much in the interests of many children who are not covered by private health insurance for legislation to be enacted to permit grandparents to include those grandchildren in their private health insurance without any significant increase in premiums as for the most part grandparents pay family rates.

At the meeting in Karuah we had interesting discussions about the changes to the welfare system that are to be implemented in June next year. In many cases, a single grandparent looks after the grandchildren. Grandparents who look after their grandchildren as part of a foster care arrangement—in other words, under a formal court order arrangement—receive a carer allowance of \$364 per fortnight. However, a grandparent who is classified as a sole parent receives a Federal Government allowance. Despite having looked after their grandchildren for the past 11 years, in order to keep their sole parent allowance running, next year they have to find a job for 15 hours a week. Many issues along these lines were discussed at the meetings. One of the things that the groups decided to do was to form an association at the next meeting whereby they can meet with other people in the same situation and become a pressure group to assist grandparents who look after their grandchildren.

### **BURRINJUCK ELECTORATE WIND FARMS**

**Ms KATRINA HODGKINSON** (Burrinjack) [5.30 p.m.]: I raise an issue that has significantly divided many small and otherwise close-knit communities in my electorate—the construction of wind farms. In the electorate of Burrinjack there is one operational wind farm located about 10 kilometres south of Crookwell. There are also proposals in varying stages of development at Taralga, Woodlawn, Eastern Capital, which is east of Lake George, Spring Hill, near Hall, the Cullerin Ranges, and for further expansion of the existing Crookwell wind farm. Of itself, wind energy is not economically viable; it can survive only because of government subsidies. The Federal Government has set a mandatory target of producing an additional 9,500 gigawatts of electricity from renewable sources by 2010. To do this, a number of financial incentives are offered and power retailers are obliged under Federal legislation to source a percentage of their power from renewable energy sources, including wind farms.

Wind farms cannot be ignored. The height of the towers and their large blades routinely reach 125 metres from the ground. Their visual presence is unavoidable, and many of my constituents contend that the sound they produce is distracting and nerve-wracking. Calls and letters from constituents who either condemn wind farms or praise their presence have flooded my office. I wish to directly inform the House of the comments of just some of my constituents. Mr Barry Oliver, a hang gliding pilot, has obvious concerns about the Spring Hill proposal because of the presence of large rotating turbine blades in an area frequented by recreational hang gliders. Mr Steve Green of Taralga, whose concerns I have raised, among others, both in writing and personally with the Minister for Energy and Utilities, is concerned about the effect the turbines will have on naturally vegetated land and property earmarked for revegetation by government-funded groups and individuals. Mr and Mrs Brett Edwards from Cullerin wrote:

Have we not suffered enough with the drought! We will not be forced to live, suffer lifestyle and huge land devaluations with these turbines for the convenience of Governments and overseas developers.

Ms Martha Grahame from Taralga wrote:

There are 40 properties within 2 kilometres of the proposed turbines, 15 of which have dwellings already.

Mr and Mrs Chris Edwards of Breadalbane wrote:

Since the bypass we have had the pleasure of a much quieter life, the spectacular scenery that we enjoy is hard to compare to anywhere else. Therefore you will be shocked to hear that our little community is proposed to have an industrial wind turbine farm.

Mr and Mrs Hannan, also from Breadalbane, wrote:

We do not want our landscape littered with ugly, noisy turbines that will damage our view, our health, our quality of life, the local wildlife and our rural community.

Not all of my constituents are opposed to wind farms. Mr Ken Ainsworth, a farmer, says:

We look forward to the turbines providing ongoing revenue that we will receive irrespective of other farm incomes.

Mr K. Connor of Taralga also supports wind farms. He wrote:

I have lived in this district all of my life, I am 66 years old. I trapped rabbits and worked in shearing sheds for 40 odd years. I have not long payed off my farm and the bonus to my years of toil would be some turbines on my land, a bonus one could say for hanging in there.

Mr H. Barlow from Crookwell is opposed to the further development of the Crookwell II wind farm because the existing wind farm has had several real negative impacts on adjoining properties. Paul and Glenda Miskelly of Taralga are concerned that some decision makers are acknowledging there are problems but are willing to sacrifice people's quality of life for the perceived benefits of wind farms to address greenhouse gas abatement. They further quote the Federal Minister for the Environment and Heritage, Senator Ian Campbell, who said:

The Howard Government supports appropriate wind farm developments as long as they are acceptable to local communities and pass all the environmental tests.

I spoke to Grahame Horwood, Harvey Grigor, Ron and Betty Lees, Elizabeth and John D'Ambrosio, Karen Wilson, and many other locals at the Murrumbateman field days who are all concerned about the Spring Hill proposal near Hall. Mr Hoorweg of Tarago, Mrs Williams of Pejar, Mr Nixon of Taralga, Mr E. Connor of Taralga, Mr Unwin of Goulburn, Mr and Mrs Seary of Roslyn, Mrs Campbell of Taralga and Mrs O'Keefe of Hall have all written to me opposing wind farms. These are just some of the many letters, emails, faxes and phone calls I have received on this matter.

The Upper Lachlan Council conducted a survey of the residents of Taralga about their attitudes to the Taralga wind farm proposal. Of the 500 survey forms distributed, the results showed that residents of Taralga opposed the wind farm by 102 responses to 52. Wind farms have a place in our society but, in my view, not when they cause bitter divisions in local communities or are located in a relatively densely settled rural environment—and certainly not when they negatively impact on lifestyle, the environment, land values and the wellbeing of residents. The recently approved Woodlawn wind farm is an example of a beneficial development. Some other proposals in the electorate of Burrinjuck, such as the Spring Hill proposal, have local residents up in arms. The Government must listen to, and consult with, the people of Burrinjuck when making decisions regarding the construction of wind farms. [*Time expired.*]

#### **REDFERN DEPARTMENT OF HOUSING LAND REDEVELOPMENT**

**Ms KRISTINA KENEALLY** (Heffron) [5.35 p.m.]: I wish to place on record and correct claims made by the honourable member for Bligh in an email news circular she issued on 4 November. The honourable member for Bligh said:

As a result of the Government's planned private/public residential development on the Redfern public housing and Police and Community Youth Clubs (PCYC) site at Elizabeth and Phillip Streets Redfern, the PCYC will be forced to relocate to a new facility.

That statement is inaccurate. Under the current master plan approved by and sitting with the council, the Police and Community Youth Club [PCYC] site is not included in the Elizabeth Street master plan redevelopment. As Lord Mayor, the honourable member for Bligh could go to the council's planning department any time she likes and have a look at the master plan. The PCYC and the Department of Housing have been in discussions about

what is the best option for the PCYC. The department has indicated at all times its willingness to support the PCYC should it desire to relocate in the Redfern area. The honourable member for Bligh also said:

This week, the PCYC presented a proposal to City Councillors for a new, two-level facility at Redfern Park, as part of a 13.6m tall, three storey stadium, virtually the length of the football field.

Despite commitments from previous Housing Ministers and the Department of Housing for the PCYC to retain its current site, the Department of Housing seems set to sell the site for residential development.

This is a short-sighted Government asset sale to meet the needs of a chronically under-funded public housing sector.

That statement is also inaccurate. The redevelopment of the Elizabeth Street site is in response to a serious problem with the houses on site—that is, they are damaged and in need of repair. Water table issues are causing the houses to crack and sink. The maintenance required is significant, and after careful consideration of all its options the Department of Housing decided that redevelopment of the site was the best way to address these maintenance issues and provide for the growing demand of housing families and the ageing population in the inner city. As a result of the redevelopment, the Department of Housing will be able to provide modern housing for families—and, importantly, not in high-rise tower blocks. Not only will the new housing be modern, and not only will the redevelopment address a serious maintenance issue, but also it will be able to house more people. More people will be housed in modern housing, rather than in high-rise tower blocks, and cross-subsidised by the provision of private housing.

I do not understand how that is a bad outcome. What a ridiculous criticism to make of the Department of Housing: developing a site it owns for residential development! Forgive me, but is that not what the Department of Housing should be doing? Of course, the Department of Housing should be seeking to capture value from its sites to provide more and quality public housing. What does the honourable member for Bligh want us to do—leave tenants in homes with cracked walls and sinking foundations, leave a situation where fewer people are housed, not more?

The honourable member for Bligh goes on to say that the New South Wales PCYC has done its own asset stripping, which resulted in the sale of the Paddington PCYC in 2003 for an estimated \$7 million, with a paltry \$1.4 million preserved in total to upgrade the remaining PCYCs in our area. Chris Gardiner, the chief executive officer of the PCYC, says that statement is inaccurate. He makes the point that it was not asset stripping; it was a failure of imagination and representation by ineffective political representatives, such as the local member of Parliament, the honourable member for Bligh, to be able to compete in resource distribution debates. The honourable member for Bligh goes on to say:

If the State Government is not prepared to retain the PCYC in its current Redfern site, it could ensure a new facility in the old Redfern Public School. The NSW Department of Education and Training and the Indigenous Land Corporation (ILC) this week announced an exciting project to transform the school into a centre of cultural, social and sporting excellence for Aboriginal youth.

That is not accurate. The Redfern-Waterloo Authority, not the Department of Education and Training, made the announcement about Redfern Public School and the Indigenous Land Corporation. Perhaps the Lord Mayor, who has been openly critical of the Redfern-Waterloo Authority and has resigned from its board, does not want to give the authority credit for such a fantastic outcome at Redfern Public School. I give the authority credit because it deserves it. The blunt truth is that the honourable member for Bligh has no interest in doing anything constructive or community-minded with Redfern Oval.

Mr Gardiner tells me that the honourable member for Bligh has not once consulted the PCYC about its needs and preferred outcomes in the area, either in her role as the local member of Parliament or in her role as Lord Mayor. She is not prepared to consider a proposal developed by the PCYC and the Rabbitohs and supported by the local schools, local community groups, and people like Alan Jones, Jack Mundey and councillors on her own council. She is not truly engaged with the proposal even after amendments have been made to fit her criticism. I have said before in this House that knocking down Redfern Oval will rip the heart out of South Sydney. I understand further compromises are willing to be made by the PCYC and the Rabbitohs. Whether the heart of South Sydney, Redfern Oval, keeps beating depends on whether consultation, compromise and community outcomes are meaningful concepts to the Lord Mayor.

### **MISS WORLD AUSTRALIA MISS DENNAE BRUNOW**

**Mr GREG APLIN** (Albury) [5.40 p.m.]: Negotiations are under way to bring the Miss World final to Australia in 2008. In the first two weeks of November that year contestants from around the world would be judged in four categories and filmed on locations throughout our nation. Why should we be interested in this fantastic marketing opportunity? One reason is that *Miss World—The Final* is the world's largest live annual TV



event, with viewing figures of well over 2 billion people. In 2004, 2.8 billion viewers across 162 nations watched *Miss World*. Microsoft's figures show that the Miss World web site is the most visited site in the world during judging, with 30 million hits daily. Miss World is not simply a beauty competition; it is also a vehicle for raising funds for charity throughout the community, hence the contest theme, "Beauty with a purpose."

In the 2005 contest 115 contestants will undertake a month-long tour of China to compete for this year's title. Now in its fifty-fourth year, the international pageant is introducing an innovative new voting system, inviting the global television audience to choose six new Miss World ambassadors. The final judging will take place in a live television event from Sanya, China, on 10 December with Miss World Organisation Chairman, Mrs Julia Morley, announcing the overall Miss World 2005. The Miss World Australia web site states that contestants must have a good figure, a beautiful face, grace, charm, deportment, good personality and ambassadorial qualities, for the winner is expected to travel the world as a glamorous personality of star quality.

Self-discipline is also emphasised as the young lady is to be an example to young people in making the best of their physical attributes and also their talent. She will become involved with numerous charities and will become a celebrity spokesperson. Miss World Australia flies out to China tomorrow and carries with her the excited expectation and ardent support of the Albury electorate, our State and our nation. Dennae Brunow was crowned Miss World Australia on 19 September at a gala function at Sydney's Wentworth Hotel. The 20-year-old Albury-born beauty had been persuaded to enter the regional final at Albury's Sailors, Soldiers and Airmens Club in August and she went on to be runner-up in New South Wales before winning the coveted national title. Dennae Brunow was educated in the border region; she completed a certificate in business studies and has worked as a legal secretary and in business administration.

Prior to winning the title she was administrative assistant to the Chief Executive of the Commercial Club in Albury. Now she is employed full-time as Miss World Australia. Miss Brunow has also studied film editing and has been developing her own short films for the past four years. Her personal motto is, "What you believe, you become" and she further exemplifies this in her leisure pursuits of dance and fitness training. In the lead-up to the title, she also raised \$3,000 for the Australian Red Cross. Dennae Brunow was chosen as our national representative because she embodies the "healthy mind, healthy body" concept, which is part of the Miss World Australia selection process. Physical fitness is important and at State and national levels the contestants competed in rigorous sports competitions. As a result, in the leisurewear and swimsuit section, judges looked for a healthy body, muscle tone, posture and traits reflecting a healthy lifestyle.

The contestants were also asked to present a short piece of entertainment highlighting their talent in singing, dancing, drama or playing an instrument. Contestants also have to display a commitment to charitable causes and participate in interviews covering personality, opinions and knowledge of Australia and the world. The contest web site states that Miss World Australia should be able to make heads turn when she walks into a room: people should notice her. And that is exactly what happens when Miss Dennae Brunow arrives at a function. I have had the pleasure of meeting this delightful and glamorous young lady at receptions and events in her home town of Albury and the reaction of everybody, men and women, is that she is a stunning ambassador for our region and our country.

Articulate, unassuming, down to earth and very conscious of her responsibilities, Dennae Brunow is a wonderful Miss World Australia, and her engaging personality quickly attracted support in her local region. Albury's Peta Schaeffer has been appointed as the official couturière and milliner to Miss World Australia. Ms Schaeffer's company, Billion \$ Dreams, will supply the complete wardrobe for Miss World Australia to take to China for her month-long judging. Peta Schaeffer is an exciting and highly successful designer whose creations continually win acclaim at the spring racing carnivals and in fashion presentations around Australia. She has a wonderful display studio in Albury, and now her evening gowns will represent Australia in the Best Design Award section in the Miss World contest. Dennae Brunow will wear this gown during the Miss World final on 10 December. As Peta Schaeffer says:

Our local girl has become an ambassador for Australia and I am proud an Albury couturière and milliner has been chosen to represent Australia and help Dennae become our first Miss World in over 30 years.

Dennae Brunow flies out to China tomorrow and our thoughts and best wishes go with her as she becomes, hopefully, Miss World.

#### **PENRITH SMALL BUSINESS COMMUNITY**

**Mrs KARYN PALUZZANO** (Penrith) [5.45 p.m.]: Today I want to talk about Penrith small businesses. This topic is important to the residents of my electorate because there are more than 7,000 small businesses in Penrith. They are a vital and important section of the local economy, providing thousands of jobs

and producing millions of dollars in revenue each year. The Penrith Valley Chamber of Commerce and the dynamic Glenbrook and Brooklands Chamber of Commerce are active in the Penrith electorate. In the past year I have visited many small businesses and business organisations. I did that to understand a little more about the everyday opportunities and challenges faced by small businesses.

I participated in the launch of the Glenbrook and Brooklands Chamber of Commerce web site and attended a number of business activities run by the Penrith Valley Chamber of Commerce. There has been a breakfast meeting with the Minister for Small Business and a chamber dinner with representatives from vocational and education training [VET] courses. In my office a number of students each year participate in the VET Business Services Course. I have had forums led by Minister Della Bosca, and I have also launched a "Small Business Matters: Important Numbers" fridge magnet, which shows important Federal and State phone numbers for small businesses.

I will now outline the recent visit by the New South Wales Minister for Small Business. I commend the Minister for his willingness to meet representatives of local small businesses in my electorate, as well as across the State. We visited two small businesses, the first stop being the Lindsay pie-making equipment factory. That company is a small local business in Emu Plains employing five people, but it was a finalist in the Premier's export awards. The company has shipped pie-making equipment throughout Australia and the oceanic region and is now looking to expand its business into North America. I commend Tom Lindsay and his daughters—Melissa, Jessica and Danielle—for the way they have grown their business into one of the most respected international names. I add that all of the company's pie-making equipment, which is exported worldwide, has a map of Australia in stainless steel with the name of the business.

After visiting the pie-making equipment factory we moved a few hundred metres down the road to the Penrith Pilates Studio in Emu Plains. When I first advised the Minister that we would be visiting a pilates studio I think he was a little taken aback, but after touring the premises and meeting with the owner, Suzie Kennady, he left extremely impressed with the facilities it offers. It is a new business in Penrith; it has been open for less than 12 months but has already created a huge impression amongst its regular students. I encourage anyone who has never tried pilates to give it a go. I am proud to say that I am a student there. I enjoy the classes and the health benefits that it provides to many members of the Penrith community.

After leaving the pilates studio the Minister and I had an informal briefing with another new small business, the Gloria Jeans franchise at Centro Nepean. At that informal briefing we met with Jenni Cook, who operates A Fine Affair. Until recently Jenni was a local schoolteacher. She now has a wedding business for clients who wish to have their weddings in smaller premises. She does the decorating and ensures that the occasion is special. She has been in business for only nine months but she now employs 12 people. We also met Steve Craig from Blue Mountains Honey, which exports to China and Asia and has received funding from the New South Wales Department of State and Regional Development.

We also met Nereda Dawe from KDR Roofing. I met Ms Dawe at the Western Sydney Awards night and was impressed that the staff of her roofing company are all females. I commend them. These three companies know the trials and tribulations of running a small business. A Fine Affair employs 12 people, KDR Roofing has contracts with the Department of Housing and Blue Mountains Honey exports to Asia. During a previous visit Minister Campbell referred to the Stepping Up Program. I was able to launch that program with Minister Beamer last week. I commend that program and congratulate all the small businesses in Penrith and the lower Blue Mountains.

## COUNTRY AGRICULTURAL SHOWS

**Mr IAN ARMSTRONG** (Lachlan) [5.50 p.m.]: Since the end of July or early August throughout the Central West, the south-west, the Riverina, the southern slopes and onto the tablelands a series of spring agricultural shows have been held. Everybody is aware of the Royal Easter Show, but throughout the year we have the autumn and spring shows, which are almost entirely run by volunteers. Sometimes the secretary is paid a small stipend and perhaps a gatekeeper or two may be paid, but usually that duty is undertaken by Apex or Rotary. Those country shows are run literally on the smell of an oily rag and many show societies in towns with populations of 10,000 to 15,000 people would not have more than \$2,000 or \$3,000 in the bank.

In recent years show societies, like other community organisations such as football clubs, cricket clubs, sporting groups or rodeo associations that cannot afford to pay people, have found it difficult to round up enough local volunteers to remain viable and functional. I am not against regulation but I ask that consideration

be given to the circumstances of individual community events in country New South Wales. Not many people would argue with the claim that regulations pertaining to the serving of alcohol are stringent. A bar area must be fenced off and clearly delineated so that people know the boundary. The crowd expected to attend must be estimated and a certain number of security people are required per estimated thousand people, and a licensee must be present.

The licensee is responsible for all matters pertaining to the serving of alcohol on the ground or in the building for the duration of the event. The licensee must be present at all times and if anything goes wrong, he or she is responsible. A person who has completed an occupational health and safety course must also be present and must have inspected the premises. Recently I spoke about the greyhound racing track at Young. It is now a prerequisite of the Greyhound Racing Authority that committee members must now walk the entire facility, inspect it and sign off on it. The majority of committee members do not have the qualifications to do that, and the same applies to shows.

I raise this matter because I have been contacted by a show society—no names, no pack drill—with a well-known and highly responsible younger show president who battled for many years to get a committee and has only a committee of 12. He is also a licensee. His public announcement system broke down so he raced down the street to the local electrical retailer to buy a part for it. By the time he returned, the licensing police had attended. The only person serving behind the bar did not have a certificate for the responsible serving of alcohol because at the time he was only lending a hand. As well, only six stickers instead of eight were displayed around the bar area. That fellow was charged. If he is found guilty of all charges, he faces a fine of \$20,000. The show society has only \$1,200 in the bank and might be able to raise \$500 or \$600 if a hat is handed around, but that man may have to pay \$18,000 out of his own pocket, plus another \$10,000 or \$15,000 in legal costs.

In a neighbouring town with a population of about 15,000 this year the show society has five vice-presidents; it does not have a president because no-one is prepared to take on that responsibility. I ask the Government to show some goodwill. I do not ask that the law be changed but that consideration be given to exceptional circumstances. If someone who is well-respected and responsible takes over in the case of an accident or if something breaks down, such as when the broadcast system broke down, a humane and commonsense approach should be taken so that sporting and cultural events in country New South Wales can be maintained.

**Mr GRANT McBRIDE** (The Entrance—Minister for Gaming and Racing, and Minister for the Central Coast) [5.55 p.m.]: The liquor licensing regime that has been put in place resulted from the recommendations from the Summit on Alcohol Abuse. The Government had an obligation to respond to the concerns of the community about alcohol. However, I acknowledge the concerns expressed by the honourable member about smaller communities. I invite him to visit my office so that we can explore the specific issues he raised in detail and, hopefully, we may be able to assist the organisations to which he referred.

#### **MR CHARLES PENNY REFRIGERATION MECHANIC LICENCE FEES**

**Mr PAUL LYNCH** (Liverpool) [5.56 p.m.]: I inform the House of difficulties experienced by Charles Penny, one of my constituents. In particular, Mr Penny is curious as to why, in order to do his normal work, he has recently had to pay a second licence fee and go through a second licensing process with the Commonwealth authorities in addition to the State process he had undergone for some time. Since October 1987 Mr Penny has been a licensed refrigeration mechanic. This also allows him to work with CFC gases. In fact, one thing probably flows from the other. To date, the licensing has been the State authorities. Naturally enough, he has a licence card issued by the Office of Fair Trading. His licence number is 25583C. It clearly refers to refrigeration and CFC and HCFC gases. The present annual cost for this licence is \$160.

On 28 June this year Mr Penny got a form from the Federal Government stating that it was taking over this sort of licensing, and wanted another \$420 in total from him. This advice arrived without a lot of warning. My constituent was concerned enough to make inquiries of the State Office of Consumer Affairs. He was advised by them that he still required a State licence. Not unnaturally, Mr Penny was a little perturbed by that. It made not much sense to him—or me, for that matter—to have two separate licences, one Federal and one State, for the same job. I made some representations to the relevant State Minister. In part these said:

Mr Penny has been licensed with the Office of Fair Trading as a contractor dealing with refrigeration and CFC gases for some time. A copy of his current licence card is attached hereto. This presently costs \$160 PA.

He has now received a letter from a Commonwealth Government agency indicating that he now also needs a set of Commonwealth licences.

Mr Penny not unreasonably cannot understand the need for two separate regulatory regimes requiring two separate licensing fees. It also seems a recipe for confusion to have two such regimes.

If part of Fair Trading's functions in this regard have been taken over by a Commonwealth department, then Mr Penny does not understand why he should have to continue to pay the same amount as before to Fair Trading. I subsequently received a response from the relevant State Minister, which in part stated:

I refer to your representations to the former Minister for Fair Trading on behalf of Mr Charles Penny of 15 Gundibri Street, Busby NSW 2168 regarding the requirement for refrigeration and air conditioning mechanics and contractors holding an authority in New South Wales under the *Home Building Act* 1989 to also be licensed by the Commonwealth Government.

Following receipt of your representations, I referred this matter to the Office of Fair Trading for consideration and advice. I am advised that on 1 July 2005 the Commonwealth Government introduced a new national licensing scheme for purchasers and users of refrigerant gases in Australia. The new scheme replaced all State-based licensing arrangements related to CFC gases. This means that the New South Wales Office of Fair Trading no longer has any involvement in licensing the purchasers or users of these gases.

However, anyone who installs, maintains and services air conditioning and refrigeration systems must continue to hold a licence issued by Fair Trading. The New South Wales licence aims to ensure that only qualified and experienced persons install and work on this equipment for public health and safety reasons and to protect consumers against incomplete or defective work. The process for obtaining/renewing such licences and the cost of the licences has not changed. Mr Penny should be aware that the authority previously granted by Fair Trading for purchasing or using CFCs had been issued free of charge as a variation.

I understand that licensed refrigeration and air conditioning mechanics and contractors in New South Wales who purchase and/or handle CFCs will also be required to hold a licence under the Commonwealth's new licensing regime. The new Commonwealth scheme is being introduced to protect the environment. It will introduce nationally consistent minimum standards for businesses and people that purchase and handle ozone depleting substances and synthetic greenhouse gases. A fee for this licence is being charged by the Australian Refrigeration Council, the Commonwealth's agent overseeing the new scheme.

At one level I guess this all makes sense. There is some administrative logic in there being different sorts of functions being regulated by different bodies. The problem is that in the real world there is still one single job, which for a long time was regulated by one authority with one licence fee. That is now being replaced by two authorities with two licence fees. That does not make a lot of sense to Mr Penny, and it does not make a lot of sense to me. I ask the State Minister to review the matter again and see if there is some way of rationalising this system. If necessary, perhaps the Minister could have some discussions with the Federal Minister to see whether there is a sensible way of resolving this.

### **LINDFIELD MANOR RETIREMENT VILLAGE MANAGEMENT**

**Mr BARRY O'FARRELL** (Ku-ring-gai—Deputy Leader of the Opposition) [6.01 p.m.]: I raise issues relating to the management of Lindfield Manor Retirement Village, which is located in the electorate of Ku-ring-gai. A fortnight ago I visited Lindfield Manor to meet with residents. It was a pleasure; it is a delightful place. Residents enjoy living there: the 44 units are soundly built and the village is well situated close to shops and public transport. But all is not as it appears at Lindfield Manor. I was invited because of residents' concerns at the actions of the village's management, Milstern Retirement Services, in attempting to unreasonably increase residents' levies. Having met with residents and reviewed their claim, I share concerns that Milstern is acting unreasonably and, in doing so, is exploiting loopholes and omissions in current legislation governing the management of retirement villages.

Two years ago, in September 2003, the Consumer, Trader and Tenancy Tribunal [CTTT] approved an application from Milstern for an 11.5 per cent increase in residents levies—that is \$25 a week plus GST—backdated to July 2002. This increase brought monthly levies faced by residents up to \$1,160 per month. For the record, I note that residents were not made aware of this CTTT hearing and so missed their opportunity to put an alternative view or seek justification for an increase well above any consumer price index [CPI] increase. To give a foretaste of Milstern's ethics, a tape of the hearing reveals that the principal of Milstern Retirement Services, Mrs Millie Phillips, told the tribunal that the residents were not present because they agreed with the increase.

That was a completely untrue statement; it was a lie. Residents were not present because they were not told that the hearing was on, and it is perhaps because that failing was clearly a failing of the tribunal which has resulted in it refusing to pursue the matter of the misinformation presented by Milstern. While Milstern, which operates many villages, has many questions to answer in this process, the State Government and those charged

with administering the legislation governing retirement villages also have questions to answer about their action or lack of action. Within months of the September 2003 increases residents were faced with further attempted levy increases by Milstern. These increases have been for, first, \$20 a week and then \$45 a week plus GST. This second increase, if approved, would raise the monthly levy to more than \$1,300 a month. This would represent an increase in the levies of some 25 per cent.

By any measure such increases are excessive; they are almost double the increase in the CPI, that is, Sydney's rate of inflation. The increases sought certainly far outstrip any growth in the retirement incomes of those who live at Lindfield Manor and, as we all know, one of the largest concerns of any retiree relates to income. I make it clear that in all the discussions and communications with me on this issue, the residents have been at pains to indicate their willingness to meet any fair increase in costs. However, the principal objection they have in their dealings with management is Milstern's repeated refusal to justify the increases sought or attempt to reach a negotiated outcome. What has concerned and shocked me the most in this matter are the heavy-handed and arrogant tactics employed by Milstern, which seems to believe it is a law unto itself.

Residents concerns have been ignored, with Milstern either failing to answer letters or inquiries or, when meetings are arranged, failing to even accept the right of residents to seek justification for levy increases. Milstern's pettiness is perhaps best demonstrated by its removal, at one stage, of an assortment of services provided to village residents—things like fresh fruit, afternoon tea and a monthly bus excursion. Those services were reinstated only when residents pointed out that their removal was illegal under the relevant legislation. Milstern's principal, Mrs Millie Phillips, has also sought to stand over residents, and I instance but one example. Following a victory for residents in the tribunal in May, where Milstern was told to refund \$27,000 to residents, an appeal was lodged with the tribunal and Milstern was unsuccessful. Milstern then advised that it was taking the matter to the Supreme Court. In a letter to village residents Mrs Phillips stated:

We are advised our costs will be some \$35,000. Our barrister is confident he will win. This will put the cost of funding the case and in the event they lose, our costs on the Lindfield residents for payment. The court also has the right to reverse Mr Moore's decision.

That is a heavy-handed attempt to try to weaken residents' resolve. It is blatantly designed to try to have residents cave in. It has not worked and residents tell me that it will not. Mrs Phillips has also been incredibly dismissive and rude to residents' representatives, and in at least one letter I have sighted she has threatened to have "the court" evict people from Lindfield Manor—an unenforceable, bullying threat which in other circumstances may have succeeded in intimidating residents. I am appalled by Milstern's tactics, which seem to owe more to the Dickensian age than proper business conduct in the twenty-first century. Residents are owed at least a further \$54,000 by Milstern. This money is owing because, contrary to section 120 of the Retirement Villages Act, Milstern applied funds raised from the September 2003 levy increase to fund the previous year's deficit. Again, neither the Department of Fair Trading nor the tribunal has been proactive in enforcing its legislation.

While Milstern remains the principal rogue in this affair, the failure of State agencies to protect the interests of retirement village residents cannot be overlooked. Without wanting to cause any embarrassment, I note that the average age of Lindfield Manor residents is probably in the late 80s. Residents at that stage of their lives should not be put to the type of considerable effort and expense they have faced at Lindfield Manor simply to have State legislation upheld and enforced. There is concern at a wider level that impending changes to the Retirement Villages Act 1999 have encouraged unscrupulous operators to act to increase recurrent charges at villages before any loopholes and omissions can be legislated shut. It is clear that despite the 1999 legislation some unscrupulous operators have not changed their ways. On what I have seen and heard about Milstern Retirement Services, I regretfully include it in this category. Residents in villages like Lindfield Manor deserve to be able to enjoy their senior years without the hassles, intimidation and financial and other threats they currently face. In these situations the State should intervene to ensure the interests of residents are better protected.

#### **ROYAL FLYING DOCTOR SERVICE DUBBO BASE**

**Mrs DAWN FARDELL** (Dubbo) [6.06 p.m.]: I am certain I do not need to remind honourable members of the rich and unique history of the Royal Flying Doctor Service [RFDS]. Many members are well aware of how entrenched its roots are in country Australia and how important it is to the health and wellbeing of remote and outback communities. However, I shall convey some news from the service's recent annual general meeting on 27 September and outline the raft of efforts being undertaken by communities in the city and in the bush to help fund this essential service. The Royal Flying Doctor Service has a strong presence in the Dubbo

electorate, establishing a base in Dubbo in 1999. The first emergency flight took off in August of that year, and the number of flights quickly surpassed the 4,000 mark.

The local community rallied to help in any way it could, firstly to allow the base to be constructed, and since then it has continued to assist in keeping the base afloat. Hundreds of volunteers' hours have gone into fundraisers and members of the community have happily signed on as supporters. In return the service has not only aided those in medical need around western New South Wales but has also undertaken successful open days to show the community its operations. It is with this background and my electorate's deep involvement with the service that I was honoured to have been invited to the annual general meeting to hear from service chiefs and insiders how they are managing. The RFDS has long held a special place in the hearts of all Australians, not just those living in remote areas. Recently the service formed a specialised supporters group—the Friends of the RFDS—with an effort being made to raise money.

Over the past three to four months the Friends capital appeal has already registered \$1.7 million worth of donations, mostly from Sydney's corporate sector. While it is vital to note that the service has in the past enjoyed strong links with the State and Federal governments and has received funding, the need remains to secure adequate resources to replace aircraft. Considering these facts and figures for a moment it is easy to see why the workhorses of the service need to be replaced regularly. In 2004, 49,000 patients were flown by the service, 540 of whom were critical emergencies. Between the RFDS opening a base in Dubbo and May this year the service has provided care to more than 1,000 people in the immediate Dubbo area. In one 12-month period, the service's south-eastern sector alone notched up the equivalent of 5.44 million kilometres flying distance. In 2002-2003 almost 50,000 patient contacts were made and 309 emergency evacuations carried out.

The RFDS also works the other way. Rather than bringing patients to a doctor, it also takes specialist doctors to these outback patients: 9,614 patient transfers were recorded, 37,000-odd clinical consultations given, 5,000 telephone consultations offered and 207 immunisations administered. Aside from the immediate emergency calls, the service, through its doctors and flight nurses, conducts other regular clinics in isolated communities that have a dedicated purpose by treating women's health and early childhood health. In far-flung communities and sprawling outback stations, access to and availability of community health clinics does not exist. This genuine care displayed for country Australians can be observed through regular rounds where female general practitioners [GPs] are flown into remote communities to treat women.

While most women living in major metropolitan areas would take access to a female GP for granted, it is an entirely different story in the bush. Demands on staff, equipment and aircraft alike can be massive. Operational costs for aircraft and associated equipment are also massive. Then there are issues such as maintenance and repairs to consider and the general upkeep of supplies. A distressing issue highlighted by the service is that no extra funds are available to replace aircraft even though demands are high. Despite the efforts by the community to help raise funds, most are eaten away keeping bases functioning.

Ideas have been put into practice to drum up financial support for the service, such as standard raffles in the Dubbo electorate air shows, and caravan and camping expos. Recently \$24,000 was handed over. Further west, in the territory of the honourable member for Murray-Darling, supporters in Broken Hill displayed creativity in coming up with Operation Pudding. More than \$24,000 was raised through their baking skills. More creative ideas have been seen only recently. Through modern flight simulation technology and the kind support of Qantas Flight Catering, a group of pilots started a week-long simulated journey around the globe in a Boeing 747-400 to raise money for the organisation.

Not only is corporate Australia waking up to the need of the service, but something on the opposite end of the scale struck me as incredibly generous as well. Year 7 students at Asquith Boys High School north of Sydney have adopted the Dubbo base of the RFDS for fundraising efforts and regularly host events for the base. As extensive as the reach of the RFDS is right around the country, other efforts from interstate occur as well. Golf charity days are held in South Australia, and community fairs and numerous other activities take place annually in Queensland, Western Australia and the Northern Territory.

As it is hard for some of our country towns to recruit and retain specialist health staff, there are added challenges for the doctors who, even though they have a team of dedicated pilots and nurses, have to struggle and compete to lure extra staff. Close ties have been developed with universities. Once these aircraft touch down, the service also enjoys a relationship with ambulance services. Often we hear stories of patients being gently lifted off the aircraft and into the arms of smiling ambulance officers. Many live-saving evacuations have been carried out over decades rescuing unwary city travellers. I congratulate the service, its hardworking staff and tireless supporters for the blood, sweat and tears they have shed to keep the world's best known and respected aeromedical service in the air.

**AMPUTEES FUNDING**

**Mr ROBERT OAKESHOTT** (Port Macquarie) [6.11 p.m.]: Tonight I want to make an example of an individual in the Port Macquarie electorate. Mr Philip Jacobs has put together a substantial report on the need for improvements for New South Wales amputees on the back of the review of the New South Wales Artificial Limb Service that was completed in 2004. Mr Jacobs has had his report endorsed by the New South Wales Amputee Association. He has presented it to me and would like me to present it to the Minister, which I will do after speaking about it tonight.

Too often we hear in our communities that there is no point in putting submissions to various inquiries that take place at all levels of government or there is no point in participating in public life in the three tiers of government. I want to highlight a positive example of someone who has made an enormous effort. I have learnt a lot about the individual needs of amputees and will certainly do all I can to see improved budgeting for amputees. I hope the Minister finds the report just as compelling as I did and wins the argument for improved services for amputees.

The report highlights the stated objectives of the New South Wales Artificial Limb Service, which are to ensure that eligible clients have fair access to appropriate high-quality prosthetic services and that these prosthetic services are responsive to the needs of clients and are provided in a cost-efficient manner. Unfortunately, however, the report highlights that there is a perception that amputees are required to fit the available prosthesis rather than the prosthesis being required to fit the amputees. With the limited budget that is allocated to amputees in New South Wales—currently \$8 million to service 7,900, at a cost of roughly over \$1,000 per annum—there is a failure to keep pace with the available technology and components that would allow amputees to play a far more active part in life in their communities, such as on the far North Coast.

This is an important report—as I said, it has been endorsed by the New South Wales Amputee Association—and I hope the Minister treats it seriously. Hip replacements cost \$155 million per annum with a similar number of people being serviced. The report also contains the figures for treating an HIV patient—again, an important area of health delivery. The standard triple-drug therapy for just one month for an HIV patient is more than \$1,000. As direct comparisons go, the 7,900 amputees in New South Wales have a very strong argument. They are justified in not comprehending why the New South Wales Artificial Limb Service is still required to supply 1970s technology when remarkable advances have taken place over the past 30 years.

I encourage all members of the Government to consider the needs of amputees in New South Wales. Only last year a German Superior Court case found that above-knee amputees have a legal right to be fitted with the most technologically advanced type of prosthesis available. Judges considered it would be wrong to withhold those benefits, yet that is exactly what is happening in New South Wales. I therefore urge the Government, on both moral and legal grounds, to consider improving funding significantly for amputees in New South Wales.

**Private members' statements noted.**

**NATIONAL PARKS AND WILDLIFE AMENDMENT (JENOLAN CAVES RESERVES) BILL**

**Message received from the Legislative Council returning the bill with amendments.**

**Consideration of amendments deferred.**

*[Madam Acting-Speaker (Ms Marie Andrews) left the chair at 6.18 p.m. The House resumed at 7.30 p.m.]*

**BUSINESS OF THE HOUSE****Special Adjournment****Bills: Suspension of Standing and Sessional Orders**

**Mr CARL SCULLY** (Smithfield—Minister for Police, and Minister for Utilities) [7.30 p.m.]: I move:

- (1) That the House at its rising this day do adjourn until Wednesday 9 November 2005 at 10.00 a.m.

- (2) That standing and sessional orders be suspended to permit the introduction forthwith of the following bills, notice of which was given this day, up to and including the Minister's second reading speech:

Statute Law (Miscellaneous Provisions) Bill (No. 2) Bill  
 Governor-General's Residence (Grant) Amendment Bill  
 First State Superannuation Legislation Amendment (Conversion) Bill  
 Shops and Industries Amendment (Special Shop Closures) Bill  
 Mental Health (Criminal Procedure) Amendment Bill  
 Greek Orthodox Archdiocese of Australia Consolidated Trust Amendment (Duties) Bill  
 Technical and Further Education Commission Amendment (Staff) Bill  
 Children and Young Persons (Care and Protection) Amendment Bill  
 Property, Stock and Business Agents Amendment Bill  
 Residential Parks Amendments (Statutory Review) Bill  
 State Emergency Service Amendment Bill

At the conclusion of which the House shall adjourn without the motion being put.

- (3) That until the rising of the House no divisions or quorums be called.

## **TECHNICAL AND FURTHER EDUCATION COMMISSION AMENDMENT (STAFF) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Ms CARMEL Tebbutt** (Marrickville—Minister for Education and Training) [7.33 p.m.]: I move:

That this bill be now read a second time.

This bill creates a framework under which the Director-General of Education and Training and the Managing Director of TAFE NSW will be able to make appointments to administrative positions within the broader Education and Training portfolio in a more flexible and efficient manner than is presently available. It enhances the mobility of administrative and support staff between the TAFE Commission and the Department of Education and Training [DET] and provides an added resource to assist in meeting specific staffing arrangements. Under current arrangements, administrative and support staff of the TAFE Commission and the department can only apply for jobs in the other respective agency if they are externally advertised in the general community. As not all jobs are advertised externally, a range of potentially worthy applicants are excluded from consideration for positions for which there is an obvious community interest. The current arrangements diminish the field of suitable applicants for positions and potentially extend the time taken to fill positions because TAFE and DET may still need to resort to an external selection after an internal selection process has been unsuccessful in filling positions.

Administrative and support staff working in TAFE are employed under the TAFE Commission Act while those in the Department of Education and Training are employed under the Public Sector Employment and Management Act. The organisations are separate entities but enjoy many similar features. TAFE NSW's corporate services are provided by the department. Many of the department's policies and procedures apply to TAFE NSW. The Director-General of the department is the Managing Director of TAFE. Both agencies were brought under the one portfolio in 1997. Maintaining barriers to promotional opportunities between the agencies is counterproductive. Increased mobility of administrative staff between agencies facilitates cross-fertilisation of staff, ideas and organisational culture. For two significant agencies of government providing education services—DET and TAFE—this is highly desirable.

The bill provides a deeming arrangement for recruitment purposes, which will allow the relevant administrative staff to be considered eligible for appointment based on merit selection to positions in each agency as if they were already employees of that agency and without a requirement for external advertisement. The right to fill positions by way of promotion of public service employees rather than through external recruitment is expressly provided for in both Acts and is available to other public service agencies. The bill does not in any way impinge on or restrict merit selection as being the basis of selection for promotion positions within the department and TAFE. Promotion positions will continue to be filled through a merit selection process. The bill also provides for the transfer of administrative and support staff between agencies with continuity of service and without budgetary implications.

The provisions of the Public Sector Employment and Management Act allows for the head of the public sector agency to approve the transfer of staff to another agency. The bill provides for the continuity of



staff transferring from one agency to the other but avoids payment of accrued leave, thereby eliminating the associated budgetary implications if a large number of staff transfer in a short period. These reforms recognise that the public interest requires a framework under which the director-general is able to make appointments to administrative positions within the broader education portfolio without having to advertise externally. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

## **CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Ms REBA MEAGHER** (Cabramatta—Minister for Community Services, and Minister for Youth) [7.36 p.m.]: I move:

That this bill be now read a second time.

This bill proposes a number of miscellaneous amendments to the Children and Young Persons (Care and Protection) Act 1998. The amendments are generally of a procedural nature and do not represent any significant policy change. Nevertheless, they will benefit children and young people and those practitioners, individuals and agencies operating under the Act. I now turn to the individual amendments for the benefit of members. First, the bill seeks to amend section 109 of the Act in order to facilitate the conduct of Children's Court matters where, often, important witnesses may abscond.

The amendment will provide the Children's Court with the clear power to issue subpoenas to secure the attendance of witnesses and the production of documents to the Children's Court and the clear power to issue warrants. These powers match those used by the Local Courts and the amendment is intended to clear up any judicial uncertainty as to their application. As a result of these amendments, where a parent has absconded with a child or young person and the child or young person is the subject of care proceedings, it will be clear that a warrant can be issued to require the parent's appearance at court.

The warrant of apprehension will be able to be placed on the warrant index and executed anywhere in Australia under the Commonwealth's Service and Execution of Process Act 1992. Of course, these powers will be balanced by procedural fairness, and the bill will ensure that the court will also be able to grant bail to a person who is the subject of a warrant of apprehension. The bill also proposes some consequential amendments to ensure the scheme is workable. The bill will ensure that not just parents, but also other persons who are reasonably believed to have knowledge of the whereabouts of a child, can be brought before the court, and that the power to order removal of a child applies to the relevant premises that the child is ascertained to be in.

The bill will also amend section 149 of the Act in order to facilitate permanency planning. Section 149 currently provides that, where an authorised carer has had care of a child or young person for a continuous period of not less than two years—and where the Minister has parental responsibility—the carer may apply to the Children's Court for an order for sole parental responsibility. Under the legislation as it is currently framed, the carer is not required to present to the court a care plan or a permanency plan for the child or young person. The amendment seeks to require the carer to present such a plan. This will assist the court with the necessary information it needs before deciding to grant a carer the sole parental responsibility for a child.

The amendment will not place any further responsibility on the carer, as each authorised carer is supported by a designated agency, which will assist the carer in preparing the plan. In any case, all authorised carers who have care of a child pursuant to final orders will already have a care plan in place under section 80 of the Act. This existing plan could form the basis of the plan presented to the court. The next amendment, to section 175, will allow the list of specific medical treatments to be specified and updated in light of changing scientific practices and understanding. Section 175 will continue to provide for the control of the use of such treatments and they will continue to be classified as special medical treatments.

The bill also proposes that section 176 of the Act, concerning special medical examinations, be repealed. The intent of this provision was to facilitate fairly invasive tests, such as tests of a child suspected of having an infectious disease requiring isolation. However, with the advent of better testing procedures and

antibiotics, the need for a special medical examination upon entry into out-of-home care has diminished. There are no known current examples of such invasive medical examinations by out-of-home care providers. It is now the case that retaining and proclaiming this section of the Act may be problematic for the forensic investigation of sexual abuse matters. If a child in need of care and protection does need to undergo a medical examination this continues to be provided for under section 173 of the Act.

In response to community concerns, the bill proposes a new section, section 218A, to clarify that children's services such as community-based and private children's services, are exempt from the State Records Act 1998. This follows from the expressed concern that such services may fall under the definition of a public office, due to the way in which services are licensed. The Government is about reducing red tape and this amendment will clarify that such services are exempt from the requirements of the State Records Act 1998. Children's services are already subject to stringent record-keeping requirements.

The additional requirements associated with being deemed a public office, and the need to lodge documents with the State Records Authority, would place unnecessary extra burdens on children's services leading to an increase in costs for no real benefit. The next amendment will allow the regulation-making power to rectify a slight anomaly in the wording of the definition under section 200 (2) (d) of the Act. Under the definition, services like child-minding services in shopping centres are exempt from licensing requirements, unless they are provided by a lessee of the shop rather than the owner. This was not the intention. However, it is not as simple as changing the definition in the Act—there is still a need for some monitoring of minimum quality standards, and this is best done by amendment to the regulation-making power.

The bill also proposes to standardise the test that is used by the director general and the Children's Court when seeking or issuing a warrant to search for and remove children and young people who are in need of care and protection. Section 233 currently provides that the director general may seek a warrant where there are reasonable grounds to believe that the child or young person is in need of care and protection. However, the court issues the warrant based on whether the child or young person is at immediate risk of serious harm. The amendment makes the test consistent. The proposed test is that a child or young person must be at risk of serious harm for the director general to seek a warrant and for the court to issue one.

The final amendment will enable regulations made under this Act to apply to subsequent or updated editions of standards or codes mentioned in those regulations where necessary. This will ensure that where a revised guideline is issued, for example Cancer Council shade guidelines, the revision may be incorporated into the relevant regulation without the need to amend the regulation. These amendments have been sought by community and other stakeholders and consulted on widely. They will enhance the operation of the Act for those practitioners, individuals and agencies who use the Act. More importantly, the amendments will further enable the Act to meet its primary objectives: the care and protection of, and provision of services to, children. I commend the bill to the House.

**Debate adjourned on motion by Mr Malcolm Kerr.**

## **GOVERNOR-GENERAL'S RESIDENCE (GRANT) AMENDMENT BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Ms ALISON MEGARRITY** (Menai—Parliamentary Secretary) [7.46 p.m.], on behalf of Mr Morris Iemma: I move:

That this bill be now read a second time.

Earlier this year the Prime Minister wrote to the former Premier, at the request of the Governor-General, seeking a relaxation of the restrictions on the use of Admiralty House. The Governor-General has expressed concern that he is not able to respond favourably to requests to use Admiralty House because of the tight restrictions on its permitted use. Such requests have included approaches from charities wishing to use the premises for fundraising events, as well as requests from schools in remote areas of Australia wishing to visit Admiralty House. Currently, the use of Admiralty House is restricted by the Governor-General's Residence (Grant) Act 1945 and the Crown Grant made pursuant to the Act. The Crown Grant provides that Admiralty House must be used exclusively as the Governor-General's residence, and for no other purpose.

It provides that a breach of this condition will enable the New South Wales Governor to reclaim the land from the Commonwealth on behalf of the State of New South Wales. To relax these restrictions, the Governor-General has proposed that the principal Act be amended to permit Admiralty House to be used primarily, rather than exclusively, as the Governor-General's premises. After close consideration of the Governor-General's proposal, the New South Wales Government has formed the view that it is in the public interest to relax the restrictions on the use of Admiralty House. Admiralty House is an important part of the heritage of both New South Wales and Australia and should be able to be used for select public purposes.

The bill implements the Governor-General's proposal by enabling the Governor-General to permit the use of the land for certain charitable, educational and other public purposes so long as it is primarily used as the Governor-General's official residence in Sydney. By permitting Admiralty House to be used for these additional purposes, the Governor-General will now be able to consent to charities using the premises for fundraising events. It is anticipated that by being able to host their functions in such spectacular premises, charities could expect to raise more funds, benefiting worthy causes. Relaxing the current restrictions will also enable the Governor-General to consent to visits by school groups wanting to learn more about the role of the Governor-General.

By limiting the permitted uses to charitable, educational and other public purposes, and by providing that any such use is at the Governor General's discretion, the bill will ensure that the integrity of Admiralty House is not undermined. For constitutional reasons, the bill will be given effect through an agreement between the State and Commonwealth that will amend the Crown grant. The Commonwealth has been consulted and supports both the bill and the proposed agreement. The bill provides the Governor General with the discretion to permit the use of Admiralty House for public purposes that will benefit the community. I commend the bill to the House.

**Debate adjourned on motion by Mr Barry O'Farrell.**

#### **GREEK ORTHODOX ARCHDIOCESE OF AUSTRALIA CONSOLIDATED TRUST AMENDMENT (DUTIES) BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**Ms ALISON MEGARRITY** (Menai—Parliamentary Secretary) [7.51 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Greek Orthodox Archdiocese of Australia Consolidated Trust Amendment (Duties) Bill amends the Greek Orthodox Archdiocese of Australia Consolidated Trust Act 1994 to provide that duty is not chargeable when property is conveyed to the Greek Orthodox Archdiocese of Australia Consolidated Trust from a person who holds that property on behalf of a Greek Orthodox parish or congregation. The Greek Orthodox Archdiocese of Australia Consolidated Trust was established in 1995. The creation of the consolidated trust brought great benefits for the administration and organisation of the church's affairs, and has enhanced the progress and activities of the Greek Orthodox Church in Australia.

The bill facilitates the principal purposes of the original legislation, by making it simpler and less costly for parishes to transfer their property into the consolidated trust. When the consolidated trust was created, all property that was held by the existing Greek Orthodox Property Trust was automatically transferred into it. These transfers were exempt from stamp duty under the Act. For historical reasons, a number of Greek Orthodox parishes in New South Wales hold parish property in the names of individual parish members as trustees for the parish or as companies limited by guarantee. These properties were not automatically transferred into the consolidated trust when it was created. A number of parishes have chosen to transfer their property into the consolidated trust since 1995. A number of other parishes have indicated that they are interested in transferring property into the consolidated trust in the future.

These transfers become necessary particularly as many members of the local congregations approach retirement and are no longer able to be responsible for the upkeep of the property. Each time there is a transfer of property into the trust, the church must apply to the Commissioner of State Revenue for an ex gratia payment of the duty payable on the transaction. The commissioner has a discretionary power to make an act of grace

payment of the duty, but the process for exercising this power is time consuming and resource intensive. The commissioner cannot delegate the power. The Government's policy has been to grant an exemption on each occasion it is requested. However, the act of grace procedure is designed to be used only in special cases and on isolated occasions. It is not appropriate that it be used repeatedly in respect of the same kind of transaction.

By providing a statutory exemption from duty when property is transferred into the trust, the bill will remove the need for the church and the Office of State Revenue to go through the time-consuming process of respectively applying for and granting an ex gratia payment. The bill does not make any changes to the operation of the consolidated trust. It does not require any parish or any person to transfer property to the consolidated trust. Transfers will continue to be purely voluntary. The bill simply facilitates the voluntary transfer of property from parishes to the trust. The bill has been drafted in consultation with the church, and it also has the support of the Office of State Revenue. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

### **STATE EMERGENCY SERVICE AMENDMENT BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**Ms ALISON MEGARRITY** (Menai—Parliamentary Secretary) [7.55 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read the second time.

It is appropriate that the Government is introducing the State Emergency Service Amendment Bill today, not just because it is State Emergency Service Awareness Week and because this year our State Emergency Service [SES] is celebrating its fiftieth anniversary and its proud record of dedicated service to the community over this time, but because as we speak hundreds of SES personnel are in the field protecting their communities from rising flood waters and helping people get back on their feet after storms and flooding rains. I am certain many honourable members would be aware that the SES had its genesis in the disastrous floods that swept through the Hunter Valley, the Central West and the North West of the State in February 1955. More than 20,000 homes were flooded and 25 people died, making this one of Australia's worst natural disasters.

With no organised emergency service in place to take control and offer assistance to flooded residents, the State Government of the day saw the need to establish an organisation to co-ordinate future response efforts to help communities affected by floods. This led to the formation of the organisation that has since developed into the modern and efficient State Emergency Service we know today. With approximately 9,000 volunteer members in 232 units, the SES is now the most versatile and widely used rescue and public safety organisation in New South Wales. These volunteers perform heroic tasks in the most difficult conditions. Their willingness to help others in need, often at considerable risk to their own safety, is their defining characteristic. Over the past 50 years, they played a role in some of the State's most significant natural and human disasters, including the Sydney hailstorm, the North Coast floods, the Granville train disaster, the Thredbo landslide, and the Newcastle earthquake.

This Government is proud to support our SES volunteers, committing unprecedented levels of funding—totalling almost \$273 million—to the service over 11 years. It is fitting that in its golden anniversary year the SES budget has reached an all-time high of \$40.6 million—an increase of \$6.3 million over last year. This includes funding for a new around-the-clock emergency call centre and more than 40 new staff to support the community and the volunteers. A range of anniversary celebrations is taking place this week. A street parade will be held through Sydney city on Saturday 12 November. Not only will this be an opportunity for members from around the State to get together, but it will also be an opportunity for the community to thank the volunteers for their hard work and commitment. The Government was pleased to support the striking of a commemorative fiftieth anniversary medallion for each SES member in recognition of their valued service. The SES also is telling its story in a book by its former Deputy Director General, Chas Keys. The Minister for Emergency Services will launch *In Times of Crisis* on Friday 11 November.

The fiftieth anniversary was also an opportune time to review the State Emergency Service Act to ensure it has kept pace with, and provides the legislative support for, the organisation's development as a modern, efficient emergency service. The bill outlines a number of amendments to refine the principal Act to

formalise arrangements already in place and to better reflect the service's organisational and operational structure and responsibilities. The primary function of the SES is to prepare, plan for and lead response operations to assist communities affected by floods and storms. SES volunteers routinely secure tarpaulins to roofs damaged by storms and sandbag levee banks and homes to protect them from floodwaters. When necessary, they evacuate people ahead of anticipated flooding and rescue people trapped in floodwaters. It is important that this broad charter to protect life and property will now be explicitly acknowledged in the functions of the service, in much the same way as in the Fire Brigades Act and Rural Fires Act.

When the service was established during the dark days of the Cold War, one of the key responsibilities assigned to the SES was for civil defence. The emergence of the terrible threat of global terrorism means we face different challenges today from those in the 1950s. Governments around Australia now have a responsibility to ensure that their police and emergency services have the legal powers, resources and training necessary for their roles in counter-terrorism. Civil defence planning is now regarded as a whole-of-government responsibility and is undertaken in New South Wales by the State Emergency Management Committee through the preparation of emergency management plans. The SES is one of a number of State agencies that would participate in any civil defence operation.

For instance, the SES, the Rural Fire Service and the Sydney Harbour Foreshore Authority are providing the safety site marshals for the Sydney CBD evacuation plan. In recognition of this wider responsibility accepted across the Government, this bill amends the Act to remove civil defence planning and operations as a sole SES requirement. One of the significant and symbolic shortcomings of the SES Act is that it makes no reference to the volunteer status of the overwhelming majority of SES members. Especially in its fiftieth anniversary year, it is important to acknowledge in legislation that the SES is predominately an emergency service comprised of volunteers, thus recognising their invaluable contribution to the State's emergency management and response.

These amendments also formalise a number of practical SES operational and administrative practices and structures. The most fundamental is to recognise the SES director general's role as the organisation's State controller. While the SES Act and regulations provide for the appointment of controllers at division, local and unit levels, no legislative provision is made for a controller at State level. This commonsense amendment establishes that the director general is at the head of the chain of command. It follows that the deputy director general is the deputy State controller. The operational hierarchy of the service also will be codified in the principal Act, with the provisions regarding SES unit controllers and deputies to controllers being elevated from the regulations.

Each of the 232 SES units belongs to one of 17 divisions, whose boundaries coincide as closely as possible with major river systems. Paid full-time division controllers are responsible for the control of emergency responses by the SES within their defined geographic area. They operate out of a local division headquarters and are assisted by a small number of paid staff members, as well as a group of volunteers who help with training, planning, operational and other functions. For reasons of consistency with the organisational arrangements of other emergency services such as the New South Wales Ambulance Service, NSW Fire Brigades, the Rural Fire Service and the police, the bill replaces the term "divisions" in the principal Act with the term "regions".

This is also consistent with the Australian interagency incident management system, reducing the potential for confusion between various agencies. The amendment means that divisional controllers will be renamed "regional controllers" and provision is also created for the appointment of a deputy regional controller. Each SES unit is based in a local government area and its members are led by a local controller, who is a volunteer. It is accepted that the amalgamation of a number of local councils in recent years has created a larger geographic area of responsibility and greater workload for some local controllers. The bill therefore provides for the appointment of more than one local controller for a local government area, should it be necessary, to help spread the workload on our volunteers who have stepped up to a leadership role.

The bill also provides the director general with the power to form an SES unit in response to population growth or identified local hazards, not just on receipt of an application. This will provide the service with a greater degree of flexibility in responding to local needs. At the other end of the spectrum, the New South Wales SES can also be called upon to assist communities in other States and Territories—notably Queensland, Victoria and the Australian Capital Territory—to respond to emergencies, particularly major storms. Indeed, the SES Act allows the director general to make arrangements for interstate co-operation in such emergencies. However, this provision contains a practical limitation, in that these co-operative arrangements can be made only with agencies that manage and control SES units in the other States and Territories.

While the SES exists in most other jurisdictions, it does not in others, such as the Jervis Bay Territory and Norfolk Island. In this regard, these amendments allow the SES to enter co-operative arrangements with agencies in such territories without their own SES. The bill also contains a range of housekeeping amendments, including the removal of the antiquated term "tempest" from the Act and elevating the provisions on the granting, suspension and withdrawal of SES membership and the procedures for recording donations to SES units from the regulation to the Act. The bill also includes appropriate saving provisions. These amendments present a practical series of reforms to support incremental changes and evolving operational arrangements that have been put in place as the SES has grown and developed.

They have the support of the Volunteer SES Association, the peak body representing the SES volunteers, and the Local Government and Shires Associations have expressed no objection. I congratulate the SES on its achievement of 50 years service to the community of this State. I wish its members well for their safety as they work to protect communities across New South Wales now and through the coming summer storm season. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

### **MENTAL HEALTH (CRIMINAL PROCEDURE) AMENDMENT BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**Ms ALISON MEGARRITY** (Menai—Parliamentary Secretary) [8.06 p.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Mental Health (Criminal Procedure) Amendment Bill. It is estimated that close to one in five people in Australia will be affected by a mental illness at some stage of their lives. The trend over the past five years indicates a substantial increase in the numbers of people with a mental illness who come before the courts. The prevalence of mental illness in the New South Wales correctional system is substantial and indicative of the high incidence of defendants in court who have mental illness. These amendments simplify procedures, improve operational efficiency and update the law with respect to people suffering a mental illness, mental condition or intellectual disability. This bill is the result of the most exhaustive process of consultation and we have reached an uncommon degree of consensus.

The amendments are based on the Law Reform Commission Report 80, "People with an Intellectual Disability and the Criminal Justice System". The Interdepartmental Committee on the Mental Health Criminal Procedure Act 1990 and Cognate Legislation was established to consider the recommendations. The committee comprised representatives from NSW Police, the Office of the Director of Public Prosecutions, Crown prosecutors, the Department of Corrective Services, NSW Health, including Corrections Health Service, the Community Court Liaison Service, the Centre for Mental Health, the Legal Aid Commission of New South Wales, public defenders, the Department of Community Services, the Department of Ageing, Disability and Home Care, the Mental Health Review Tribunal, the Department of Juvenile Justice, magistracy and the Attorney General's Department. The committee also proposed other recommendations independently. All of the recommendations of the committee were unanimously agreed upon.

I now turn to the specific provisions of the bill. Schedule 1 amends the Mental Health (Criminal Procedure) Act 1990. These amendments relate to the functions of the Attorney General, the court, the tribunal and the Director of Public Prosecutions. The first amendment relates to the question of fitness hearings. Item [1] amends section 8 of the Act to require the court, rather than, as at present, the Attorney General, to determine whether an inquiry should be conducted as to a person's fitness to be tried for an offence where this question is raised before arraignment. The court already has this power under section 9 of the Act in circumstances where the question of a person's fitness is raised after arraignment.

There is no good reason why the Attorney General makes the decision before arraignment and the court makes the decision after arraignment. When expert reports support the issue, invariably the Attorney General directs that an unfitness inquiry be conducted. This process takes time. It is an unnecessary process, particularly when the defence, the Crown and the court are of the same view that the issue of unfitness should be determined before the trial. Items [2] and [3] make consequential amendments. Items [8], [9] and [15] remove the Attorney

General from the process of directing that fitness hearings and special hearings be conducted. Item [8] omits section 18 of the Act, which requires the Attorney General, after receiving notification from the tribunal that a person is unlikely to become fit to be tried for an offence within 12 months, to direct the court to hold a special hearing in respect of the offence or to notify the court and the Minister for Police that no further proceedings will be taken.

Item [9] substitutes section 19 of the Act to require the court to hold a special hearing after receiving such a notification unless the Director of Public Prosecutions [DPP] advises that no further proceedings will be taken. It is intended that the DPP's power to direct no further proceedings in relation to a special hearing matter mirror the DPP's powers in relation to criminal proceeding trial matters. Item [15] substitutes section 29 of the Act to require the court to hold a further inquiry into the fitness of a person to be tried for an offence if the tribunal has notified that a person who was previously found to be unfit to be tried has become fit. However, the court is not to hold a further inquiry if the Director of Public Prosecutions advises that the person will not be further proceeded against. Currently, the court holds such further inquiries at the request of the Attorney General. Unfitness through mental illness can be a fluctuating condition.

An unfit person may become fit, only to regress into a state of unfitness at some subsequent time. It is desirable that there be an efficient process for bringing a person who has been found unfit back before the courts promptly upon an indication from the tribunal that he has become fit. Once again, the removal of the Attorney General from this procedure will help to improve the efficiency of the process without adversely affecting the nature of the proceedings. Items [6] and [10] make consequential amendments. Item [7] amends section 17 of the Act to require the court to notify the tribunal of the grant of bail or the detention of a person in a hospital or other place under that section. This is required because those on bail will now be forensic patients and subject to the review of the tribunal.

The next amendments relate to judge-alone fitness hearings and special hearings. Item [4] substitutes section 11 of the Act and omits section 11A to provide that the question of a person's unfitness to be tried for an offence is to be determined by the judge alone. Item [5] makes a consequential amendment. At present that question is determined by a jury unless the person, with the consent of the prosecutor, elects otherwise. The use of a jury in a fitness hearing delays proceedings and is unnecessarily costly. In the majority of cases there is no issue between the parties that the accused person is unfit, and both the Crown and defence experts agree on this. Despite this, because the accused is often not capable of making an election for a judge-alone hearing, the unfitness hearing must proceed before a jury.

Such a hearing may be significantly and unnecessarily protracted when compared with one that is determined by a judge alone who can often determine the issue of fitness by simply reading the expert reports and finalising the matter in less than one hour. In contrast, if the hearing proceeds before a jury, the process takes up to two days. The jury must be empanelled, the judge must explain to the jury the proceedings and its role, evidence of experts is more likely to be called rather than reports being relied upon, both the defence and the Crown address the jury, the judge sums up, and finally the jury considers its verdict. It is not uncommon for the jury to be confused as to its role and to return to court on several occasions to ask questions. On some occasions the questions relate to the guilt or innocence of the accused rather than the issue of unfitness.

The question of a person's unfitness to be tried is preliminary to any determination of guilt or innocence. Members of the jury may be perplexed and frustrated as they may not understand their purpose in the proceedings. Item [12] substitutes section 21A of the Act to provide that a special hearing is to be determined by the judge alone unless an election to have the special hearing determined by a jury is made by the accused person, a legal practitioner representing the accused or the prosecutor. At present a special hearing is determined by a jury unless the accused person, with the consent of the prosecutor, elects otherwise. This provision protects the rights of an accused person to have a jury determine the matter when it is in his or her best interests.

The unfitness of the accused will not be an impediment to electing for a jury, because the legal practitioner is allowed to make that decision. The accused person is entitled to elect for a jury up until the day before the day fixed for the special hearing. However, the prosecution must elect at least a week in advance in order to secure a jury. Item [11] makes a consequential amendment. Item [13] inserts proposed section 22A into the Act to enable the Director of Public Prosecutions to amend an indictment for a special hearing. The DPP follows a similar process in amending an indictment in ordinary criminal proceedings. It will save the accused person from having to undergo an unfitness inquiry again in relation to the fresh matters on the amended indictment. Item [14] amends section 23 of the Act to enable the court, when imposing a limiting term after a special hearing, to impose the term consecutively with, or partly concurrently and partly consecutively with, another limiting term applying to the person or a sentence of imprisonment imposed on the person.

This amendment is directed towards dealing with a deficiency in the legislation highlighted in the judgment of Justice Giles in *R v RTI* [2005] New South Wales Court of Criminal Appeal 337, in particular paragraph 45. The amendment gives effect to Justice Giles's suggestion that there should be a power to accumulate limiting terms. It is not intended that accumulation of limiting terms be dealt with in a way that is more onerous than the accumulation that takes place after a normal trial. The insertion of proposed section 23 (6) is intended to ensure that the court takes account of, and is guided as far as possible by, the provisions governing consecutive sentences after a normal trial. In all but the worst cases limiting terms where accumulation is warranted should be partly concurrent and partly consecutive.

The next amendments relate to proceedings under section 32. In summary proceedings before a magistrate, the magistrate has the power to divert the defendant away from being dealt with at law and being subject to a punishment. The purpose of section 32 of the Act is to allow defendants with a mental condition, a mental illness or a developmental disability to be dealt with in an appropriate treatment and rehabilitative context enforced by the court. As currently drafted, under section 32, a magistrate is required to consider the state of mind of the accused only at the time he or she appears before the court, not at the time the offence was committed. This is inconsistent with principles that apply in mental health criminal proceedings under part 4 of the Act concerning the defence of mental illness.

For example, a person may have committed a minor offence such as shoplifting during a manic stage of a manic depressive illness. By the time he or she appears in court—even one or two weeks later—his or her illness may be under control, the person having recommenced medication after arrest. As currently drafted, section 32 can be invoked only if the person is suffering from a mental condition or illness at the time of the hearing. Accordingly, item [17] amends section 32 to allow diversion for a person who suffers a mental condition or illness or a developmental disability at the time of the commission of the offence, even though they might have recovered by the time they appear before a magistrate on criminal charges. This means that the magistrate has the option of adjourning the proceedings, granting the defendant bail, or making any other appropriate order.

It also enables the magistrate to dismiss the charges and to release the defendant unconditionally or into the care of a responsible person or subject to the condition that the defendant undertake specified treatment. Item [16] makes a consequential amendment. Items [18] and [20] amend sections 32 and 33 of the Act to require a magistrate to state reasons for his decision as to whether or not a defendant should be dealt with under those sections. This will provide more information about the type of people being refused applications and allow a body of law to be built up in this area. Item [19] inserts a new section 32A into the Act to permit a person who provides treatment in accordance with an order under section 32 to report failures to comply with the order and other associated information.

Service providers are to make breach reports to the Community Offender Services of Probation and Parole or to officers of the Department of Juvenile Justice, as the case requires. These agencies will then weigh up whether it is appropriate to bring the matter to the attention of the court. The provision is designed to facilitate the reporting of failures to comply with conditions, and to ameliorate concerns of service providers in relation to client confidentiality issues. This will strengthen the integrity of the operation of orders.

Item [21] omits section 34 of the Act, which requires a magistrate to disqualify himself or herself, on the application of the defendant, from hearing the proceedings if the magistrate has refused to deal with the defendant under sections 32 or 33 of the Act. Members of the magistracy have noted that this section permits spurious applications to be made to facilitate magistrate shopping. The improper use of this section can create problems in regional areas serviced by a single magistrate, and result in lengthy delays in the resolution of the proceedings. The repeal of section 34 will not remove the common law obligation on magistrates to disqualify themselves where appropriate.

The common law provides that a magistrate should not hear and determine proceedings if affected by actual bias, or if there is a reasonable apprehension that the magistrate is not impartial and unprejudiced. That is the test to be applied in all proceedings and the same test should apply in relation to continuing to hear a matter after declining to divert a defendant under section 32 or section 33. The situation is no different to where magistrates continue to hear matters, where appropriate, even though the facts, criminal history and evidence about the mental condition of the defendant have been raised on bail hearings.

The final amendments in schedule 1 relate to sections 38 and 39 of the Act for people found not guilty by reason of mental illness. In 2003 section 39 was amended to allow the court to order the conditional or



unconditional release of a person found not guilty by reason of mental illness. Prior to that amendment all people found not guilty by reason of mental illness had to be detained in strict custody. Items [22] and [23] amend sections 38 and 39 of the Act to ensure that such persons are not released into the community by order of the court unless the court is satisfied on the balance of probabilities that the safety of the person or any member of the public will not be seriously endangered by the person's release.

Section 39 is also amended to require the registrar of the court to notify the Minister for Health and the tribunal of the terms of any order made under the section. The court will be given the power to remand the person in custody pending its consideration of this issue. While courts already take public safety into account on a routine basis when determining whether to release an accused pursuant to section 39, the proposed amendment provides an extra layer of comfort to the community by specifically requiring the court to carefully consider this issue, one I am sure all honourable members will agree is of paramount importance.

Schedule 2 makes amendments to the Act by way of statute law revision. The amendments change out-of-date references to prisoners and the Prison Medical Service and include references to detention centres for juveniles. The amendments also include references in certain provisions to the Director General of the Department of Juvenile Justice and juvenile justice officers so as to involve them in certain matters relating to accused persons who are juveniles.

Schedule 3 amendments relate to the Mental Health Act 1990. As honourable members are aware, the Minister for Health is currently undertaking a review of the Mental Health Act. The amendments in this bill are mostly procedural issues that are consequential to the changes to be made to the Mental Health (Criminal Procedure) Act 1990. Item [1] amends section 80 of the Mental Health Act 1990 to require the tribunal to review the case of a person who has been found unfit to be tried for an offence by a court and has been granted bail, to determine whether the person has become fit to be tried.

This amendment will fill an identified gap in the existing legislation. Currently there is no procedure for a person who becomes fit whilst on bail to be promptly brought back before the court to have a further fitness hearing. As previously discussed, unfitness through mental illness can be a fluctuating condition. An unfit person may become fit, only to regress again at some subsequent time into a state of unfitness. It is desirable that there be an efficient process of reviewing a person's mental state while he or she is on bail and bringing a person who has been found unfit back before the courts promptly upon an indication from the tribunal that he or she has become fit.

Items [2], [3], [4], [5] and [8] amend sections 80, 82 and 104 of the Mental Health Act as a consequence of the amendments made to the Mental Health (Criminal Procedure) Act by schedule 1 [8], namely, to remove the role of the Attorney General from provisions relating to the holding of special hearings. Item [6] amends section 82 of the Mental Health Act to prevent the tribunal recommending the release of a forensic patient who has been transferred to a hospital while serving a sentence of imprisonment and has not served the term of the sentence or, if a non-parole period has been set in relation to the sentence, the non-parole period.

The proposed amendment has no impact on the situation of a forensic patient who was found at trial to be not guilty by reason of mental illness or a forensic patient who was unfit to stand trial. It is limited to a person who was fit to be tried, found guilty by a jury, and sentenced to imprisonment by the sentencing court. This amendment pays reverence to the ruling of the sentencing court, as well as to expectations in the community that convicted persons will not be released until they have served the non-parole or fixed-term period to which they have been sentenced. Items [9] to [11] make consequential amendments.

Item [7] amends section 93 of the Mental Health Act to enable the prescribed authority, if it appears that a person has committed a breach of a condition of an order releasing the person from custody under section 39 of the Mental Health (Criminal Procedure) Act, to make an order for the person's apprehension and detention, care or treatment. This amendment arises from a recommendation of District Court Judge Marien in the case of *R v Milakovic*, unreported, 22 March 2005, and brings persons released under section 39 of the Mental Health (Criminal Procedure) Act—after a finding of not guilty by reason of mental illness—into line with those released by the prescribed authority following a review under section 84 of the Act, by providing a mechanism whereby a breach of a condition imposed upon their conditional release can be effectively enforced.

Item [12] amends section 108 of the Act to provide that the Minister for Health may release certain forensic patients following advice from the Director of Public Prosecutions—rather than from the Attorney

General, as is currently the case—that further proceedings will not be taken. Item [13] amends the definition of "forensic patient" in the Act to include a person who is granted bail pursuant to section 14 (b) or section 17 (2) of the principal Act. This is an important change because the tribunal conducts regular reviews of forensic patients. The tribunal review is the trigger for promptly bringing persons back before the court where necessary, that is, in circumstances where they have become fit or where the tribunal has determined that they will not become fit within 12 months from the date of the finding of unfitness. Item [14] enables regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act, and item [15] contains savings and transitional provisions consequent on the enactment of the proposed Act.

The foregoing amendments are expected to provide a safer and more efficient regime for dealing with persons affected by mental illness and other mental conditions in the criminal justice system. They will also produce a more responsive system, one that is better equipped to deal with the fluctuating nature of unfitness through mental illness, while further strengthening public safety considerations. They provide greater opportunity for diversion from the criminal justice system for those who should properly be dealt with in an appropriate treatment and rehabilitative context enforced by the court. The extensive consultation process underpinning the bill has helped to ensure that the rights of accused persons are preserved, and that the improvements produced will have long-lasting effect. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

### **FIRST STATE SUPERANNUATION LEGISLATION AMENDMENT (CONVERSION) BILL**

**Bill introduced and read a first time.**

#### **Second Reading**

**Mr PAUL McLEAY** (Heathcote—Parliamentary Secretary) [8.28 p.m.], on behalf of Mr John Watkins: I move:

That this bill be now read a second time.

First State Superannuation [FSS] is an accumulation superannuation scheme. All New South Wales public sector employees recruited since 1992 are covered by the First State Superannuation Act 1992. However, they may choose to have their compulsory employer contributions paid into a complying superannuation scheme other than FSS. First State Superannuation has around 440,000 member accounts and about \$9 billion under administration. Currently, membership of FSS is restricted by a heads-of-government agreement with the Commonwealth to New South Wales public sector employees. This means that employees who move from public to private sector employment, such as nurses, are forced to start with a new superannuation scheme.

It is interesting to note that each year there are approximately 30,000 New South Wales public sector employees who exit the public service, with the majority joining the private sector. Because of the current restrictions on FSS membership, these former public sector employees, many of whom are teachers and nurses, are unable to continue to contribute to FSS. In fact, research undertaken in recent years by the trustee of FSS has shown that almost 70 per cent of these former public sector employees would continue to contribute to FSS if they were allowed to do so. The trustee proposes to make membership of the fund truly portable while continuing to be a not-for-profit scheme.

By converting the FSS from a State-regulated "exempt public sector scheme" to a scheme regulated by Commonwealth law, the trustee will have the option to offer continued membership to former public sector employees and become a "public offer fund" if it chooses. Of course, conversion of the fund is subject to approval by the Commonwealth licensing and regulatory authorities. The process for the trustee obtaining this approval is well in train. Subject to the passage of this bill, conversion of the FSS Trustee Corporation [FTC] is anticipated to occur in early 2006. The changes envisaged by this bill would allow FSS to remain competitive in the new environment of expanded fund choice.

There are three parts to the bill. The first enables the FTC to convert FSS to a Commonwealth-regulated fund. The second provides for retention of relevant provisions of the First State Superannuation Act 1992 to prescribe the circumstances under which compulsory employer superannuation contributions are to be paid to New South Wales public sector employees. The third deals with consequential amendments to various Acts, mainly by removing references to FSS. The bill amends the Superannuation Administration Act 1996 to enable the FTC to become a proprietary company limited by shares under the Commonwealth Corporations Act 2001. This is the first step in the conversion process.

The bill also amends the First State Superannuation Act 1992 and the Superannuation Administration Act 1996 so that FSS will cease being a scheme regulated by State legislation and become a Commonwealth-regulated scheme. It will enable the FTC to amend the First State Superannuation trust deed and rules so that FSS is eligible to become a complying Commonwealth-regulated scheme. The proposed changes do not alter the security of members' investments. There has never been a "government guarantee" implied or otherwise for FSS. FSS members will enjoy the same protections as other members of the community who are in Commonwealth-regulated accumulation schemes. That is, FSS and the FTC will be governed by the Commonwealth Superannuation Industry Supervision Act and regulations, and will be under the prudential control of the Australian Prudential Regulatory Authority [APRA].

The FTC board will continue to be comprised of employer and employee representatives, as it is now. Any alteration to the constitution relating to the number, manner of appointment or manner of removal of directors of the company during the three-year transition period following conversion requires the Minister's consent. In addition, the New South Wales Auditor-General will be the auditor for FSS and the trustee for the first three years. The FTC will be able to choose the Auditor-General as auditor of the fund and trustee beyond that three-year period should it wish to do so. The bill enables the Government to ask the Auditor-General to audit the FTC and FSS on its behalf to assist it with deciding whether FSS should continue to be endorsed as the default fund for public sector employees.

One thing that will change is that members will gain access to the Superannuation Complaints Tribunal. The trust deed and rules also make provision for continued right of access to the New South Wales Industrial Relations Commission to dispute trustee decisions. Other special arrangements, such as certain aspects of the firefighters' death and disability provisions, will continue. The conversion of FSS has been the subject of discussion for several years between the trustee, Treasury, the Public Employment Office in the Premier's Department and Unions New South Wales, all of whom endorse the change.

The second part of the bill makes provision for what will become the main purpose of the amended First State Superannuation Act 1992. The Act will clarify the circumstances under which New South Wales public sector employers must make contributions of 9 per cent of wages or salary. These circumstances are not being changed and will continue to apply regardless of whether employees choose to receive their compulsory employer contributions in FSS or another complying fund. The third part of the bill makes consequential amendments. These include the repeal of the Superannuation Administration (Savings and Transitional) Regulation 1997 and removal of references to First State Superannuation or the FSS Trustee Corporation from a number of Acts. To reiterate, FSS will continue as a not-for-profit scheme. There is no adverse change for members. Conversion means the scheme will be more portable, giving it the potential to retain members, which in turn will help to keep administration fees low. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

## **SHOPS AND INDUSTRIES AMENDMENT (SPECIAL SHOP CLOSURES) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Mr PAUL McLEAY** (Heathcote—Parliamentary Secretary) [8.37 p.m.], on behalf of Mr John Watkins: I move:

That this bill be now read a second time.

The Shops and Industries Amendment (Special Shop Closures) Bill provides for the closure of general retail shops on Sunday 25 December 2005 and a limited exemption for certain general shops to open on Monday 26 December 2005 and Sunday 1 January 2006. These restrictions will be effected through the amendment of the Shops and Industries Act 1962 by the insertion of proposed new sections 89E, 89F and 89G. It gives me considerable pleasure to be able to introduce a bill that has a policy aim of enabling retail shop employees to celebrate the end-of-year festive days with their families and friends and so permit them to have a proper holiday respite. This family-friendly commitment to retail workers is suitably balanced in the bill's provisions, with scope provided also for the everyday consumer needs of holiday travellers in tourist areas to be satisfied.

The bill is based on precedent 1999 and 2004 legislation which this Parliament passed when there was a similar occurrence of weekend-occurring holidays. Proposed new section 89E requires that all general shops in

New South Wales are to remain closed on Sunday 25 December. Proposed new sections 89F and 89G provide that general shops in declared tourist areas which are covered by a ministerial order under section 89B of the Shops and Industries Act will be permitted to open on 26 December and 1 January if shopkeepers use staff who volunteer to work on those days. Otherwise, except as additionally stated in proposed section 89G, which I will next explain, general shops throughout the State are to remain closed on these two days.

Proposed new section 89G also provides that, only in respect of 1 January, general shops in the commercial business districts of the cities of Sydney, Newcastle and Wollongong, and in Cabramatta, which are covered by a section 78A exemption under the Shops and Industries Act may open with voluntary labour. For purposes of their understanding of the intended new provisions, I inform honourable members that general shops include furniture, electrical and hardware stores, food supermarkets, department stores, and clothing and jewellery shops. Scheduled shops satisfying everyday consumer demand, including chemists, newsagencies, take-away food outlets, souvenir shops and video shops, will not be affected by the bill and will be free to trade unrestrictedly on each of the holidays in the Christmas-New Year period.

Small shops, being small family-type businesses employing no more than four persons, will also not be affected by the bill. Such scheduled shops and small shops are free to trade seven days a week under the Shops and Industries Act. In respect of Sunday and public holiday trading by general shops, sections 84 and 85 of the Shops and Industries Act direct that these general shops be closed. However, exemptions from this prohibition have been granted to many general shop proprietors in the State under section 78A most commonly and section 89B being limited to particular local government areas outside Sydney, Newcastle and Wollongong declared as holiday resorts.

The effect of the granted exemptions under sections 78A and 89B is to permit trading by general shops on the two Sundays of 25 December and 1 January, in that the Christmas and New Year's Day holidays are officially transferred, under the automatic contingency arrangements of the Banks and Bank Holidays Act 1912, to the following Mondays. In effect, these two Sundays are rendered as normal Sunday trading days for general shops. The bill seeks to correct this present holiday trading situation by crafting a sensible compromise between the commercial interests of shopkeepers and the family commitments of their retail staff. Accordingly, the bill caters for the post Christmas Day trade in tourist areas where the demand by travellers for consumables, notably from food supermarkets, is substantial.

Additionally, post-Christmas retail sales in the commercial business districts of the cities of Sydney, Newcastle and Wollongong, and in Cabramatta, customarily attract sizeable crowds on New Year's Day. It is recognised in the bill that their shopping needs should be accommodated in some manner whilst they are in the city centres or the Cabramatta tourist area. Proposed new section 89G does not afford a right for general shops outside the central areas of the major cities to open on 1 January. Thus, general shops within the large retail complexes of, say, Parramatta, Chatswood and Miranda will remain shut on that day. In terms of a lawful ability of general shops to trade on 26 December and 1 January, the bill stipulates that a general shop must have appropriate statutory authority under either section 89B or section 78A to open on the day and that it be staffed by employees freely electing to work on that day.

It is recognised that certain staff, taking advantage of higher penalty wage rates available on holidays, will want to work on those days. In enforcement of its 25 December trading prohibition and 26 December and 1 January trading restrictions, the proposed new sections contain provisions overriding current exemptions granted under the Shops and Industries Act whereby general shops would otherwise be allowed to trade on the specified days. The existing penalty provisions of the Shops and Industries Act will apply to general shop trading on 25 and 26 December and 1 January in contravention of the new provisions.

In conclusion, I advise honourable members that under the existing power of section 85 of the Shops and Industries Act the Minister has made an order permitting general shops throughout the State a right to trade on Tuesday 27 December 2005 and Monday 2 January 2006. These are the official Boxing Day and New Year's Day holiday observances. This administrative action taken by the Government accepts that there is a public benefit in general shops being open on those days in full satisfaction of consumer demand. It is not a matter that receives coverage under the bill. I commend the bill to the House in furtherance of the Government's commitment to the adoption of family-friendly policies.

**Debate adjourned on motion by Mr Daryl Maguire.**

**PROPERTY, STOCK AND BUSINESS AGENTS AMENDMENT BILL**

**Bill introduced and read a first time.**

**Second Reading**

**Ms DIANE BEAMER** (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [8.45 p.m.]: I move:

That this bill be now read a second time.

The Property, Stock and Business Agents Act 2002 commenced on 1 September 2003 and represented the most comprehensive reform of the regulation of property agents in New South Wales in some 60 years. The Government has been monitoring the Act's operation in practice, and today I will outline a range of amendments to strengthen the legislative framework and finetune some aspects for the benefit of consumers and the industry. People engage in property and business sales and purchases relatively infrequently, yet they are some of the most important and expensive transactions we undertake in our lives. When someone engages an agent to act on their behalf, they place an enormous amount of trust in that person. Consumers face risks such as not finding a buyer or tenant, failing to maximise the true value of the property, and the potential loss of deposit or rental income.

The key elements of the reforms introduced by the Government in 2002 included mandatory professional development to lift industry standards, tightening of probity entry requirements, increased transparency at auctions through bidder registration, requirements to substantiate price estimates, increased requirements to disclose conflicts of interest, and streamlined disciplinary processes. Since the Act's commencement real estate investigators from the Office of Fair Trading have attended more than 500 property auctions. More than 70 formal cautions have been issued for breaches of auction requirements, mainly relating to minor matters such as auctioneers not displaying required signage and accepting bids from people who have not displayed their bidder registration cards when making a bid.

In some of the more serious matters, I can also advise that 82 notices have been issued to licensees to show cause why disciplinary action should not be taken against them, and eight real estate agents have had their licences cancelled and been permanently disqualified from the industry due to misappropriation of trust creditor funds. Despite these results, I am pleased to be able to report that since the introduction of the Government's reforms the number of breaches of auction requirements has consistently fallen. Indeed, the most recent survey of 46 auctions in September 2005 resulted in only six minor cautions, no prosecutions, and no penalty notices. In another place I have congratulated the majority of agents and auctioneers on the way in which they conduct their businesses. Most have accepted and are working with the changes.

But to ensure the Act continues to be effective in meeting the needs of consumers and the industry, some additional amendments are required. These amendments fall broadly into three categories, and will contribute to an improvement in the operation of the Act in practice—firstly, to licensing entry requirements for agents; secondly, to the provisions relating to the auctions process; and, thirdly, to agent conduct.

I will now provide an overview of the provisions. First I will deal with the provisions concerning licensing entry requirements and the grounds upon which a person may be disqualified from operating as a property agent. Because of the significance of property transactions to consumers, and the handling of large amounts of trust money, it is imperative that high standards of probity apply to property agents. One way of addressing this is through regulating who can obtain a licence or certificate under the Property, Stock and Business Agents Act, and specifying the grounds upon which those licences can and should be cancelled or suspended. Section 16 of the Property, Stock and Business Agents Act establishes several grounds for disqualifying people from holding a licence or certificate. Some of these grounds require finetuning because of gaps that have become apparent now that the Act has been operating for more than two years.

Under section 16 of the Act a person may be disqualified if they are a "director or person concerned in the management of a corporation that is the subject of a winding up order or for which a controller or administrator has been appointed". However, this concept does not adequately capture all directors or people involved in the management of insolvent corporations, which reflects on their ability and suitability to handle money. The current reference to a winding-up order only refers to a winding up by a court and excludes a creditor's voluntary winding up, which occurs where the directors are not able to make a declaration as to the solvency of the corporation. Also, a liquidator is not a controller or administrator, so the appointment of a

liquidator to a corporation, unless by a court, is not currently grounds for disqualification. In order to address these situations currently excluded, the bill provides for the broader concept of a "director or person involved in the management of an externally administered body corporate" to replace the existing concept.

A body corporate that is the subject of a member's voluntary winding up will be excluded from this section. A voluntary winding up occurs where a company is solvent and is being wound up because it is no longer needed by its shareholders as a structure through which they wish to conduct some part of their business affairs. Furthermore, the current provisions in section 16 which provide for disqualifying a director or person concerned in the management of a corporation that is the subject of a winding-up order do not specify a time frame. A person may therefore avoid disqualification by resigning the day before the appointment of an external administrator. The bill therefore provides that a director or person concerned in the management of a company in the 12 months prior to it becoming externally administered should be disqualified. Only actions taken by the person whilst involved in the management of the corporation will be considered.

Similar concepts are contained in the Corporations Act 2001, which deals with a court's power of disqualification in relation to insolvency and the non-payment of debts. Another matter requiring modification relates to the disqualification of an undischarged bankrupt from holding a licence, because there has been some uncertainty in interpretation. The intended purpose of the disqualification provision is to ensure that people who have demonstrated an inability to adequately manage their business, and who may put their financial needs before those on whose behalf they act, should be excluded from holding a licence. The Act currently provides that the Commissioner for Fair Trading may grant a licence to an undischarged bankrupt if satisfied that the person took all reasonable steps to avoid the bankruptcy.

The amendments proposed in the bill make it clear that the commissioner should consider the steps taken by the applicant to avoid bankruptcy when financial difficulties first arose in the business, and not just consider the steps taken once bankruptcy, liquidation or administration became imminent. For example, a person should not be granted the discretion based solely on their actions after they have been served with a bankruptcy notice, because this would ignore the financially irresponsible behaviour which led to the serving of the notice. In addition, the commissioner's discretion to grant a licence to an undischarged bankrupt does not currently appear to apply consistently to a director or person concerned in the management of a failed company. But there is no reason why this discretion should not apply equally. It is therefore proposed to amend the Act to ensure that the commissioner's discretion applies equally to an undischarged bankrupt as well as to people involved in the management of an externally administered corporation.

Under the current legislation, disqualification on the grounds of bankruptcy or association with a failed company applies equally to applicants for a licence or certificate. This is unduly onerous on applicants for a certificate under the Act, given that they work under the supervision of a licensee, and the licensee now has an explicit duty in relation to supervision, backed up by guidelines from the Commissioner for Fair Trading. The bill therefore provides that disqualification for certificate holders on the grounds of bankruptcy or association with a failed company should not apply as they do not handle moneys in their own right. Section 16 also currently provides that a person is disqualified if he or she holds a licence or authority that has been suspended under the Fair Trading Act 1987 where serious consumer protection grounds exist.

However, this does not address the fitness of a trader who has been suspended or disqualified under other fair trading legislation and who now wishes to enter the property agent industry. Suspension or disqualification is an indicator that a serious offence has been committed. Accordingly, where disciplinary action has been taken by the commissioner against the holder of an authority under other fair trading legislation, resulting in the person's disqualification or suspension under that legislation, it is proposed that the person should also be disqualified under the Property, Stock and Business Agents Act. To ensure some flexibility in this provision the bill also provides that the commissioner may ignore such a disqualification where it is appropriate in the circumstances—for example, if it can be demonstrated that the disciplinary action taken does not affect the applicant's suitability to trade fairly.

The second category of amendments contained in the bill relates to auctions. These amendments are aimed at lifting and sustaining consumer confidence in the auction process. As I said earlier, the Government's reforms to promote better transparency and fairness through bidder registration at auctions—which have now been in place for more than two years—have been positively received by agents and consumers alike. But again, a few amendments are necessary to improve the legislation and its operation in practice. In summary, these changes relate to clarifying proof of identity requirements in relation to bidder registration; new offences and penalties targeted at preventing dummy bidding and collusive practices at auctions; marketing of properties after

an unsuccessful auction; and removing unnecessary accreditation for directors of corporation licensees whose employees conduct auctions.

First I will deal with the proof of identify provisions. Section 69 of the current Property, Stock and Business Agents Act provides that an agent must not enter a person's name and address in a bidders record unless those details are established by the production of certain specified forms of proof of identity. These include a drivers licence, an Australian passport, and other forms prescribed by the regulations. Some confusion has arisen in practice about whether there is a need for an agent to check other information if a passport is produced which does not indicate the person's address. The bill will put beyond doubt the need for a bidder to provide additional information to verify their address at the time of registering for an auction. I recently announced that the Government would introduce amendments to outlaw the practice of dummy bidding and increase penalties relating to collusive practices at auctions.

Section 66 provides that only one bid may be made by or on behalf of the seller at an auction of residential property or rural land. The purpose of this provision is to deter the making of dummy bids on behalf of the seller aimed at artificially increasing the selling price of the property. It is also an offence to aid and abet the making of more than one vendor and to engage in collusive practices at auctions. To put it beyond any doubt, the bill explicitly outlaws dummy bidding in relation to residential property or rural land. Dummy bidding is essentially defined as a bid by or on behalf of the seller other than the single vendor bid made by the auctioneer on behalf of the seller. The fact that the auctioneer will be the only person authorised to make the seller bid will make it very transparent. The proposed new offence will allow the penalty to be imposed on the person who actually made the dummy bid and will not require proof that it was made at the request of, or with the knowledge of, the vendor.

A maximum penalty of 500 penalty units is to be imposed for a corporation and 250 penalty units in any other case. This reflects the seriousness of any action by a person who seeks to damage the auction process or bring it into disrepute. The dummy bidding provisions will also be required to be notified by the auctioneer prior to the auction. In order to help facilitate the purchasing of a property at auction by a co-owner, for example, if a relationship breaks down, or by the executor or administrator of a deceased estate, the bill ensures that people in these circumstances will have the right to make more than one bid, provided the contract discloses the circumstances, the auctioneer announces the making of more than one bid prior to the commencement of bidding, and each bid by the executor or co-owner is announced as such.

Section 78 prohibits collusive practices at auction sales. The section applies to persons using any collusive practice to induce or attempt to induce a person to bid in a way that prevents free and open competition. It also extends to those persons who agree to abstain from bidding or bidding in a certain manner as a result of a collusive practice. To bring it in line with the penalty for the new dummy bidding offence, the bill increases the current penalties for collusive practices from 200 to 500 penalty units for corporations, and from 100 to 250 penalty units in other cases. Related to this is the issue of invented bids. A popular claim in the media, following a Victorian court finding against an agent several years ago, is that auctioneers will sometimes take bids from trees and passing cats and dogs. The bill tightens up the operation of the current auction provisions in the Act by clearly making it an offence to invent a bid by acknowledging that one has been made when this is not in fact the case.

The maximum penalty proposed for this offence will be 250 penalty units. A further amendment relates to the circumstances where a property is passed in at auction and is later marketed for sale. In statements or advertisements made by agents when marketing such properties, the last bid made at the auction is often stated. If the last bid were to be made by the seller, a potential buyer of the property could be misled as to the market value of the property. So that consumers can be better informed, the bill provides that where the amount of the last bid is stated in subsequent marketing and that bid was in fact the seller's bid, it is to be identified as such. This information is also to be recorded in the Bidders Record.

The final set of amendments relating to auctions provides that the director of a corporation, licensee or a licensee-in-charge does not need auctioneer accreditation unless he or she is personally conducting auctions. Under section 21 of the Act, real estate agents and stock and station agents who wish to carry out auctions must obtain specific auction accreditation as a condition of their licence. The purpose is to ensure that they have the specific skills to carry out this form of selling. Section 14 (2) (d) of the Act requires at least one of the directors of a corporate licensee to hold a licence that an individual person is required to hold to carry on the business that the corporation carries on. Furthermore, section 31 (2) of the Act also requires that there needs to be a licensee-in-charge at each place of business and that that person must hold a licence that an individual is required to hold to carry on that business.

Discussion has recently arisen in relation to whether the director of a corporation licensed as a real estate agent with staff that undertake auctioning needs to be accredited as an auctioneer since there is no auction licence per se, but rather an individual accreditation of auctioneers under section 21. The requirements in sections 14 (2) and 31 (2) of the Act in relation to directors and licensees-in-charge are essentially aimed at ensuring that the people supervising others in a real estate business have the appropriate skills and qualifications to do so. This is necessary in terms of longer-term transactions, which generally benefit from the establishment of systems and procedures. However, an auctioneer essentially acts individually and does not act under supervision while carrying out an auction.

If an offence is committed by an auctioneer as an employee, a licensee-in-charge's auctioneer qualifications are not relevant. A strict interpretation of sections 14 (2) and 31 (2) would mean that an employee with individual auctioneer accreditation cannot conduct auctions for their employer if the employer is not accredited also as an auctioneer. But if that same employee freelances, they are able to contract their auctioneering services without the director of a corporation or the licensee-in-charge having the auctioneering accreditation. The bill amends the Act to remove the imposition of this unnecessary requirement, so that either the director of a corporation licensee or a licensee-in-charge will not be required to hold auctioneer accreditation unless they are actually personally conducting auctions.

The third and final category of amendments contained in this bill covers a number of miscellaneous amendments to agent conduct requirements. These include: clarifying an agent's duty of disclosure, information to be included in advertisements, increasing penalties for breaches of rules of conduct, and allowing the Commissioner for Fair Trading to require an agent to discontinue unjust conduct and rectify the consequences of such conduct. Section 47 of the Act requires an agent to disclose certain relationships and financial benefits to a prospective buyer, for example, a fee the agent will receive for referring the person to another service provider, or a relationship the agent has with the service provider. There has been some confusion as to what a prospective buyer is, and therefore when disclosure needs to take place.

The bill clarifies that disclosures to a prospective buyer need only be made after an offer to purchase has been passed on to the principal. In addition, section 47 (1) (c) imposes a disclosure requirement in relation to any benefit any person has received. It is proposed to clarify that the section only requires disclosure in relation to any benefit received by a person to whom the agent has referred the client or prospective buyer. Section 50 (2) of the Act requires an agent advertising a property for sale to disclose in the advertisement if he or she has an interest in the property as a principal. The purpose of this requirement is to promote transparency where an agent engages in property transactions relating to his or her own property. However, if the property is owned by a company of which the agent is a director, no disclosure is required.

Similarly, if one of the directors of a corporate licence holder sells his or her property as an individual, then no disclosure is required. It is proposed that section 50 be amended to also require disclosure where the agent is linked to the owner of the property being advertised by a common individual or individuals licensed under the Property, Stock and Business Agents Act 2002. This will ensure that the spirit of the legislation in promoting a high degree of transparency for consumers is maintained. Section 86 provides that money received for or on behalf of any person by a licensee is to be held exclusively for that person and is to be paid or disbursed as the person directs, and, until so paid or disbursed, to be held in a trust account at an authorised deposit-taking institution.

To help prevent misappropriation of clients' money, the Act establishes audit requirements relating to licensees' trust accounts. Section 86 requires that the trust account is to be in the name of the licensee or firm of licensees or, if the licensee is a corporation, in the name of the corporation. Many licensees operate a number of trust accounts, for example, a general trust account plus a range of accounts in which funds belonging to specific clients are held. In those cases, the name of the client will also be included in the account name, for example "Owners Corporation 1234". To help facilitate trust account investigations by the Office of Fair Trading, the bill amends section 86 to clarify that the name of the licensee or firm of licensees or corporation is to appear as a prefix of the account name, followed by any other necessary identifier of the trust account.

This will make accounts easier to identify and assist with auditing procedures. A number of minor amendments are proposed in relation to the operating procedures involving trust accounts. Under section 90 interest earned on trust accounts is paid into the statutory interest account by authorised deposit-taking institutions on the first business day of each month. To provide a more reasonable time frame for these institutions, it is proposed to allow payment by the seventh business day, a more realistic time frame. Section 91 provides that authorised deposit-taking institutions must, within 14 days after the end of each month, notify the



commissioner in writing of several details concerning trust accounts, including the number of accounts opened in the month, the names of the licensees who opened the accounts, the names and numbers of those accounts, and the addresses of the branches where the accounts are kept.

This information is currently provided in hard copy, which is sometimes difficult to manage. The bill therefore amends section 91 to provide that the Commissioner for Fair Trading can prescribe the method by which a financial institution is to notify the required information relating to trust accounts, and this may include, for example, in electronic form. Under division 4 of part 7 of the Act, unclaimed money held in a licensee's trust account for more than two years must be paid to the Commissioner for Fair Trading and deposited in the Compensation Fund. The provision requires that remaining unclaimed money be remitted to Treasury following the end of each year. Section 98 requires that Treasury be provided with details of persons entitled to the money and the amount to which they are entitled.

Under section 99 Treasury must pay money to an entitled person on application. Treasury has recently changed its requirements and now requires government agencies to keep their own unclaimed money register of the persons entitled to money. Claims by entitled persons are made to and paid by the agency, and the agency then recoups the money from Treasury. The bill therefore seeks to amend sections 98 and 99 to reflect current Treasury requirements. The bill also increases penalties for breaches of the rules of conduct. These are prescribed in the Property, Stock and Business Agents Regulation 2003, and establish ethical standards of behaviour for agents. The rules currently include a requirement for agents to act honestly, fairly and professionally with all parties in a transaction and not to mislead or deceive any parties.

Given the potential detriment from a breach of the rules and the serious consequences that may flow for consumers, the bill amends section 37 of the Act to include a specific offence for a breach of the rules of conduct. The penalty for this offence will be 100 penalty units for a corporation and 50 penalty units for an individual. The final amendment I wish to outline relates to a new power for the Commissioner for Fair Trading to require an agent to discontinue unjust conduct. The Property, Stock and Business Agents Act already allows disciplinary action to be taken against a licensee for dishonest and unfair conduct. But the Act does not provide for the commissioner to require the licensee to discontinue unjust conduct against a consumer nor to provide compensation for such conduct. There are provisions in the Motor Dealers Act 1974 which provide this option and it is proposed that similar provisions be inserted in the Property, Stock and Business Agents Act.

Unjust conduct covers behaviour that is dishonest or unfair, in breach of contract, in contravention of the Act or regulations, or any relevant Act administered by the Minister for Fair Trading, or failure to comply with a condition or restriction on the licence. Under the amendments contained in the bill, the commissioner would be able to request the licensee to discontinue the unjust conduct or rectify the consequences of the conduct, and apply to the Consumer, Trader and Tenancy Tribunal for a binding order restraining the conduct if the licensee does not desist. This wider range of options for the commissioner will ensure that appropriate action can be taken when it is appropriate to provide a remedy for consumers where unjust conduct has occurred.

I have today outlined a number of amendments to the Property, Stock and Business Agents Act 2002 which seek to strengthen the rights of consumers, and finetune and clarify some administrative and operational arrangements. These amendments arise as a result of the Government's monitoring of the Act's operation in practice and ongoing consultation with all stakeholders in the industry. A draft of the bill was forwarded to major stakeholders for their consideration and review, and several submissions were received and taken into account in the final drafting. I want to thank those organisations for their input to the bill, and for their ongoing co-operation with Fair Trading on these matters. I commend the bill to the House.

**Debate adjourned on motion by Ms Katrina Hodgkinson.**

## **RESIDENTIAL PARKS AMENDMENT (STATUTORY REVIEW) BILL**

**Bill introduced and read a first time.**

### **Second Reading**

**Ms DIANE BEAMER** (Mulgoa—Minister for Western Sydney, Minister for Fair Trading, and Minister Assisting the Minister for Commerce) [9.16 p.m.]: I move:

That this bill be now read a second time.

I have great pleasure today in introducing the Residential Parks Amendment (Statutory Review) Bill. This bill demonstrates that New South Wales continues to lead the rest of Australia in the laws applying to this unusual but significant form of housing in our community. Recent figures suggest that there may be up to 30,000 people residing in 900 or so parks around the State. Most who live in residential parks—which used to be known as caravan parks, mobile home villages and relocatable home estates—have unique housing arrangements in that they live in their own homes on rented parcels of land. Park residents live in what are effectively small self-contained communities, where the actions and attitudes of their fellow residents and the park manager can have a profound effect on their quality of life.

The special nature of these living arrangements calls for well-targeted laws, and that is what the Residential Parks Act, which began on 1 March 1999, provides. The amendments contained in the bill will further improve what are already the country's most extensive and responsive laws for people who make their homes in residential parks and for the operators of such establishments. The bill arises as a result of the Government's broad consultation with stakeholders and a statutory five-year review of the Act's operation in practice. The Office of Fair Trading prepared and released a discussion paper for consultation purposes and over 260 submissions were received in response. A report on the review was tabled in Parliament by my colleague the Hon. Reba Meagher on 7 December 2004.

A number of issues have emerged in the residential park landscape that make some refinement to the legislation necessary. We have seen, for example, an escalation of the value of the land on which many parks, particularly those in desirable coastal locations, are situated. This has led to some park owners seriously considering their redevelopment opportunities. The uncertainty over the future of some parks has flowed on to many residents, who have understandably raised concerns over their housing arrangements should their park close. Another issue is that uncertainty over the safety of travel abroad has encouraged many Australians to travel and holiday within our own country, and this has led to some park operators wanting to focus more on short-stay tourist accommodation in place of long-stay arrangements. The residential park way of life is an attractive one to many in our community, who appreciate the relative affordability, the sense of community, the support of their neighbours and the relaxed informal lifestyle.

To others, the reality of living in a park is that it is the only housing choice they have due to their financial and personal situation. The Government wants to encourage the continuation of residential parks as an accommodation option and part of the housing mix for the people of New South Wales. But it is no easy task to balance the perfectly reasonable expectation by residents that they will have an appropriate level of security and consumer protection, with the equally acceptable aspirations of park owners to operate a profitable business.

At the outset, I want to stress that by introducing this bill the Government does not intend to take away or unreasonably restrict the rights of park owners to make commercial decisions about remaining in the industry. That is their choice, as it is of any other provider of accommodation services. Park owners will continue to be able to use their own land for other lawfully permissible purposes. However, it is the Government's clear intention to ensure that residents are properly and adequately afforded with consumer rights that are tailored to their unique living arrangements, as well as being protected against unfair and unjust treatment. I know that my predecessors the Hon. Reba Meagher and the Hon. John Hatzistergos met with a number of park resident and park industry interest groups before and after the tabling of the review report.

I have also met with some of these groups and have visited parks to see first-hand the circumstances under which park residents and park managers co-exist. Indeed, in my former capacity as the Assistant Minister for Infrastructure and Planning (Planning Administration), the planning and land use challenges affecting residential parks around New South Wales were prominent in my responsibilities, and I understand the various angles that each of the respective interest groups are coming from. The Government is committed to ensuring that legislation relating to residential parks results in fair and equitable outcomes for park residents and owners, and the measures contained in this bill achieve that.

I will now give an overview of the provisions contained in the bill, which fall into three main areas. First, there are changes strengthening the provisions dealing with the events that take place before a resident enters a park; secondly, there are modifications to the day-to-day relationship between the park owner and the resident during the tenancy; and, finally, there are changes to the mechanisms that apply when the time comes for the tenancy to be brought to an end. Turning to the first of these areas, the review of the legislation confirmed that many residents have not been given adequate information about their occupation arrangements before they moved in. Of great concern is that some of the information, or lack of information, may have been deliberately misleading in some cases. Many residents stated that they believed they were tricked into thinking

they could stay in their park for as long as they liked in a retirement style of living, only to find that the park owner later sought to terminate their agreement so that the park could be emptied for another type of use. Residents were able to produce advertisements that did not show some park owners in a good light in terms of the accuracy of the information they provided.

Some advertisements created the illusion that the resident would be buying a home and land, with no attempt made to clarify the fact that the land is actually occupied under a tenancy which could come to an end at any time in the future. The bill takes a number of steps to minimise these practices and to improve the relevance and accuracy of information required to be given to prospective residents up front. Among the changes are those that will require any advertising to spell out the fact that the land is subject to a tenancy and will not be owned by the resident. Failure to put this information in the advertisement will attract a penalty of up to \$2,200. The maximum penalty for failing to give incoming residents all the necessary information will be increased to a maximum of \$2,200.

Any additional clauses to those contained in the standard tenancy agreement will have to be provided on a separate sheet of paper so that additional clauses cannot be hidden amongst the detail of the tenancy agreement. Additional information will have to be given to incoming residents on the following: whether there have been any development applications over the previous five years, whether termination notices have been given to any residents on the grounds of a redevelopment, whether the park is on Crown land, what the electricity and gas arrangements are and whether homes can be sold while located in the park. Significantly, it will also now be an offence for park owners not to give residents a written tenancy agreement. These improvements will apply from the beginning of park tenancies and will reap benefits in the future by providing residents with a much clearer understanding of the basis of the occupancy arrangements they are about to enter into.

The next group of changes that I shall summarise covers the relationship between the park owner and the resident once a tenancy agreement begins. These are the provisions that govern the day-to-day relationships between park owners and residents. Several provisions contained within the bill seek to iron out or clarify operational issues in parks, and to streamline the manner in which they are dealt with. Some of the more significant changes include: park liaison committees will no longer be a mandatory obligation upon a park owner where there are 20 or more residents. However, if a majority of residents want to retain a committee this will still be possible. Internal residents committees are to be formally recognised, as is the case under the Retirement Villages Act, and they are to be entitled to meet without hindrance in suitable facilities within the park.

Park disputes committees, which were originally designed to deal with park rule matters, will also be dispensed with. Instead, residents will now be able to take any park rule disputes directly to the Consumer, Trader and Tenancy Tribunal. In addition, individual residents will be able to pursue park rule matters in the tribunal, rather than a minimum of five residents from five different sites as currently applies. Residents will be prevented from selling their homes within the park only if both the disclosure material and the tenancy agreement so specify.

To ensure that public land policies are not unduly affected, these changes will not apply to Crown or National Parks and Wildlife lands. When residents are permitted to sell their homes, park owners will not be entitled to restrict the use of "for sale" signs that are affixed to the homes. The penalties for illegally interfering with residents trying to sell their homes to make a new life for themselves will be increased from \$220 to \$2,200. When residents find that their only option is to sell their home to the park owner but agreement cannot be reached on a fair price, the tribunal will have the jurisdiction to break the deadlock and provide an independent valuation with the assistance of qualified valuers.

To give park owners some relief from small rent increases being challenged through the tribunal as being excessive, rent increases that do not exceed the consumer price index for the period involved will be subject to review only when it can be established that a service or facility has been withdrawn or reduced. This will give park owners and residents more certainty and will discourage ambit or overinflated rent increases, and will save the cost of the tribunal dealing with mass rent increase applications over relatively minor amounts. Billing and charging arrangements for electricity, water and gas supply will be made more consistent and more closely aligned to utility services provided to members of the community living in conventional housing in the same locality.

The supply of electricity to park residents has particularly been a bone of contention, as residents often receive a far smaller capacity of supply than do other members of the community, yet they pay the same rate.

Through a new customer services standard, park residents will pay for any supply charges—as distinct from consumption charges—proportionate to the capacity provided by the park owner. In practice, this will mean that residents who receive less than 30 amps of power to their home will only pay 50 per cent of the normal availability charge. If they receive 30 to 59 amps they will pay 70 per cent of the availability charge. Park owners will be obligated to agree to the terms of the customer service standards, which have been developed through extensive consultation, including the Energy and Water Ombudsman's Office.

Certain clauses that would have the effect of severely disadvantaging residents will be prohibited from inclusion in tenancy agreements. The prohibited clauses include those that would allow park owners to allocate rent payments by residents to any charges that they see fit, appointment of the park owner or manager as the sole selling agent for the resident's home, indemnification of the park owner against legitimate and lawful claims by the resident, and requirements for residents to only use trades and services persons nominated by the park owner. Finally, penalties for offences will be increased across the board to assist in gaining compliance with the laws.

I would like to pay a little more attention to two major initiatives in this bill connected to the day-to-day operation of residential parks. They concern the appointment of an administrator when things have gone horribly wrong with the management of a park and access arrangements to the park by emergency services when residents need them. I hope the provisions in the bill for the appointment of an administrator to take over the running of a park would rarely have to be used. However, it is one of the more important reforms contained in this package of amendments. The need for the provision has arisen through the irresponsible and inexcusable actions of a small minority of park owners who have demonstrated they will go to any length to make the lives of residents miserable. Some park owners can make life for residents in a park virtually unbearable: through intimidation and harassment, gross neglect of residents' health and safety, and continual refusal to comply with orders of the Consumer, Trader and Tenancy Tribunal or to pay penalties that have been imposed upon them.

The Government is not prepared to stand by and allow this appalling behaviour to continue. While they may be few in number, the devastation that disreputable park owners can wreak on the lives of residents, many of whom are in the autumn of their lives, cannot be underestimated. When the management of a park has reached the abysmal level that I have just described there will be an authority given to the Commissioner for Fair Trading to apply to the Supreme Court for the appointment of an administrator. The object will be to have the offending operator replaced by a substitute park operator with the necessary skill, business acumen and appropriate regard for the welfare of residents. A similar provision currently applies under the New South Wales Retirement Villages Act.

We want residents to be afforded common decency and respect, rather than have to live in an environment threatening to their health or safety, and this provision will enable the commissioner to step in and initiate the necessary action through the Supreme Court. I assure reputable park operators that they have absolutely nothing to fear from this new provision. It will only have effect on the rogue park owners who have neglected or are grossly neglecting their responsibilities to residents, and it will only be a measure of last resort. Judicial oversight of this provision via the Supreme Court will ensure the highest level of procedural fairness and natural justice.

The other innovation in the bill that I want to refer to at this stage relates to access by emergency services to parks when needed by residents. At present there are some hurdles for residents to overcome should they need to call for help in an emergency. There have been examples of residents whose spouse has suffered a heart attack calling 000. When the ambulance has reached the gate, which is usually secure, entry has not been immediately possible. Upon entry, it is sometimes hard for ambulance officers to find the resident's home due to inadequate maps or signage. In these situations, every second is vital. The amendments aim to minimise delays for all emergency services including fire, State Emergency Service, police, ambulance and even home care type services.

The bill places an obligation on park owners to devise emergency access arrangements appropriate for their park, in consultation with the residents and local emergency services. There is obviously no single simple solution that fits every park and every situation, but park owners will not be able to ignore their responsibilities to residents in this area. They will have to take all reasonable steps to ensure that residents in their park, like the rest of us in the community, have ready access to emergency services when the time and occasion arises.

The third and final group of reforms contained in this bill relate to the termination mechanisms where the park owner wishes to redevelop his or her establishment, and to the compensation payable to residents as a

consequence. This is the area that has changed so much since the legislation came into effect in March 1999. As I commented earlier, the redevelopment environment has altered somewhat in the intervening years and some park owners are weighing up whether to remain in the business of providing permanent residents with home sites. It is clear that pressures have built up and the process for dealing with park owners seeking to regain vacant possession of their land for redevelopment purposes, and the subsequent payment of compensation to affected residents, needs to be improved.

I make no apologies for the fact that the refinements in the provisions relating to termination of tenancy and access to compensation will strengthen the position for park residents. This is only right and just, as they have the most to lose in a park redevelopment scenario. Not only do they face losing their home but also their community, and their longstanding neighbours and friends. They also have the challenge of making new housing arrangements, either by moving their dwelling to another park—if they can find a suitable and available site—or by trying to sell their home independently and then finding suitable alternative accommodation. The cost of moving moveable dwellings is substantial and the relocation logistics can be a tricky exercise. It can be an extremely traumatic and difficult time for people who may well have expected to see out their remaining days in the park. It is essential that if the park owner has legitimate reasons to seek closure of his or her park for redevelopment purposes residents are granted the most dignified and helpful process that is possible in such circumstances.

I will now outline the fundamental changes to the mechanism to apply to the regaining of possession where the reason is for redevelopment or change of use. To ensure a transparent and fair process, particularly for park residents, park owners will now have to obtain development approval from the appropriate authorities before such a notice of termination can be validly given. Too many times in the past, park residents have been hoodwinked into vacating their homes on the premise of a vague redevelopment proposal or rumour that has never been formally put to the local council. This will no longer be possible. Before the process of bringing the resident's agreement to an end even begins, this fundamental step of obtaining a development approval will have to be taken. In instances where development approval is not required, park owners will need to seek approval from the Consumer, Trader and Tenancy Tribunal to authorise the issuing of a change of use termination notice after being satisfied that the grounds are bona fide.

The second big change will see the minimum period of notice that has to be given to a resident when a park redevelopment is proposed increased from 180 days, or 6 months, to a minimum of 12 months. This will give residents more reasonable time to make what are, after all, quite significant changes to their lives. However, as is the case under the present law, I stress that no resident is required to vacate their home even after the 12 months has expired until an order of possession is made by the Consumer, Trader and Tenancy Tribunal. If it is found by the tribunal that no development approval has been obtained for the so-called park redevelopment an order of possession will not be granted. The notice of termination will make it clear that residents have the right to remain in possession until the tribunal orders them to leave, and to be paid compensation by the park owner in line with the requirements of the legislation.

A new obligation will be placed upon the park owner at the time of issuing the notice of termination to also notify the Department of Housing. This will help to trigger the park closure protocol, which the Department of Housing and other government agencies have developed so that eligible residents affected can be assisted with co-ordinated government services. The other major reforms to the termination provisions of the legislation in the redevelopment context relate to the payment of compensation to residents. Access to compensation is a justified right of residents who have not only lost their place of abode but have also had their lives uprooted. Park residents who live in their own homes on rented sites and have their tenancies terminated have had access to compensation for more than 10 years now. This right will continue, but with some necessary improvements.

Compensation is currently payable to assist residents in moving their homes to another location and having services reconnected. The amount of compensation payable is assessed by the Consumer, Trader and Tenancy Tribunal. A number of refinements to the compensation provisions are contained in the bill. I will quickly highlight what these amendments will achieve. Firstly, residents will be entitled to get their compensation before they leave. In fact, they will have the right to remain in the park until they get it. This is a significant improvement for residents, as the cost of moving a modern moveable dwelling is substantial and may amount to \$20,000 or more. It is essential that park residents, most of whom are older members of the community and almost certainly on limited incomes, are paid upfront to lessen the financial burden on them.

Secondly, the criteria are to be broadened so that residents can be compensated for the relocation of a home to another park up to 500 kilometres away, which is an increase on the current 300 kilometres. This

recognises that park sites are becoming scarcer and some residents may wish to look a little further for their alternative housing arrangements. This will reduce the likelihood that they will be out of pocket after their move. I want to point out that residents are eligible for compensation even if their home is not to be moved to another park but to some other parcel of land, for instance, in a country town or rural area where it may be permissible to locate such a dwelling and where the former park residents may have some connections. This gives some residents additional options to consider and other possibilities when thinking about their changed housing arrangements if they are leaving their park.

Thirdly, the bill provides for residents being able to go to the tribunal more than once over compensation should there be a dispute over the adequacy of any amount awarded to them. This will allow for compensation to be topped-up should the tribunal's original estimate be proven to be insufficient due to higher than expected costs of relocation and connection to services or, for instance, repairs to any damage to the home that occurs during transportation. The final item in this bill connected with the termination and compensation process deals with the scenario of the resident selling his or her home to the park owner in lieu of moving it somewhere else. I referred to this situation earlier.

Sometimes residents are faced with a difficult choice—that is, they have decided not to move their home to another park due to personal reasons or because they cannot find a suitable site, but they find that they cannot sell their home on site to anyone else because their park is facing closure. Also, there is a limited market in selling a park home to a buyer who is willing to remove it for use elsewhere. Often the resident's only option is to negotiate with the park owner to take the dwelling off their hands. This situation creates its own set of problems. The park owner is obviously in a powerful position and some residents have reported to the Office of Fair Trading that they have been forced into accepting a pittance for a home that is worth much more.

What is particularly galling to residents is that some park owners then on-sell the home for the amount that the original resident should have received, thus making a tidy sum on the basis of the resident's unfortunate predicament. This type of manipulation has clearly got to stop. The bill provides a circuit breaker for residents caught in this situation. The Consumer, Trader and Tenancy Tribunal will be given the power to establish a fair price where the resident and park owner cannot agree. The tribunal will be able to use the services of valuation experts to assist it in its task. In circumstances where a park is being redeveloped, park owners cannot begrudge residents for wanting a fair price for their home. This new provision will help to bring this about.

The bill makes it clear that the value of the resident's home is to be calculated on its stand-alone value and will not include any component of the land which it stands upon. You could not have a more even-handed provision than this one. It provides for an independent referee when the parties cannot agree on a fair price. It ensures that residents are not taken advantage of. It makes it clear that park owners do not have to pay any proportion of the value of land that they already own. The tribunal's decision will not be binding on either party, but this mechanism will bring much greater transparency and parity to the process of selling a home. It will also bring these issues to the attention of the tribunal when a park owner seeks to regain possession at the end of the process. The reforms to the provisions dealing with these two prime areas of concern—termination of tenancies for redevelopment and the payment of compensation—are crucial aspects of the bill.

The bill achieves a balanced and more transparent process for park residents and owners. I want to particularly urge park owners to do what is right and fair by residents in these difficult circumstances. I will keep these provisions under review. Finally, the bill contains a number of miscellaneous amendments that increase the level of penalties for contraventions of the Act, make it clear that residents' homes cannot be regarded as improvements to the land in connection with mortgages taken out by the park owner, and ensure that residents who have to leave the park for long-term hospital or aged care service do not suddenly lose the rights they had as a permanent park resident.

This bill delivers a range of refinements and improvements to the operation of residential park laws that New South Wales has pioneered. It comes as a result of the Government's statutory review and extensive consultation with all stakeholders, and it deserves to receive strong support. I particularly wish to thank those park residents and park owners who have contributed their individual stories of life within their residential park and their views on how the operation of the Residential Parks Act could be improved. This bill is all the better for their contribution. I commend the bill to the House.

**Debate adjourned on motion by Mr Daryl Maguire.**

**NATIONAL PARK ESTATE (RESERVATIONS) BILL**

**Message received from the Legislative Council returning the bill with amendments.**

**Consideration of amendments deferred.**

**The House adjourned at 9.49 p.m. until Wednesday 9 November 2005 at 10.00 a.m.**

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