

LEGISLATIVE COUNCIL

Tuesday 23 October 2012

The Deputy-President and Chair of Committees (The Hon. Jennifer Ann Gardiner), in the absence of the President, took the chair at 2.30 p.m.

The Acting-President (The Hon. Jennifer Ann Gardiner) read the Prayers.

The ACTING-PRESIDENT (The Hon. Jennifer Gardiner): I acknowledge the Gadigal clan of the Eora nation and its elders and thank them for their custodianship of this land.

ASSENT TO BILLS

Assent to the following bills reported:

Coastal Protection Amendment Bill 2012
Human Tissue Legislation Amendment Bill 2012
Snowy Mountains Cloud Seeding Trial Amendment Bill 2012

BOARDING HOUSES BILL 2012

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Duncan Gay.

Motion by the Hon. Duncan Gay agreed to:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Second reading set down as an order of the day for a later hour.

OMBUDSMAN

Report

The Acting-President tabled, pursuant to the Ombudsman Act 1974, a report entitled "How are Taser weapons used by the NSW Police Force", dated October 2012, received and authorised to be made public this day.

Ordered to be printed on motion by the Hon. Michael Gallacher.

REGISTER OF DISCLOSURES BY MEMBERS

The ACTING-PRESIDENT (The Hon. Jennifer Gardiner): In accordance with clause 21 of the Constitution (Disclosure by Members) Regulation 1983, I table a copy of the Register of Disclosures by Members of the Legislative Council for the period 1 July 2011 to 30 June 2012, as furnished by the Clerk.

Ordered to be printed on motion by the Hon. Michael Gallacher.

Pursuant to sessional orders Formal Business Notices of Motions proceeded with.

DIABETES

Motion by the Hon. NATASHA MACLAREN-JONES agreed to:

1. That this House notes that:
 - (a) Diabetes Awareness Week is from 8 to 14 July 2012,

- (b) approximately 1,150,000 Australians have been diagnosed with diabetes and in New South Wales there are approximately 410,000 people with diabetes, and
 - (c) it is estimated that by 2017 approximately 1.3 million people will have diabetes in New South Wales and half of them will not know they have it.
- 2. That this House acknowledges the work of the Australia Diabetes Council to raise awareness and encourage Australians to recognise their risks and take steps to improve their health.
- 3. That this House notes that:
 - (a) diabetes is a chronic disease that is diagnosed when there are abnormally high levels of glucose, or sugar, in the blood,
 - (b) more than three million Australian adults, or one in four, over the age of 25 have either diabetes or impaired glucose tolerance, that is pre-diabetes, and
 - (c) there are two main types of diabetes: Type 1, or insulin dependent, diabetes, which represents 10 to 15 per cent of cases, and Type 2, or non-insulin dependent but may be insulin requiring, which represents 85 to 90 per cent of cases and may be prevented in around 60 per cent of people at risk.

TABLING OF PAPERS

The Hon. Greg Pearce tabled the following papers:

- 1. Annual Reports (Statutory Bodies) Act 1984—Report of Rental Bond Board for year ended 30 June 2012.
- 2. Independent Pricing and Regulatory Tribunal Act 1992—Reports of the Independent Pricing and Regulatory Tribunal:
 - (a) Report entitled "Compliance and Operation of the NSW Greenhouse Gas Reduction Scheme during 2011: Report to Minister—Greenhouse Gas Reduction Scheme", dated July 2012, and
 - (b) Report entitled "Compliance and Operation of the NSW Energy Savings Scheme during 2011: Report to Minister—NSW Energy Savings Scheme", dated July 2012.

Ordered to be printed on motion by the Hon. Greg Pearce.

SELECT COMMITTEE INTO THE CRONULLA FISHERIES RESEARCH CENTRE OF EXCELLENCE

Report: Closure of the Cronulla Fisheries Research Centre of Excellence

Reverend the Hon. Fred Nile tabled, as Chair, a report entitled "Closure of the Cronulla Fisheries Research Centre of Excellence", dated October 2012, together with transcripts of evidence, tabled documents, correspondence, submissions and answers to questions taken on notice.

Report ordered to be printed on motion by Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE [2.35 p.m.]: I move:

That the House take note of the report.

I am pleased to present this report of the select committee inquiry into the Closure of the Cronulla Fisheries Research Centre of Excellence. The terms of reference for this inquiry arose out of the 8 September 2011 announcement that the Cronulla Fisheries Research Centre of Excellence would be closed and its functions transferred to other locations. The committee has found that the decision to close the Cronulla Fisheries Research Centre of Excellence was characterised by omissions and was not underpinned by an economic appraisal, cost benefit analysis or comprehensive assessment of any kind. Stakeholders' views on the closure were not sought and experts within the department were excluded from providing advice on the decision or management of its implementation. As a result, the decision will have serious adverse consequences for marine science and the management of the State's fisheries.

Although decentralisation is a worthy policy, each instance of decentralisation must be thoroughly considered on its individual merits. The committee has concluded that the decision to close the Cronulla Fisheries Research Centre of Excellence was imprudent and devoid of the transparency and accountability

required of major government decisions. Therefore, this decision should be reversed in the public interest as a majority of employees, particularly the scientists, wish to continue at the Cronulla Fisheries Research Centre of Excellence, including those who have already been relocated.

I would like to thank the many contributors to the inquiry, including my colleagues on the committee. This has been a challenging inquiry for many participants. I have visited the Cronulla Fisheries Research Centre of Excellence two or three times and it has been very difficult to speak to the staff. The female staff broke down in tears over the decision. It is an emotional issue for the staff employed at the Cronulla Fisheries Research Centre of Excellence. The committee has visited the alternative locations at Port Stephens and Mosman. A total of 108 submissions were presented and 21 witnesses contributed to the inquiry, including a public forum held at Parliament House. After initially not being available, the Minister for Primary Industries, the Hon. Katrina Hodgkinson, agreed to appear as a witness before the committee.

We commend this report to the Parliament and to the Government. We look forward, in anticipation, to the Government reversing its decision to close the Cronulla Fisheries Research Centre of Excellence and not proceeding with the closure. We hope that it will give all Cronulla Fisheries Research Centre of Excellence staff moved to other Sydney locations the opportunity to return to the centre and that all of the centre's scientific and support staff moved to locations around New South Wales also will be given the opportunity to return. We urge the Government to halt any further progress on the closure of the Cronulla Fisheries Research Centre of Excellence and to take any other necessary actions concerning this very important research centre.

Debate adjourned on motion by Reverend the Hon. Fred Nile and set down as an order of the day for a future day.

PETITIONS

Religious Discrimination

Petition supporting the proposition that the Anti-Discrimination Act 1977 be amended to include religion as a grounds of discrimination, and requesting that the House support the amendment to the Act to make it unlawful to discriminate on the grounds of religious belief or absence of religious belief, received from the **Hon. Shaoquett Moselmane**.

BUSINESS OF THE HOUSE

Routine of Business

[During the giving of notices of motions.]

The Hon. Lynda Voltz: Point of order: It must be extremely difficult for Hansard to hear what the member is saying because of the level of interjection.

The ACTING-PRESIDENT (The Hon. Jennifer Gardiner): Order! I uphold the point of order. The Hon. Jeremy Buckingham will be heard in silence.

LEGISLATION REVIEW COMMITTEE

Report

The Hon. Dr Peter Phelps tabled a report entitled "Legislation Review Digest No. 27/55", dated 23 October 2012.

Ordered to be printed on motion by the Hon. Dr Peter Phelps.

SWIMMING POOLS AMENDMENT BILL 2012

Second Reading

Debate resumed from 17 October 2012.

The Hon. PAUL GREEN [3.05 p.m.]: The Swimming Pools Amendment Bill 2012 will amend the Swimming Pools Act 1992 and will require pool owners to self-register online and to certify to the best of their

knowledge that their pool barrier is compliant with legislation. It also will require local councils to develop a locally appropriate and affordable inspection program. This will be done in consultation with local communities on a cost recovery basis and it is anticipated that fees will be capped at a maximum of \$150 for the initial inspection and \$100 for a reinspection. Every three years councils will have to conduct mandatory periodic inspections of pools associated with tourist and visitor accommodation and multi-occupancy accommodation. The bill also will make it compulsory for any property with a swimming pool to be inspected and registered as compliant before the property can be leased or sold.

The bill provides for the issuing of a compliance certificate when a pool barrier is found to comply with legislative requirements. It also provides for the compliance certificate to be valid for three years and provides an exemption period from council inspections. The swimming pools inspection and issue compliance certificates will be issued by enabled certifiers. This bill will establish a new offence for failing to register a swimming pool and fines will range from \$220 to a maximum of \$2,200. Pool owners will be required to register and to self-certify their compliance up to one year from the passage of this bill. Councils will have to commence mandatory inspections of tourist, visitor and multi-occupancy developments and pools associated with property sales and leases 18 months from the passage of this bill.

There are around 340,000 backyard swimming pools in New South Wales. Tragically every year approximately six fatalities are caused by drowning and at least 36 young children are involved in near misses. There is no doubt that some of the children who suffer near drowning quite often are left with long-term brain damage. These statistics are heartbreaking for the families involved. Sadly, according to coronial reports, each death is preventable. It also is important to note that anecdotal reports from councils say that 60 per cent to 80 per cent of pools they inspect have non-compliant barriers, which unfortunately makes it necessary for the Government to legislate to ensure as far as possible that this trend is diminished or eliminated.

After consultations with local councils the Christian Democratic Party has a number of concerns about the bill. We note that there is a potential for local councils to incur costs considerably above the amount that will be met by the proposed fees. I note that the Government seems to have picked up on the issue of including fees to enable council to recoup, at least in part, costs for things such as inspections and registering pools on the State register when required. However, these details will be included in future regulations. The briefing paper notes that councils will need to develop an inspection program in consultation with the community and the legislation will provide caps of \$150 for the initial inspection and \$100 for one reinspection.

The \$150 fee includes a compliance certificate, and councils currently receive approximately \$70 of that amount. This limited fee barely covers the costs likely to be incurred as a result of straightforward inspection of pools, but certainly would not cover the cost of any follow-up compliance inspections when pool fencing is found to be defective, the cost of issuing of notices or the cost of further inspections. Given that approximately 80 per cent of existing pools are likely to be defective in some respect, this is a significant issue for councils. There are 152 local councils throughout New South Wales, so the implications of this legislation significantly impact upon grassroots local council administrations.

The bill will allow private certifiers to inspect pools at the request of owners. When issues are identified in pool fencing and the certifier is of the view that the defects pose a significant risk to public safety, the matter will be referred to a local council to resolve it. This is similar to the role of private certifiers in respect of buildings when the certifier issues a notice of defects and refers the matter to the council to effect compliance. This potentially is a significant resources issue. It is unclear if or how the council will be able to recoup costs of enforcing compliance. It also is noted that powers of entry under the existing Swimming Pools Act are to be amended and brought into line with similar powers in the Local Government Act.

As members are aware, the exercise of the power of entry requires councils to provide written notice of the council's intention to inspect or enter the property at a stated time and date. That will add to the administrative burden associated with the implementation of the proposed amendments. For example, current estimates indicate that there are approximately 4,000 pools in the Shoalhaven region alone. The frequency of inspection required by the legislation or in an adopted inspection program potentially will result in the use of significant resources. I highlight these matters because the legislation will be implemented in the real world. As a parent with a pool, I know firsthand the costs involved. I paid approximately \$1,000 for an above ground pool 1.2 metres deep, and the councils fees cost me almost as much. Because the pool was slightly set into the ground, a construction compliance certificate was required. The cost of pool fencing and compliance with council regulations cost almost as much as the pool itself.

I am mindful that in the pre-Christmas season when families struggle financially, pools are a luxury for some parents and children. Kids get a lot of enjoyment out of water and we all recognise the paramount importance of pool safety. Over and above all else, this bill is to be commended because it places safety as the number one priority. Nevertheless, family budgets daily are being impacted adversely by increased costs of electricity, fuel, and the cost of living generally, and on top of that this Government will legislate to introduce a fee of \$150. While I acknowledge the importance of this legislation, I make the point that most families are doing the right thing for the very reason that pool safety protects their kids. Parents ensure that they install the right pool barriers that are approved by the council. The Christian Democratic Party is mindful that this legislation will impose responsibilities on grassroots local councils and also is mindful of the costs of compliance that will be borne by mums and dads right across New South Wales.

Part of this bill illustrates that the operation of similar provisions in other contexts can be very instructive. For example, in the building industry, private certifiers walk in, sign off on the compliance certificate and walk out. If there is a problem with compliance the local council has to bear the costs when things go bad or when the private certifier leaves the project. Local government officials are very much aware of the high incidence of local councils picking up the costs of ensuring compliance and remedying building defects after a private certifier has ticked all the boxes and left, or when private certifiers fail to stand by the building's owners to ensure that the builder has complied with development application requirements. In the context of this bill, while I appreciate the Minister's attempts to keep costs to a minimum so that families are able to meet costs and balance their budgets, the bottom line is that if there are defects the local council bears the burden of pursuing compliance or enforcement. It seems as though this bill could be the source of a tremendous cost-shifting exercise.

In discussions I have had with local council representatives about this legislation, it has been made clear to me that the last thing local councils need is more cost shifting, which is what this legislation could lead to. The Christian Democratic Party is mindful of that fact but also recognises that this bill represents a step in the right direction regarding pool safety. I am sure each member of this House feels as I do that even one child's death as a result of drowning in a swimming pool is the death of one child too many. The Christian Democratic Party is recognised as a political party that is part of the solutions, not part of the problems. While there is no doubt that this bill represents a way forward to some extent, the implementation of the legislation should be audited within eight months to ascertain the true cost of the process and the role the State Government should play in cost sharing, not only with local government but also with the mums and dads of New South Wales. The Christian Democratic Party supports the bill primarily because its number one priority is the safety of those who use swimming pools.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [3.16 p.m.], in reply: I thank all those members who participated in debate on the Swimming Pools Amendment Bill 2012. I am pleased to advise the House that last month the New South Wales Government announced that an additional \$3 million a year in funding had been targeted to water safety programs. Some of the beneficiaries of that funding are the Samuel Morris Foundation, with \$50,000; the Westmead Children's Hospital, with \$201,000; and Royal Life Saving of New South Wales, which will receive \$563,000. I assure the House that the Government, through the Division of Local Government, will be providing the new legislation and swimming pool safety generally as part of its two-pronged attack—education, and regulation to back up that education.

Under the legislation, there is capacity for people who are not comfortable registering their pool online to have the council do it for them. Councils will charge a maximum fee of \$10 for performing that task. Of course, councils will be able to charge for pool inspections at the rate of \$150 for an initial inspection and \$100 for any subsequent inspections. The legislation provides for cost recovery in relation to council inspection regimes. The proposals in this legislation are substantially the same as those in the discussion paper. Members who read the discussion paper know where the Government is coming from and therefore what is likely to be in the legislation. There has been a long lead-up to this debate today. There are stakeholders who do not want any further delays in the passage of this legislation. With summer approaching it is important to enact this legislation as quickly as possible. The Government will be conducting an awareness campaign to ensure that all pool owners are aware of their responsibilities under this legislation, assuming it passes through the House today. Even more importantly, it is for pool owners to educate themselves about the importance of preventing child drownings. I reiterate my thanks to all those members who participated in debate on this bill and commend it to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [3.18 p.m.]: I move:

That this bill be now read a third time.

Mr DAVID SHOEBRIDGE [3.19 p.m.]: The Greens are happy to support the Swimming Pools Amendment Bill 2012. Indeed, we commend the Government for introducing this legislation which has been a long time coming. The main provisions of the bill will insert a new part 3A into the Swimming Pools Act 1992. I note that there have been two other contributors to debate on the bill in this House who both set out in detail the contents of the bill. I seek to address two other matters. My office received communications from the Law Society of New South Wales and from its Property Law Committee which, I am glad to say, pays close attention to bills that potentially have a significant impact on conveyancing law and on property owners who wish to sell their properties whether they occupy strata lots or come under freehold Torrens title. Late last week the Law Society raised a number of concerns about the operation of this bill. I forwarded those concerns to Parliamentary Counsel with an eye to drafting some amendments and I forwarded them also to the Minister's office and to his department so that they might give consideration to them.

One of the issues involved the removal of a warning currently to be found in the Conveyancing (Sale of Land) Regulation 2010—the statutory requirement in that regulation to place warnings relating to swimming pools. This bill will not remove that warning but will put in place a parallel requirement for certification to be attached to contracts for sale under the new legislative requirements. When I informed the Minister's office that the warning notice in the regulation was otiose and not required because of additional registration and certification requirements, the Minister's office supplied me with this response:

Currently the Conveyancing (Sale of Land Regulation) 2010 requires that a contract of the sale of land includes a warning in relation to a land owner's obligations under the Swimming Pools Act to ensure that the barrier is compliant. The Warning is reproduced in the Green's proposed amendment to the Bill.

The new sale and lease provisions in the Bill that will prevent vendors and landlords from offering their properties for sale or lease without a valid pool compliance certificate will commence 18 months after the date of assent to the Bill.

It is submitted that the Warning should remain in place for the period of 18 months until the new provisions commence.

It is further submitted that this proposal and other matters identified by the Law Society and the Land and Property Information Division of the Department of Finance and Services in relation to the operational aspects of the sale and lease provisions will be resolved in consultation with that Department following assent to the Bill but before the new sale and lease provisions commence. This will involve making minor amendments to the Conveyancing (Sale of Land Regulation) 2010.

I note the Government's response and accept its goodwill in this regard. I am reasonably comforted by the fact that there will be no requirement to provide both the certification and the attached warning once that action is taken. The other issue that I raised with the Government—again following representations from the Law Society—related to the transitional provisions and to different parts of the bill that would come into effect. The concern raised by the Law Society was as follows:

The committee has also noted what appears to be an unintended consequence of the staggered commencement dates for different items in the Bill. The commencement date for schedule 1 item 16, which effectively brings in the new certification regime, is 6 months after the date of assent. Schedule 1 item 17 which repeals section 24 of the Act, the provision relating to the issue of a certificate of compliance, commences on assent. Consequently for the 6 month period beginning from the date of assent there appears to be no certification regime in place.

I again sent instructions to Parliamentary Counsel to remove that staggered commencement date and to engage in some communication with the Minister's office. I am pleased that the Minister's office again responded and satisfied those concerns. I read onto the record the Minister's response:

It is intended that after the passage of the Bill through both Houses of Parliament, the Division of Local Government will commence in consultation with the Department of Finance and Services with a view to addressing any matters arising out of the implementation of the proposals in the Bill. This may include making further minor amendments to the Regulations.

The Law Society has also raised concerns about the timing of the proposed repeal of section 24 of the *Swimming Pools Act 1992* and the commencement of the new certification provisions in the Bill.

I am pleased to advise that following consultation with the Parliamentary Counsel's Office, it is proposed that a savings and transitional regulation that will keep section 24 operational for a further period of six months will be made following the passage of the Bill through the Legislative Council.

My office reviewed the regulation-making powers which clearly allow for these kinds of transitional provisions to be made. The Government's commitment to do that satisfies The Greens' other concern. One further concern was raised by the Law Society and again addressed by the Minister's office: the requirement for certification of swimming pools with the sale of a strata lot. The concern of the Property Committee of the Law Society was as follows. If a swimming pool is located on a common property would the owner of the strata property be required to certify the pool on the common property?

I again spoke to Parliamentary Counsel and to the Minister's office about drafting some amendments. The response from the Minister's office was clear: Under the provisions of this bill certification would be required only when a swimming pool was located on the strata lot that was being sold. There is no requirement to provide certification for a pool that is located on common property. There might be a potential gap in the legislation which does not include in strata plans the monitoring of the certification of pools that are located on common property. At the moment I do not have an answer to that question. To be clear, I did not ask for a response from the Minister's office but a close eye should be kept on that matter in the future.

Noting that those concerns have been clarified by the Minister and comforted by the response from the Minister's office relating to each of those concerns, The Greens are happy to support the bill. We have ongoing concerns that much of this compliance will be regulated by private certifiers. We have repeatedly expressed our concern about the conflict of interest between a private certifier and a property owner who is paying for and securing a private certifier's services. We will seek to address that ongoing concern on another occasion in this Parliament. With those qualifications, The Greens commend the bill.

Question—That this bill be now read a third time—put and resolved in the affirmative.

Motion agreed to.

Bill read a third time and returned to the Legislative Assembly without amendment.

BOARDING HOUSES BILL 2012

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [3.28 p.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Boarding Houses Bill 2012, the key purpose of which is to protect the rights of residents living in all boarding houses in New South Wales through the introduction of major reform to the industry. As my speech is the same as that given in the other House, I seek leave to incorporate the remainder in *Hansard*.

Leave granted.

The Government is pleased to introduce the Boarding Houses Bill 2012.

The key purpose of the Boarding Houses Bill 2012 is to protect the rights of residents living in all boarding houses in New South Wales through the introduction of major reform to the industry.

Though there is no clear data available on the exact number of boarding houses in New South Wales, it is estimated that there are around 750 boarding houses operating, the vast majority of which are located in the Sydney metropolitan region. In New South Wales the boarding house industry is largely unregulated.

Boarding houses accommodating two or more people with a disability are regulated under the Youth and Community Services Act. Since the Act came into place over 30 years ago it has largely remained unchanged, while the number of boarding houses licensed under it has been steadily diminishing. Today there are only 23 boarding houses licensed under this Act providing 526 beds.

The unlicensed sector, on the other hand, is only partially regulated. It is estimated that around 7,000 people live in unlicensed boarding houses. While some aspects of these boarding houses are regulated, such as fire safety and food preparation, many smaller boarding houses do not have to comply with accommodation or operating standards. There is also a lack of information about the sector, making it difficult for local councils to monitor and enforce any standards that do apply.

People living in boarding houses are some of the most disadvantaged in our society: people who are reliant on low incomes or pensions, people with mental health issues or an intellectual disability, people who are frail aged and have multiple and complex health needs, and people who are socially isolated.

Many boarding house residents pay fees similar to those in the private rental market. Despite this, they have fewer rights or protections than tenants and no formal mechanisms to assert their rights. Residents commonly face problems with inadequate security and concerns for their personal safety. Many, despite having significant needs, struggle to access health, social, legal and financial support services, which can impact significantly on their quality of life.

This bill will address longstanding issues in the industry and decades of inaction by the previous Government—issues impacting on the safety, welfare and wellbeing of boarding house residents and on the viability and quality of boarding houses—inadequate information about the unlicensed sector, an outmoded and inadequate regulatory framework, gaps in protections for residents and a lack of occupancy rights.

In report after report the NSW Ombudsman, and more recently the State Coroner, have highlighted these issues and found the current system wanting. We owe it to the residents of the 300 Hostel and their families to remedy this situation.

This bill has not come out of the blue. It is the result of an extensive analysis of the issues and consultation with key stakeholders. Since October last year, the Government has been working hard to develop a final reform proposal which strikes a balance between the need to maintain the viability of the boarding house industry and the need to provide appropriate protections for some of the most disadvantaged people in our community.

In July and August this year, an exposure draft bill was released for consultation with key stakeholders. Face-to-face consultations were also held, providing an opportunity for stakeholders to inform the Government about potential impacts and possible improvements. Over 126 submissions and comments were received, the majority of which demonstrated strong support for the reforms from peak bodies, advocacy groups, service providers and key stakeholders, many of whom consider the reforms to be long overdue.

The bill being introduced today is the culmination of this process.

The Boarding Houses Bill 2012 provides a comprehensive, contemporary and robust legislative framework for the regulation of all boarding houses in New South Wales which consists of the following elements—central registration with the Register of Boarding Houses, common accommodation standards, mandatory inspections by local councils, the introduction of occupancy rights and an enhanced replacement scheme for the licensing and operation of boarding houses for people with additional needs.

All "registrable boarding houses" as defined in the bill will have to comply with the central registration and inspection requirements in part 2 of the bill while boarding house proprietors and residents will be required to abide by their obligations under the occupancy principles scheme, which is contained in part 3. Accommodation standards, which previously only applied to boarding houses accommodating 12 people or more, will apply to smaller boarding houses.

I will leave it to my colleague the Minister for Fair Trading, who will be responsible for administering parts 2 and 3, to explain these aspects of the bill in more detail.

The bill also divides boarding houses into two categories—"general boarding houses" and "assisted boarding houses".

A "general boarding house" is defined in clause 5 as a boarding house accommodating five or more residents for fee or reward, which does not fall within a list of exclusions in the bill, such as hotels and motels, backpackers hostels, aged care homes and retirement villages—premises that provide temporary accommodation or which are regulated in some other way.

General boarding houses will be required to comply with the requirements I have just described—registration, accommodation standards, inspections and occupancy principles.

An "assisted boarding house" is defined in clause 37 as a boarding house which accommodates two or more "persons with additional needs". Assisted boarding houses will also be required to be authorised and to comply with standards and protections specifically designed to ensure the safety, welfare and wellbeing of boarding house residents with additional needs.

Part 4 of the bill deals with the regulation of assisted boarding houses and is consistent with contemporary approaches to regulation. These provisions will be under my administration with Ageing, Disability and Home Care responsible for ensuring their effective operation.

Guiding the provisions in part 4 are specific articles from the *United Nations Convention on the Rights of Persons with Disabilities*, which was ratified in 2008. Clause 34 which references those articles relevant to boarding houses expresses the Government's commitment to the convention. It also provides guidance on the scope of the provisions and will help ensure that the new scheme is clearly focussed on better outcomes for boarding house residents.

Under clause 36, a "person with additional needs" is defined as someone who is frail aged, has a mental illness and/or an intellectual, psychiatric, sensory or physical disability and, and I emphasise and, the person also needs support or supervision with daily tasks and personal care such as showering, preparing meals, or managing their medication. A person who is able to manage without such support will not be considered a "person with additional needs".

It is not the Government's intention to intervene in the lives of people with a disability who can manage independently. Rather, our aim is to ensure that people with additional needs living in boarding houses receive additional protections and the assistance they need to promote and protect their rights and their dignity.

Clause 39 enables the director general to declare premises to be an assisted boarding house if they are satisfied that the premises accommodate two or more persons with additional needs and the premises do not fall within the list of exemptions.

Premises can be exempted from the Act, with or without conditions, such as accommodation and service standards and inspections and investigations of the premises by the Department of Ageing, Disability and Home Care and the NSW Ombudsman, but only for a period of 12 months, after which a final determination has to be made.

Under clause 41 it will be an offence for a person to operate an assisted boarding house without proper authorisation. The maximum penalty for such an offence will be 120 penalty units or \$13,200 in the case of a corporation and 20 penalty units for each day the offence continues, or 60 penalty units or \$6,600 in the case of an individual and 10 penalty units for each day the offence continues. Under the old Act, the penalty is a mere \$500 and \$200 for each subsequent day, hardly a disincentive to running an illegal operation.

All penalties under the old Act have been updated and are now expressed in penalty units, allowing penalties to be increased appropriately over time.

Boarding house authorisations can be made subject to conditions and will be subject to various requirements prescribed by the regulations, which will be prepared immediately after the passage of the bill.

The regulations will deal with a whole range of requirements in greater detail, such as standards for services provided to residents including standards to ensure privacy, personal protection and meals; and standards for accommodation provided to residents including standards for bedrooms, bathrooms and other rooms used by the residents.

Clauses 44 to 53 deal with applications for authorisations for assisted boarding houses. An authorisation may only be granted to an applicant that is considered to be suitable to be involved in the management or operation of a boarding house and has the financial capacity to operate one.

Under these provisions, boarding house licence applicants will be required to undergo probity checks—including criminal record checks and financial probity checks. A person who has been convicted of a "serious criminal offence" such as murder, a prescribed sexual offence or an assault for which the offender has been sentenced to imprisonment, will not be able to hold a licence. The regulations enable other offences to be taken into account in considering an application.

These checks also apply, where the applicant is not an individual or a partner or close associate or, in the case of a corporation, to any person involved in the control or management of the corporation such as a director or majority shareholder.

Boarding house managers and staff will also be required to undergo criminal record checks every three years. A potential or current staff member who has committed a serious criminal offence cannot be employed or continue to be employed.

The provisions also deal with the variation, suspension, cancellation and surrender of licences and provide clear time frames for these processes. Clause 49 provides that a licence can be suspended or cancelled where the licensee or a close associate is no longer considered to be a suitable person, or where the continued operation of the boarding house would pose an unacceptable risk to the safety, welfare or wellbeing of the residents, or where there has been a breach of the Act or regulations or licence conditions.

Clause 48 also allows the director general to appoint a substitute licensee where there has been a change of circumstances or where the existing licensee has died.

A copy of the licence must be displayed in a conspicuous position in the boarding house.

Clauses 54 to 58 provide for interim permits to be issued for a period of six months to enable an assisted boarding house to operate on a short-term basis, such as where a licence applicant is waiting for a final determination—for example, where the premises have been sold to someone else—or where it is necessary to appoint a temporary licensee, but only to a person who is considered suitable.

Clauses 59 to 65 provide for the requirement for managers of assisted boarding houses to be approved, subject to probity checks, and for manager approvals to be made subject to conditions, varied, suspended and revoked.

Clauses 66 to 86 detail the various powers that will be available for ensuring compliance and enforcement of assisted boarding houses with the Act and regulations.

Clause 66 provides for the appointment of enforcement officers, who must be employees of the Department of Family and Community Services, whose role it will be to investigate and enforce compliance issues.

Enforcement officers will be required to carry an identity card and produce it when carrying out their duties. Enforcement officers will have the power to request the provision of documents and information and to require answers to questions. Obstruction of an enforcement officer or failure to comply with a request to produce documents or information or answer questions will be an offence. When exercising these powers they will be required to warn the person that failure to comply is an offence.

Enforcement officers will now be able to enter an authorised boarding house without consent or a warrant to make inquiries and ensure the premises comply with relevant conditions, and can do this with the assistance of others such as a police officer or medical practitioner. Clause 78 details the circumstances in which a search warrant is required.

Where an authorised boarding house is in breach of these conditions, a compliance notice can be issued—clause 79. Failure to comply with a compliance notice is an offence which carries with it a penalty of 40 penalty units for a corporation and 10 penalty units for each day the offence continues, and 20 penalty units for an individual and 5 penalty units for each day afterwards.

Under the current Act, residents who wish to access support or advocacy services must be assisted by the operator to access them. In the past, some licensed boarding house operators have been reluctant to allow support and advocacy services to enter premises.

Clause 78 allows authorised service providers, such as support, legal, financial or advocacy services to enter premises without the operator's consent or a warrant to talk to residents about the services they can provide and provide them to any resident who would like to access them.

Before entering the premises, an authorised service provider must identify himself or herself to the manager or anyone else in charge and produce their authorisation if requested.

As with the current Act, the bill requires the manager of an authorised boarding house to notify certain incidents, such as the death of a resident and a sexual assault or allegation of sexual assault, to the director general and the police.

The manager will also be required to notify the director general if a resident goes absent for more than 24 hours and has not told the manager of their whereabouts. The intention of the provision is to ensure that where a resident with additional needs appears to have gone missing, prompt action is taken to find them and ensure they are safe.

Clauses 85 and 86 provide for the removal of young persons with additional needs from unauthorised boarding houses and for the department to be compensated for removal and other expenses where the department has had to move a person with additional needs from an unauthorised boarding house.

Clause 87 provides for the review of a range of decisions by the Administrative Decisions Tribunal including authorisation and exemption decisions, a declaration that premises are an assisted boarding house and compliance notices.

Clause 91 details a broad range of matters that can be dealt with in the regulations including applications for authorisations and manager approvals, probity checks, service and accommodation standards, screening of staff members and residents, the assessment of persons as persons with additional needs, the qualifications and skills required of staff members of assisted boarding houses, complaints handling procedures for assisted boarding houses, inspections, compliance notices, record keeping and returns. This will address previous concerns about limitations on the regulation-making power under the Youth and Community Services Act.

Part 5 of the bill, which applies to both general and assisted boarding houses, deals with a variety of matters aimed at facilitating the operation of the Act—the ability of agencies to exchange of information to carry out their functions, the issuing of penalty notices and proceedings for offences under the Act.

Proceedings for offences can be brought either in the Local Court or the Land and Environment Court. Clause 100 adopts circumstantial evidence provisions similar to those found in the Environmental Planning and Assessment Act 1979 in relation to backpackers' hostels and brothels which explicitly allow a court to consider circumstantial evidence in proceedings to obtain a search warrant or to remedy or restrain an unregistered or unauthorised boarding house from operating.

The kinds of evidence a court can take into account can include evidence that the premises are advertising themselves as a boarding house, evidence of the layout of the premises and the layout of beds and evidence relating to people entering and leaving the premises in a way which suggests that the premises are operating as a boarding house.

Clause 104 provides for the repeal of the Youth and Community Services Act and Youth and Community Services Regulation. This will only be done when the new Boarding Houses Regulation is in place. Schedule 2 provides for the conversion of orders, exemptions, licenses, permits and approvals made under the Youth and Community Services Act to remain valid under the new Act.

Schedule 3 provides for various protections under the Youth and Community Services Act to be retained: powers under the Coroner's Act 2009 which enable the Coroner to hold an inquest into the death of a person in declared or licensed premises and provisions under the Community Services (Complaints, Reviews and Monitoring) Act 1993 which provides for the resolution of complaints about boarding houses; inspections by Official Community Visitors; reviews by the NSW Ombudsman into boarding house services; and investigations into the deaths of boarding house residents.

Clause 105 provides for the review of the Act after five years of operation to determine whether the Act and its objects are still appropriate.

The introduction of this bill is but the first step in the reform process.

The next step will be to establish an Implementation Committee, comprising relevant government agencies and non-government organisations, residents and boarding house proprietors to oversee the required changes to the boarding house industry as well as to policies, programs and services across administering government agencies. Effective implementation and commitment by all involved will be critical to the success of the reforms. I am pleased to be able to lead this process.

The Minister for Family and Community Services, together with me, the Minister for Fair Trading and the Minister for Local Government, will also be required 18 months after the commencement of the bill to report back on the impact of the reform process on the boarding house industry.

This will commence with an examination of the need for further incentives and assistance to support the supply of boarding house accommodation.

I will also be working closely with the Ministers for Family and Community Services, Health and Mental Health to identify the needs of boarding house residents, and the need for any additional incentives to improve resident access to services.

The Government acknowledges that well-run boarding houses can provide safe, affordable accommodation for people who would otherwise struggle to rent in the private market. I will quote the words of one resident who wrote to us during the consultation process:

I am a Pensioner living in a boarding house in Surrey Hills. As Pensioners we are old and some of us have health concerns. However, we have all been looking after ourselves for over forty odd years. We take pride in our independence ... All common areas are clean as are the bathrooms and are kept so fervently. Every room has smoke detectors and sprinkler system. There are no vermin and regular checks are made to keep it so. We share a pleasant garden at the rear of the house. We enjoy these conditions because the owners are humane and responsible and know their business will run smoothly with happy tenants. Boarding houses are essential to people like myself and my friends ...

The Government's attention is not on these boarding houses, but on those who are exploiting disadvantaged residents in need of urgent or affordable accommodation. Our focus is on developing a better understanding of the "unlicensed" sector of the industry, the conditions which have allowed this sector to proliferate and on regulating the industry to bring poor performing operators to a higher level of professionalism and quality of service.

In designing these reforms, the Government has been cognisant of the need to take a "light touch", positive approach to regulation. The reforms should assist proprietors to streamline their operations, become better informed about government incentives and become more viable, thereby improving the profile and legitimacy of the boarding house industry as a whole.

I end finally with a quote from Winston Churchill which I believe is apt: "I never worry about action, but only inaction."
I commend this bill to the House.

The Hon. MICK VEITCH [3.29 p.m.]: The Opposition supports the Boarding Houses Bill 2012. This is a good piece of legislation. We all are aware of the issues facing people in boarding houses, whether they be international students or people with disabilities. This legislation will do much to improve the lives of some of our State's most vulnerable people. Sadly, the sector has become characterised by exploitative operators operating for profit, taking what little their residents have and giving back very little in exchange. I acknowledge the good boarding house operators who provide important services. But as the shadow Minister, Barbara Perry, said in the other place, there have been too many tragic examples where the balance of power has been firmly in the hands of owners at the expense of many of our most marginalised citizens.

The Opposition is pleased that this bill clearly has been informed and improved by extensive submissions that both the Government and the Opposition received, and I commend the Government. The bill has two strengths. Firstly, registration will provide information to the Government and stakeholders about a sector. The Minister in the other place pointed out the lack of data relating to the unlicensed sector, but much will be gained through the registration process. Secondly, the bill's use of occupancy agreements is modelled on the Australian Capital Territory's successful Residential Tenancy Act 1997. This legislation upholds occupancy agreements between occupants and grantors where residential tenancies legislation does not otherwise apply. Amongst other things, the Australian Capital Territory legislation proved that the sectors do not fall over and the sky does not fall in when occupancy agreements for marginal tenants are upheld. Some are backed up by penalties and residents are given access to dispute resolution through the Consumer, Trader and Tenancy Tribunal.

The 12 occupancy agreements seek to remedy many current issues with boarding houses. For example, an issue for international students, namely, excessive penalties and charges, which are placed on students who want to leave mid-semester, are dealt with under principle 3. Principle 6 provides that four weeks' notice must be given before occupancy fees are increased. The prevalent issue of evictions without notice are dealt with by principle 9, which states that reasonable written notice must be given. Excessive utility charges are looked at through principle 7. The Opposition discussed a number of its concerns in detail with the Minister's office and some of the minor parties. We appreciate the thought and manner with which those concerns have been dealt. We thank Louise Blazejowska from the Department of Ageing, Disability and Home Care [ADHC] for her work on this bill, and for discussing our concerns with us. As the shadow Minister outlined in her speech in the other place, given that the Opposition supported Clover Moore's bill it would be logical that those concerns extend to residents of boarding premises rather than just residents of registrable boarding houses only. After much consideration, we believe this should be dealt with in separate legislation rather than this boarding house legislation.

The Opposition has told the Government about its concerns regarding children in boarding houses and appreciates the attention given to this issue. Many stakeholders also are very concerned and make a strong argument that children should be allowed in boarding houses. We propose moving an amendment to the bill to ensure that unaccompanied children are not allowed to live in assisted boarding houses. We do not believe that the bill is strong enough in this area. The basis for our amendment is that registration and notification do not necessarily provide safety nets for vulnerable children. The legislation will be reviewed in 18 months. We look forward to playing a part in that review, as do many community groups. It will be a time to revisit some of the potential issues the Opposition raises with this legislation. As I stated at the outset, this is a good piece of legislation. The Opposition will support the bill, but indicates that it will be moving a single amendment regarding unaccompanied children not being allowed to live in assisted boarding houses.

The Hon. MARIE FICARRA (Parliamentary Secretary) [3.33 p.m.]: I welcome Minister Constance's introduction of the Boarding Houses Bill 2012. I commend Ministers Constance, Roberts and Page for their collaborative and cooperative work to develop a comprehensive reform package for the regulation of boarding houses in New South Wales. Boarding houses play an integral role in providing flexible, low-cost affordable

housing, particularly for those who might otherwise struggle to afford private accommodation. However, the Government has long been concerned that residents, many of whom are disadvantaged, frequently are exposed to unacceptable risks in relation to their safety and wellbeing. This was the case regarding the 300 Hostel inquiry regarding the deaths of six residents in a notorious Marrickville boarding house, in what the State Coroner, Mary Jerram, described as Dickensian circumstances.

The Marrickville boarding house was licensed by the then New South Wales State Government to provide accommodation and support to people with a disability—which for the vast majority was a mental illness. After the five-day inquest earlier this year, the New South Wales State Coroner delivered a scathing report finding that poor hygiene, malnutrition and overprescription of antipsychotic medication had contributed to the deaths of six Sydney boarding house residents. In an *ABC* interview with Sister Harris on 24 June 2012 Wendy Carlisle stated:

No-one was held responsible or accountable for the deaths: not the doctors, and certainly not the authorities that were meant to be regulating it. Indeed, the coronial inquest itself was almost accidental. It was the police who referred all six deaths to the coroner after putting two and two together and realising that half a dozen different police officers had been to 300 Hostel, investigating the six deaths. The Marrickville police thought it was fishy and brought the lot before the state coroner.

Sister Myree Harris, a long-time community advocate for people in boarding houses said the scandal had been a long time coming.

I commend and honour Sister Myree Harris, OAM, a contemporary Josephite nun acting in the spirit of Mary MacKillop by responding to the needs of the homeless in inner Sydney since 1990. In 1880 Mary MacKillop opened a house in The Rocks, called Providence, for women and their children who were living on the streets of Sydney. Sister Myree Harris has continued in that same spread with the Gethsemane community and works continuously for the poor, the disadvantaged and the vulnerable. Further in that *ABC* interview Wendy Carlisle stated:

Myree Harris has been campaigning against dodgy boarding houses for years. Using freedom of information laws, she obtained reports which showed that hostels like 300 had been on the Department of Ageing, Disability and Home Care's radar for a long time. She sent all these documents off to the state ombudsman.

In that interview Sister Harris said:

It highlighted the evidence that came out of the freedom of information documentation which had gone back from '95 to 2000 and it demonstrated the unsanitary, dirty, unmaintained conditions of the hostel, it looked at the neglect of residents, it looked at poor health outcomes for residents, poor quality of life, no privacy, no access to drinks or food in between meals, poor quality food—I think it just documented most things. And the evidence of massive neglect was there way back then.

... The Ombudsman put out a report in 2004 which was not officially released. Nothing much happened. They then did a two-year follow-up and at the end of the two-year follow-up they released a report in parliament in 2006. This was always the answer: "Oh yes, things will be fine. We just need new legislation. Once we have that everything will be fine."

Wendy Carlisle: But the promised reforms, which would have given the government the power to actually enforce licence conditions, never arrived. So fragile was the relationship between 300 Hostel and the local services that the licensee ... was able to lock them out.

[Sister] Harris: They allowed the boarding house owner to refuse entry to specialised nursing and occupational therapy and all those other services provided by a specialised boarding house team.

I wanted to place those comments on record. They are indicative of many of the tragic and heartbreaking circumstances that have occurred. The legislation before the House is much needed. It has been a long time coming. It does not stop here; it will continue. The Minister for Ageing, and Minister for Disability Services, it has been acknowledged, is a true believer in the portfolio that he manages.

Mr David Shoebridge: He is a light in the boarding house window.

The Hon. MARIE FICARRA: I acknowledge the interjection by Mr David Shoebridge: He is a light in the boarding house window. There is a significant boarding house industry in New South Wales consisting of both licensed and unlicensed boarding houses. Those that accommodate two or more people with a disability are required to be licensed under the Youth and Community Services Act 1973. Under the Youth and Community Services Act proprietors are required to apply to Ageing, Disability and Home Care for a licence to operate. Attached to each licence is a set of conditions with which the licensee is required to comply.

Currently, there are 23 licensed boarding houses providing 526 beds, which is a significant decline since 1994 when there were 187 licensed boarding houses operating. I place on record that many of those

boarding houses should have been shut down years ago. I understand that once those vulnerable people are on the streets we then have to supply the services they need to keep them healthy and functioning, both physically and mentally. The Government is responsible for their wellbeing. There is no central database of unlicensed boarding houses in New South Wales, which makes monitoring of the size and nature of the industry and standards of accommodation difficult.

The New South Wales Government's new legislative framework will provide protections for all boarding house residents through: the introduction of a central register with New South Wales Fair Trading; mandatory compliance investigations to be carried out by local council; expanded coverage of accommodation standards from boarding houses accommodating 12 or more people to smaller boarding houses; the introduction of occupancy rights; an enhanced scheme for boarding houses for people with additional needs; and contemporary penalties for offences.

The introduction of occupancy rights for boarding house residents—rights that are long overdue—will address gaps in protections for residents which may be compromising their health, safety and wellbeing. The consultation process for the draft Boarding Houses Bill has provided the industry with an opportunity to examine the Government's proposed reforms and has identified potential impacts and improvements. This bill adds further protections for residents identified through this process. The reforms strike a balance between maintaining the viability of the boarding house sector, the need to provide appropriate protections for some of the most disadvantaged people in our communities and the need for consumers and the Government to obtain better information about the boarding house sector.

The reasonable regulatory approach of the reforms should minimise any potentially negative impacts on the industry. Indeed, they should have a positive impact by requiring proprietors to streamline their operations, to become better informed about government incentives and therefore more viable, and to improve the standing and legitimacy of the boarding house industry generally. The bill divides registrable boarding houses into two categories: a general boarding house which provides accommodation for five or more residents for a fee or reward; and an assisted boarding house which accommodates two or more persons with additional needs. I note that a number of accommodation types, such as backpacker hostels, hotels and motels and aged care facilities, are excluded from this definition.

Both types of boarding houses will be required to register, undergo compliance inspections by council and comply with the occupancy scheme in their dealings with residents. Assisted boarding houses will also be required to be authorised and to comply with standards and protections specific to assisted boarding houses, which will be monitored by the Department of Ageing, Disability and Home Care. The bill defines a person with additional needs as someone who is usually mobile but needs support or supervision with daily tasks and personal care such as showering, preparing meals or managing medication. Some residents require support because they have mental health issues and an intellectual or other disability or age related frailty. A person who is able to manage without such support will not be considered a person with additional needs.

The Register of Boarding Houses, which will be administered by the Minister for Fair Trading, will help to provide consumers and the Government with information about the sector and enable monitoring of supply in the industry. A range of information will be collected for the purposes of the register, including the type of boarding house, the number of residents, the number of residents under 18 and the total number of bedrooms. Information from the register will also be available to the public. The bill introduces an amendment to the Local Government (General) Regulation 2005, that is, the shared accommodation standards which currently apply to larger boarding houses will apply to all registrable boarding houses. Within 12 months of registration a boarding house that has not had an inspection done by council in the previous 12 months will be required to undergo an initial compliance investigation to ensure the premises meet relevant planning, building and fire safety requirements and standards.

I note that the bill introduces principles on occupancy rights based on the Australian Capital Territory regime but with additional principles for New South Wales residents. The new scheme of occupancy rights also contains provisions that allow for the introduction of a standard occupancy agreement and for the resolution of disputes by the Consumer, Trader and Tenancy Tribunal. The bill requires proprietors, boarding house managers and staff to undergo regular criminal record checks. This will provide an important safeguard for the identification and management of potential risks to the safety, welfare and wellbeing of residents.

Significantly, the bill also includes provisions that will enable authorised service providers, services that provide support, financial, legal or advocacy services to enter an assisted boarding house without consent or

warrant to speak with residents about the services they provide and to provide those services to the residents if they wish. The bill includes a circumstantial evidence provision, based on existing provisions in the Environmental Planning and Assessment Act 1979, which will enable circumstantial evidence to be relied upon by a court in proceedings for a search warrant or to remedy or restrain unregistered or unauthorised premises from operating.

The bill updates penalties under the Youth and Community Services Act 1973 which have not been updated since 1979, and expresses them in penalty units, with penalties for corporations being twice that for individuals, and it introduces new offences in relation to the register. Under the bill the Coroner will still have the power to hold an inquest into the death of a person in an assisted boarding house. Protections under the Community Services (Complaints, Reviews and Monitoring) Act 1993, which provide for the resolution of complaints about boarding houses, inspections by official community visitors and reviews and investigations by the New South Wales Ombudsman into boarding houses, will be retained. I am very pleased to support the Minister for Ageing, and Minister for Disability Services in introducing this bill to the House. With my final comments I will return to the ABC interview conducted by journalist Wendy Carlisle. Ms Carlisle states:

The coroner recommended the sector be much more tightly regulated, and one of her more important recommendations was that there be annual reviews for residents with disabilities in boarding houses ... In the last few years there's been a rapid restructuring of the boarding house scene. Licensed facilities have been closing down rapidly and in New South Wales just 30 remain. The people who used to live in them—many thousands of residents—seem to have disappeared into the unlicensed sector. Myree Harris says any new laws have to give these people protection as well.

Sister Myree Harris had the final comment in this interview:

So we cannot allow people with severe mental illness or other disabilities to land in the unlicensed sector without support. We cannot allow them to develop into hellholes.

In the bill before the House the Government goes a long way. However, there is much more to be done. We will monitor and provide feedback to the people of New South Wales and continue to improve legislation regulating the operation of boarding houses for the most vulnerable in our society. I commend the bill to the House.

The President (The Hon. Donald Thomas Harwin) took the chair at 3.50 p.m.

The Hon. PAUL GREEN [3.50 p.m.]: I speak on the Boarding Houses Bill 2012. The primary purpose of this bill is to protect the rights of residents living in all boarding houses. The bill introduces major reform to the boarding house industry in New South Wales. Many people simply cannot afford private accommodation. This is a sad reality, but unfortunately it is all too common. Boarding houses play a vital role by providing low-cost, affordable housing. It is estimated that there are around 750 boarding houses operating in New South Wales, the vast majority of which are located in the Sydney metropolitan region. A crucial problem is the lack of regulation surrounding boarding houses. This bill is a welcome step, and one which community activists have sought for around 35 years. Minister Constance said:

We have seen situations where residents have been subjected to abuse and neglect, highlighting the inadequacy of the existing legislation and the need for reform.

He also said:

The Ombudsman has also produced three reports in seven years that have been critical of the slow pace of legislative reform in this sector.

Boarding houses typically house the most poor and vulnerable in our society. This bill provides stronger protection from exploitation for thousands of people. Specifically, the bill: provides for a registration system for certain boarding houses, to be called registrable boarding houses; provides for certain occupancy principles to be observed with respect to registrable boarding houses and for appropriate mechanisms for the enforcement of those principles; replaces the existing licensing and regulatory regime for residential centres for handicapped persons in the Youth and Community Services Act 1973 with a new licensing and regulatory regime for certain boarding houses—to be called assisted boarding houses—and their staff, including providing for service and accommodation standards at such boarding houses; repeals the Youth and Community Services Act 1973 and related legislation; and makes consequential and related amendments to certain other legislation. I note widespread community, industry and bipartisan support for this bill. I also note the *Sydney Morning Herald* reported that Sister Myree Harris, convenor of the Coalition for Appropriate Supported Accommodation, said the Government had gone up in her estimation. Sister Myree Harris then said:

But they have to carry through. Some owners will scream blue murder and the Government must call their bluff.

The Tenants Union, the State's peak non-governmental organisation for tenants and other renters, strongly supports the bill. In particular it strongly supports the bill's provision relating to occupancy principles and occupancy agreements for boarding house proprietors and residents. It also supports the establishment of a new Register of Boarding Houses. The bill makes a number of improvements on the Government's earlier draft bill, circulated for consultation in June this year. The Tenants Union identified a number of improvements: the loophole relating to premises that are subject to a tenancy agreement is closed; the names of boarding house proprietors will be included on the register; proprietors will be required to provide a written occupancy agreement at the commencement of an occupancy; standard forms of occupancy agreements for different classes of agreements, persons or premises may be prescribed by regulation; the occupancy principles are effective—it is a term of every occupancy agreement that the occupancy principles apply; a new occupancy principle prohibits penalty clauses for breach of house rules; a new occupancy principle allows utility charges to be levied on a reasonable basis only; a new occupancy principle limits bonds to a two weeks occupation fee; and a wider range of remedies, including compensation, is available in the tribunal.

I note that in the other place the Opposition expressed some concerns relating to compliance with inspections, presumably relating to the burden that inspections will place on local council resources. However, I also note that clause 23 enables a council to charge and recover an approved fee under section 608, Council fees for services, of the Local Government Act 1993 for the conduct of an initial compliance investigation. Earlier the House dealt with swimming pool legislation. I think local government would be very happy with this cost recovery measure. However, the costs recovered do not reimburse local government for the total cost of providing these services, such as the cost of man-hours and investigations—expenses that cannot be chalked up within the broad terms of this legislation. We are mindful that the Government is at least allowing local government to receive a fee for some of its compliance work. It needs to go further in addressing the overall cost of resourcing someone to visit these boarding houses to ensure that they are fully compliant, completely safe and able to provide safe services for those who use them.

As I have noted, some of the most vulnerable people in New South Wales use boarding houses, and many of them would not be aware of the risks that some of these substandard properties pose for them. However, this is much-needed reform. Sister Myree Harris, who, it seems, has been trying forever and a day to achieve upgrades of this sort of accommodation, finally feels that something is being done. It is to the credit of the Minister and his staff that this bill is before the House. The bill is a positive step towards much-needed reform of the boarding house industry. There is no doubt that the industry needs to be even further reformed, and it probably will be. The Christian Democratic Party welcomes this bill and commends it to members of this House.

Mr David Shoebridge: Point of order—

The PRESIDENT: Order! Is the member taking a point of order or rising to take part in the debate?

Mr David Shoebridge: I am taking a point of order. It was extremely difficult to hear the final part of the member's contribution due to the wall of noise coming from those on the Government benches.

The Hon. Catherine Cusack: What rubbish.

Mr David Shoebridge: There they go again. The noise was making it almost impossible to do business in the Chamber.

The Hon. Michael Gallacher: To the point of order: The member would be well advised not to fabricate allegations. If the member wishes his speech to be delivered with continuity and not interrupted by question time that is his prerogative. But he should not make things up about members of the Government talking to such an extent that he could not hear the Hon. Paul Green, just so that his own speech will not be interrupted by question time.

The PRESIDENT: Order! I have heard sufficient on the point of order. Though there was a great deal of noise when the member was concluding his remarks, I did not have difficulty hearing the Hon. Paul Green. However, not all members have the benefit of the audio equipment that I have to pick up the sound coming from the microphones.

Pursuant to sessional orders business interrupted at 4.00 p.m. for questions.

Item of business set down as an order of the day for a later hour.

QUESTIONS WITHOUT NOTICE

GOVERNMENT ASSETS SALE

The Hon. LUKE FOLEY: My question is directed to the Minister for Finance and Services. Given that the 2012-13 budget papers advised that the final report of the Property Asset Utilisation Task Force is due in August 2012, when will the Minister publicly release that report?

The Hon. GREG PEARCE: Very soon.

POLICE TASER USE

The Hon. CHARLIE LYNN: My question is directed to the Minister for Police and Emergency Services. Will the Minister inform the House about the Ombudsman's report entitled "How are Taser weapons used by the NSW Police Force?"

The Hon. MICHAEL GALLACHER: I welcome the release of the NSW Ombudsman's report entitled "How are Taser weapons used by the NSW Police Force?" The NSW Ombudsman conducted an initial investigation into taser use by the NSW Police Force during 2007-08. Twenty-nine recommendations were made in regard to training, policies and accountability measures. Since the conclusion of the initial investigation, tasers have been rolled out to accredited general duties officers and supervisors in all local area commands.

The Ombudsman commenced a further comprehensive and independent review of taser use in October 2010. The investigation focused on the use of tasers by general duties officers and sought to address issues relating to training, policies and procedures, and review accountability processes. The investigation looked at data and information, including 2,252 taser incidents that occurred between October 2008 and 30 November 2011. For detailed analysis and assessment, 631 taser incidents for the six-month period between 1 June and 30 November 2010 were selected. Of those incidents, 556 related to use against people, and 75 incidents that involved accidental discharge or use on an animal were excluded.

The findings of the Ombudsman support the ongoing use of taser weapons by the NSW Police Force. The Ombudsman's investigation found a high level of compliance with police taser standard operating procedures—from recollection, well over 80 per cent—and that the taser training was of a very high standard. The investigation confirmed that tasers provide an effective tactical option for general duties officers responding to incidents involving violent confrontation. The Ombudsman's report found that since tasers were introduced there has been a statistically significant decline in the number of incidents recorded by police involving assault police or resist or hinder arrest. There has also been a continuation of an earlier decrease in the number of injury claims by police as a result of being assaulted.

A number of misuses or breaches of rules and procedures were identified where the accountability framework was found to be effective. However, a number of other incidents indicate the inappropriate use of a taser or inadequate or inconsistent internal review processes. The Ombudsman has made 46 recommendations to further strengthen and improve police policies, procedures and practices, and to ensure public confidence in the use of tasers is maintained. The majority of recommendations are for modifications or clarifications to the NSW Police Force's taser standard operating procedures. The remaining recommendations relate to taser training, the debriefing process and other internal procedures, including the regional taser review panels.

I acknowledge, as does the report, that further data collection and analysis by police will be needed in relation to the use of force to allow accurate recording of trends related to the use of tasers. The NSW Police Force's detailed response to the Ombudsman's recommendations will be provided within two months from the date of the report's publication. The police response will also carefully consider the outcome of the coronial inquiry into the death of Mr Roberto Laudisio Curti. The recommendations arising from this recent coronial inquiry are expected on 14 November 2012. I thank the Ombudsman and his team for their efforts in their research and their drafting of this report. I look forward to updating the House on the police response.

GOVERNMENT ASSETS SALE

The Hon. ADAM SEARLE: My question without notice is directed to the Minister for Finance and Services. What school properties has the Property Asset Utilisation Taskforce identified for sale or lease?

The Hon. GREG PEARCE: I am sure that if the Deputy Leader of the Opposition had listened to the question asked by the Leader of the Opposition and to my answer he would know that the Property Asset Utilisation Taskforce report has not yet been made public; the Government is working its way through it. But we have already announced moves to sell more than \$300 million worth of excess New South Wales government property, which was identified in the task force's process, with the proceeds going to fund essential infrastructure to unlock newer housing supplies. Among the nine properties to be investigated for sale are buildings occupied by public servants, including several government office blocks in Sydney's west, Newcastle and Wollongong, and vacant land in the heart of Parramatta.

As forecast in the budget, the proceeds of the sales will be invested in vital new infrastructure such as roads and water supply via the new Housing Acceleration Fund, which was announced by the Treasurer in the budget. The money will be used to provide essential services for our growing population and will support economic growth and investment by removing roadblocks hampering residential construction. The New South Wales Government property portfolio is valued at more than \$100 billion and we will continue to examine the way it is managed to ensure the best value for taxpayers, and that is part of the process that has been undertaken by the task force.

As I have been asked these questions today I want to put on record my gratitude to Mr Geoff Levy, AO, the various directors general, other senior public servants and the barrister, Louise Byrne, who participated in the process of the task force and who have done very important work, which will assist the Government in unlocking some of the much-needed funding to deliver infrastructure and services in the State into the future.

HOMELESS FATHERS

The Hon. JAN BARHAM: My question without notice is directed to the Minister for Finance and Services, representing the Minister for Family and Community Services. In August 2011 a report by the Australian Catholic University entitled "More than just me: Supporting fathers who are homeless" described the plight of a group of men who, after separation, have extreme difficulties in caring for their children, having visits from their children or even maintaining contact with their children. Will the Minister advise whether there is any research identifying the numbers in this cohort in New South Wales and whether any specific programs or support are available for single, homeless fathers?

The Hon. GREG PEARCE: I thank the member for her question. That is obviously a difficult cohort and I am certain that the Minister for Family and Community Services has undertaken some work in that area. I will get the member a detailed answer to her question.

MOBILE PHONE USE

The Hon. JOHN AJAKA: My question is directed to the Minister for Roads and Ports. Will the Minister update the House on recent changes to road rules to crack down on the use of mobile phones?

The Hon. DUNCAN GAY: I thank the member for his question and for his diligence in his job. This is an important road safety issue. Frankly, I have no sympathy for drivers who end up all over their lane on the road because they are busy doing something other than concentrating on their driving. We have seen it and sadly we do not have to drive too far before we see a motorist with a phone to their ear. It is frightening to think people also text while driving on our roads. These drivers place themselves and other road users at significant risk of accident or injury.

We know that using a mobile phone while driving is dangerous because it distracts drivers and slows reaction times. Drivers are less able to maintain a constant speed and safe distance. They are less able to recognise hazards on the road and they miss more road warning signs. In short, it is not rocket science to know that using a mobile phone while driving increases the risk of a crash. Members should note that using a mobile phone without hands-free has been prohibited for some time. Hands-free means hands off. We are ensuring that the community is clear on the detail through an extensive advertising campaign before the changes come into effect on 1 November.

From the start of next month motorists will be required to have their mobile phones completely mounted or hands-free if they want to talk while they are driving. We want to stamp out the trend of people using a phone on loud speaker and resting it on their lap. These changes will make it explicit that even on loud speaker the mobile must not be anywhere on the body. Drivers will not be able to touch the phone unless their

car is legally parked or they are passing the phone to a passenger. I cannot believe that we have had to clarify this area of our road rules but—to be clear—motorists cannot text or email. They cannot video, take photographs, tweet or engage in online chatting. For the benefit of some members on the other side, I remind the Chamber that Facebook status updates are also a no-no in the car. Frankly that is good advice for some other people elsewhere.

The Hon. Amanda Fazio: You might want to tell us about drink driving while you are at it.

The Hon. DUNCAN GAY: We may well need to introduce an offence of drinking whilst in charge of a mobile. Some people have not learnt how to control themselves in social situations.

The Hon. Amanda Fazio: Who would that be?

The Hon. DUNCAN GAY: It may well be you.

The PRESIDENT: Order! The Hon. Amanda Fazio and the Minister will cease conversing across the table.

The Hon. DUNCAN GAY: Sadly we have had to put these draconian rules in place because people have not taken heed of the message that it is not safe to drive and text. They have used the excuse that they were just passing the phone to someone else or they were just turning it on when they have been caught texting while driving. We have all seen people driving erratically and as we pull up beside them we see them texting. We make no apologies for this one. It is an important rule for road safety and it is long overdue. I acknowledge the sensible support from many members opposite, particularly one of those newly promoted to the front bench.

WOOD SMOKE POLLUTION

The Hon. ROBERT BORSAK: My question without notice is addressed to the Minister for Finance and Services, representing the Minister for the Environment. Is the Minister aware of the recently released "NSW Wood Smoke" discussion paper, which outlines a number of options available to councils to manage wood smoke in their areas, including requiring the removal of open fireplaces by owners before the sale of a property? Given that most heritage listed houses feature open fireplaces, how can such a policy be compatible with heritage listing? Will owners who are forced by councils to remove open fireplaces face prosecution?

The Hon. GREG PEARCE: I thank the honourable member for that question. Over the years I have had the good fortune of owning a couple of heritage properties with open fireplaces. Nothing equals being able to light the fire, sit back, get onto Facebook—

The Hon. Greg Donnelly: With a good red.

The Hon. GREG PEARCE: —with a good red and enjoy the roaring flame. That joy is only equalled by the thrill of having to clean the fireplace the next morning. I am interested in the discussion paper. I will seek a detailed answer from the Minister and report back to the House.

GOVERNMENT ASSETS SALE

The Hon. MICK VEITCH: My question without notice is directed to the Minister for Finance and Services, and Minister for the Illawarra. Will the Minister guarantee that all revenue raised as a result of selling school property will be reinvested into education?

The Hon. GREG PEARCE: It is not my job to give guarantees. If the question is one that should be directed to the Minister I suggest that the Hon. Mick Veitch place the question on notice so that it can be so directed.

COMPULSORY THIRD PARTY INSURANCE PREMIUMS

The Hon. MATTHEW MASON-COX: My question without notice is addressed to the Minister for Finance and Services. Will the Minister explain the short-term factors behind increases in green slip prices and the outlook for prices generally?

The Hon. GREG PEARCE: I thank the honourable member for that important question. Each year almost five million compulsory third party [CTP], or green slip, policies are sold in New South Wales at an average cost of \$457 or almost \$490 for people who live in Sydney. As we know too well, green slip prices have experienced upward pressure in recent years. The increases have resulted in New South Wales becoming the second least affordable State in Australia for compulsory third party insurance for a family car. Unfortunately, I must report that all the indicators are that the scheme is still coming under unprecedented price pressure at the moment.

The reasons for the price pressures on the scheme are many and comprise short, medium and long-term factors that are coming together much like an imperfect storm. The primary short-term reason is the all time record low bond yield rates. Bond rates play a pivotal role in green slip prices because the scheme is a long tail one where payments can be made for many years after a premium is collected and the accident has occurred. To ensure that money is available to meet claim payments—which in many cases can be four years or more after the accident—insurers must put this money aside until a claimant's injuries have settled sufficiently that the claim can be finalised. It is estimated that insurers currently have about \$5 billion in claim liabilities under investment.

To protect claimants and the green slip scheme, insurers are required to invest this money in low-risk investments such as government bonds. The interest they earn on this is used to offset the amount they must collect in premiums to cover their anticipated costs of claims. Thus if bond rates drop, as they have been doing, the insurers insist that they are left with no option but to increase premiums to guarantee that they have the required level of capital to meet their future liabilities and ensure that injured people are looked after. Those increases to premiums can be disproportionate to the decrease in bond yield rates. For example, I am advised that for every 1 per cent reduction in investment returns there must be a 4.3 per cent increase to risk premiums.

Since 2008 Commonwealth Government bond rates have fallen from around 7 per cent to around 3 per cent. It must be stressed that low investment returns are not just a problem for our scheme but also for others. The Victorian Transport Accident Commission posted a \$1 billion loss in the last financial year and the West Australian Insurance Commission, which manages that State's scheme, has gone from a \$53 million profit to a \$102 million loss. Being privately underwritten, New South Wales will not have such a deficit but the pain will be felt in increased premiums. Of course, the problem with bond yield rates is that there is nothing that the New South Wales Government can do to change them. However, it must be said that bond yield rates are not the only pressure that is being felt on prices.

The New South Wales Government is concerned to address the cost of living for vehicle owners and to make New South Wales a more competitive State to do business. That is why I have directed the Motor Accidents Authority to undertake an extensive review of green slip pricing that compares the way our scheme operates, and the drivers of costs, with other schemes around Australia and overseas. I will have more to say to the House in due course.

SNOWY HYDRO LIMITED

The Hon. ROBERT BROWN: My question is directed to the Minister for Roads and Ports, representing the Minister for Resources and Energy. Is it a fact that Snowy Hydro is undertaking a \$400 million modernisation program and has warned that any changes to the Federal Government's large-scale renewable energy target would create "sovereign risk for hydro investments to date and jeopardise future investment plans"? What is the State Government doing to protect its investment in Snowy Hydro? What discussions have been held with the Federal Government on this issue?

The Hon. DUNCAN GAY: I thank the honourable member for his question and indicate that I was not aware of the \$400 million upgrade. I congratulate Terry Charlton and the team at Snowy Hydro on once again doing fantastic work.

The Hon. Robert Brown: They are a great bunch of people.

The Hon. DUNCAN GAY: It is a great team that has been looking after this State and other States pretty damned well. As far as the sovereign risk is concerned, New South Wales has a fair bit of skin in this game along with Victoria and the Federal Government. This truly is a sustainable scheme to create energy as well as wealth for this State. Because many people would stop such a project today, the work that was done in the 1950s on the Snowy scheme would be impossible to replicate. The Snowy scheme is a great legacy for this

State's primary industries and renewable energies, and has placed us in a very good environmental position. I do not have an answer to the detailed part of the question. I will refer it to the Minister and obtain a detailed response.

GOVERNMENT ASSETS SALE

The Hon. PETER PRIMROSE: My question is directed to the Minister for Finance and Services. Will he guarantee that revenue raised from the sale of Government office buildings in Newcastle will be reinvested in the Hunter?

The Hon. GREG PEARCE: I know that the Hon. Peter Primrose is finding it difficult to have any relevance, but if he had listened to my earlier answer he would know I indicated that the funds from nine properties that currently have been identified will be used for the new housing acceleration fund, which will provide infrastructure, such as roads and water supply around the State. Projects in regional New South Wales will receive money from that fund, including projects in the Hunter. Those projects will be announced in due course.

The Hon. PETER PRIMROSE: I ask a supplementary question. What projects in the Hunter will be funded?

The Hon. GREG PEARCE: I do not make announcements just because the Hon. Peter Primrose wants to know. The Government will announce the projects in due course when we think it is appropriate to do so.

OPERATION HAMMER

The Hon. NIALL BLAIR: My question is directed to the Minister for Police and Emergency Services. Will he inform the House of what the NSW Police Force is doing to prevent hoons from driving around in potentially dangerous illegally modified cars?

The Hon. MICHAEL GALLACHER: I thank the Hon. Niall Blair for his question. This Government and the police believe that the State's roads should be as safe as possible, which means keeping hoons and dangerous illegally modified vehicles off the road. To that end, the police were out in force on Thursday 18 October 2012 as part of Operation Hammer to target illegally modified cars in and around Newcastle. Operation Hammer involved police from the Traffic and Highway Patrol Command, with assistance from the Newcastle City Local Area Command. The police inspected vehicles at a number of locations, including Wharf Road, Nobbys Beach car park and under the Stockton Bridge. As a result of Operation Hammer, police booked 44 defective vehicles, issued 84 traffic infringements and confiscated a number of cars. The police also charged three people for performing burnouts and all three had their licences suspended—including one 17-year-old male who had earned his P1 licence only the day before.

This Government treats hoon behaviour with the severity it deserves. Dangerous driving is not a bit of harmless fun: It is a stupid and potentially life-threatening activity. That is why on 1 July this year the O'Farrell Government's new Vehicle Sanctions Act fully commenced. The police have wasted no time in putting the Act's new powers to good use. From 1 July until 12 October, 74 sets of numberplates were confiscated at the roadside and 26 vehicles were impounded. Sixty-nine of the numberplate confiscations and 17 of the vehicles seized were for high-range speeding or police pursuit offences—offences not covered under the previous vehicle sanctions regime.

The enhanced vehicle sanctions regime also provides tough sanctions for repeat offenders, including permanent forfeiture of their vehicle. Forfeiture is a penalty if someone drives with no plates or attaches false plates to a car. With automatic numberplate recognition now installed in more than 150 police vehicles, it will not be long before repeat offenders are caught. I am advised that the police plan to conduct further operations such as Operation Hammer over the upcoming summer months. I hope those operations show would-be car hoons that the police will not tolerate hoon behaviour or the driving of unsafe illegally modified vehicles on New South Wales roads. The police have shown that they are keen to keep putting new laws relating to hoons to good use and will confiscate the cars and licence plates of motorists who, for some reason, seem to think it is okay to use New South Wales roads as their own private racetrack.

BOGGABRI COALMINE

The Hon. JEREMY BUCKINGHAM: My question is directed to the Minister for Police and Emergency Services. Has any member of the office of the Minister for Resources and Energy or any officer of

his department contacted the NSW Police Force in relation to recent protests at the Boggabri coalmine or the Fullerton Cove coal seam gas project? If so, when and what was the nature of that contact? This is the third time I have asked the question. The Minister has taken the question on notice twice.

The Hon. MICHAEL GALLACHER: The recent estimates hearings were an excellent opportunity for the member to direct that question to the Commissioner of Police since it concerns correspondence between one office and the Police Force. I suspect the previous questions are being processed in the normal way.

The Hon. Jeremy Buckingham: The responses are due today.

The Hon. MICHAEL GALLACHER: Shame on the Hon. Jeremy Buckingham for waiting so long.

GOVERNMENT ASSETS SALE

The Hon. STEVE WHAN: My question is directed to the Minister for Finance and Services, and Minister for the Illawarra. Will he guarantee that revenue raised from the sale of the government office building in Queanbeyan, the John Akister Building, will be reinvested into the Queanbeyan community?

The Hon. GREG PEARCE: I refer to my earlier answer in relation to the Hunter.

LIVESTOCK LOADING SCHEME

The Hon. SARAH MITCHELL: My question is directed to the Minister for Roads and Ports. Will he update the House on the new livestock loading scheme for New South Wales?

The Hon. DUNCAN GAY: I thank the honourable member for this important question as regards regional New South Wales. Even the Hon. Steve Whan is trying to listen to the answer. This is something that he could have done when he was in government, but did not. This historical reform will lift livestock transport in New South Wales onto a level playing field and into a competitive position with schemes long used in other States—most notably by our key competitors: Queensland and Victoria. For 16 long years the New South Wales meat and livestock industry asked successive Labor Governments and Ministers for a scheme to allow it to transport weights comparable to those of other States, and for 16 years those industry pleas fell on deaf ears.

Former Minister Scully did nothing to assist this vital rural industry, nor did Minister Costa, Minister Tripodi, Minister Roozendaal, Minister Daley, Minister Campbell, whose chief of staff was Ryan Park, or even Minister Borger. The new scheme will allow more productive weights for livestock trucks but will cap truck loads to higher mass limits. This means that a B-double carrying livestock will be able to operate at up to 68 tonnes, as opposed to 62.5 tonnes for general mass limits, or 64.5 tonnes for concessional mass limits. Depending on average animal weights, a B-double truck in New South Wales currently can carry 56 to 60 head of cattle, while in neighbouring States the same truck may carry between 66 and 70 head of cattle. Industry estimates that current New South Wales rules will add an extra 15 per cent to freight costs, or about \$8 for each animal transported, and will result in extra truck movements on New South Wales roads. This reform will help to improve the economic viability of the State's meat and livestock supply chain and reduce freight costs for New South Wales farmers, livestock carriers, abattoirs, feedlots and saleyards—

The Hon. Melinda Pavey: Who did that?

The Hon. DUNCAN GAY: We did it through good government. This reform also will help to reduce the number of trucks on the road. On average, for every B-double truck operating at a higher mass limit, the number of semitrailer movements on the road can be reduced by about 40 per cent. Listen to the sniping from the Hon. Steve Whan—someone who failed the electorate of Monaro and failed New South Wales, which is why he is sitting in the losers' lounge.

The Hon. Lynda Voltz: Point of order: The Minister knows full well that he should direct his comments through the chair and not to members on the other side of the Chamber.

The PRESIDENT: Order! I remind the Minister that he should not respond to interjections. I ask the Hon. Steve Whan to desist from interjecting.

The Hon. DUNCAN GAY: A lot of whingeing and whining is going on in the Whan household.

The PRESIDENT: Order! I call the Hon. Steve Whan to order for the first time.

The Hon. DUNCAN GAY: The Hon. Steve Whan is sitting in the losers lounge because he does not listen. This Government respects and understands the need for councils to retain their authority to restrict the access of heavy vehicles to roads and bridges that are assessed as incapable of bearing increased truck weights. That will not change under these reforms. The new scheme will commence on existing approved higher mass limit routes later this year— [*Time expired.*]

The Hon. SARAH MITCHELL: I ask a supplementary question. Will the Minister elucidate his answer?

The Hon. DUNCAN GAY: I thank the Hon. Sarah Mitchell; I would have concluded my answer if there had been no interruptions. The new scheme will commence on existing approved higher mass limit routes later this year and will extend to other roads in 2013 as council signposting is rolled out with the support of Roads and Maritime Services. The new scheme was developed in conjunction with the Local Government and Shires Associations, the Livestock and Bulk Carriers Association of New South Wales and the New South Wales Farmers Association. In yet another first the new scheme will improve driver safety by requiring livestock carriers to participate in a specialised driver training course to reduce the risk and incidence of rollover crashes for 4.6-metre high livestock trucks. The former member for Monaro is not listening because he is still not interested, just as he was not interested when he was a Minister.

WESTCONNEX MOTORWAY

The Hon. CATE FAEHRMANN: My question is directed to the Minister for Roads and Ports. I thank the Minister for the information regarding the 10 meetings—an approximate number—that he had with Infrastructure NSW regarding WestConnex. Were any potential investors present at any of those meetings? If so, who were they?

The Hon. DUNCAN GAY: On a day when The Greens suffered yet another defeat in Canberra, a plunge like we have not seen in modern politics, they have not changed their ways. They are against progress of any description.

The Hon. Cate Faehrmann: Point of order: My point of order relates to relevance. The question was about WestConnex meetings and how many potential investors were there.

The Hon. Jeremy Buckingham: You can't rule without us.

The PRESIDENT: Order! I call the Hon. Jeremy Buckingham to order for the first time. I call the Minister for Police and Emergency Services to order for the first time.

The Hon. Cate Faehrmann: The Minister for Roads and Ports should be asked to be relevant to the question that was asked.

The PRESIDENT: Order! While Ministers are permitted some generality in the answering of questions, the thrust of their answers must be generally relevant.

The Hon. DUNCAN GAY: I am pleased to acknowledge the comments of the Hon. Jeremy Buckingham that no Labor government can rule without us. The answer to the question is zero.

PARRAMATTA JAIL

The Hon. LYNDA VOLTZ: My question is directed to the Minister for Finance and Services, and Minister for the Illawarra. The latest issue of the State Property Authority newsletter *Tenant Talk* states "The SPA has taken on the management of the Parramatta jail site while preparing it for sale." Given that fact, can the Minister inform the House whether the Property Asset Utilisation Task Force has identified Parramatta jail for disposal. If so, what is the timetable for its sale?

The Hon. GREG PEARCE: I am aware that some nitwit put out a newsletter that was not approved by me that Parramatta jail was being prepared for sale. Members will see the details in due course when the report is tabled.

The Hon. Greg Donnelly: Who was the nitwit?

The Hon. GREG PEARCE: If I can identify who the nitwit was I will ensure that he or she knows that I am not happy about the poor performance relating to this matter. I do not put it in quite the same category as the Leader of the Opposition whenever he produces a document claiming that it says something or the other, but this was an unfortunate piece of paper.

STREAMWATCH PROGRAM

The Hon. CATHERINE CUSACK: My question is addressed to the Minister for Finance and Services. Will the Minister update the House on the Streamwatch program and other government water education initiatives?

The Hon. GREG PEARCE: I thank the member for her ongoing interest in water conservation and the education and involvement of the community in water-saving measures. I am pleased to inform the House that Sydney Water signed an agreement to transfer its Streamwatch program to the Australian Museum. The transfer includes four years funding to support community groups in Sydney Water's area of operations, and a four-month transition phase is now in place. From January 2013 the Australian Museum will own and run the program, including the Streamwatch website. I am sure that the Australian Museum, with its wealth of expertise and knowledge in the delivery of science, education and research, will bring fresh enthusiasm to the Streamwatch program.

Sydney Water is very proud of the program. I take this opportunity to thank the many volunteers for their contributions over the years. Since the Streamwatch program was set up in 1990 a number of other programs have been put in place to improve water quality in rivers and streams, including Sydney Water's \$1.6 billion SewerFix program. Large reductions in overflows have been achieved and Sydney Water has a professional water quality monitoring program at 250 sites to check for dry weather overflows and leaks. The Government is continuing its commitment to water education through a number of other avenues, such as tours at Sydney Water's Water Recycling Education Centre and other sites, online resources and the Water for Life Education and Engagement Program.

This program plays a vital role in encouraging waterwise practices and keeping the community updated on the latest projects to secure a safe and clean water supply for the people of greater Sydney and the Illawarra. The program also provides professional learning opportunities, resources and tools, and is in the process of developing a water educators network to support leading practice water education projects. Water for Life runs targeted education projects to engage different sectors of the community, such as non-English speaking communities, teachers and schools and the property sector. In addition, Water for Life is running an extensive community consultation program to provide opportunities for people to participate in the decision-making process and engage them in water management planning.

Over the past year, the program's mix of training and coaching has helped 20 council managers and emerging leaders from the greater Sydney and the Illawarra regions to act as effective leaders on water issues in their councils and communities. Next month the Water for Life team will be hosting a showcase of its activities and achievements over the past year. This showcase will be a one-day event targeted at educators and people involved in water issues, particularly those interested in engaging the community. I am pleased to further advise the House that work is well underway on a review of the current Metropolitan Water Plan, which will secure water supplies for greater Sydney and the Illawarra until 2025 and beyond. It is my hope that we never have to face another drought in the metropolitan area, such as the one we saw not so long ago. The Government is determined to ensure that it has a balanced, effective long-term plan that takes into account all aspects affecting the water supply cycle.

BIOFUELS

The Hon. PAUL GREEN: My question without notice is directed to the Minister for Roads and Ports, representing the Minister for Resources and Energy. To date what specific actions has the Government taken to enforce compliance with the Biofuels Amendment Bill 2012 specifically relating to ethanol? Are petrol stations and the fuel industry cooperating with the Government?

The Hon. Trevor Khan: Top question.

The Hon. DUNCAN GAY: It is a good question. I thank the member for his important question—one that anticipates that a bill will be introduced in the very near future.

PETROL THEFT

The Hon. WALT SECORD: My question without notice is directed to the Minister for Police and Emergency Services. I refer to the fax machine hotline to report petrol drive-off thefts. What other crimes is the O'Farrell Government considering extending this scheme to include, which replaces hardworking police officers with fax machines in a call centre?

The Hon. MICHAEL GALLACHER: It is very difficult to make any sense of that question.

[Interruption]

The PRESIDENT: Order! I cannot hear the Minister.

The Hon. MICHAEL GALLACHER: It is not a question of debating it; it is trying to make head or tail of the member's question, which is not very straightforward at all. If the Hon. Walt Secord wants to be critical of police and their operational ability to address issues that is a matter for him to take up.

The Hon. Amanda Fazio: Point of order: My point of order raises two issues. The first issue relates to relevance. The Minister was debating the person who asked the question instead of answering the question. The second issue is that the Minister was making imputations against the member who asked the question, which he knows is not in order.

The PRESIDENT: Order! The Minister was not debating the member who asked the question, nor was he making imputations about the member. The Minister has the call.

The Hon. MICHAEL GALLACHER: Petrol theft is an important issue for us all because, quite simply, we can all be a victim. Our cars or numberplates could be stolen and used in connection with petrol theft. Petrol theft particularly affects also those independently owned and operated service stations which, in many areas, are the backbones of local communities, providing fuel and many other services. Unfortunately, most people who commit this crime get away with it, even when the petrol station has closed-circuit television. Often offenders attach stolen numberplates to their vehicles or take steps to modify numberplates so that a later police check will reveal that the car does not match the numberplate. For that reason all motorists are encouraged to use the one-way screws to attach their numberplates. The Commissioner of Police made evident today that there is no easy answer to prevent drive-offs from the petrol pump. He said his personnel use the available resources to do the best they can.

Despite the suggestion in the question, I think police are doing a very good job, as best they can, but a lot more can be done particularly by service station proprietors. As the commissioner said, this is not a New South Wales problem; it is an Australia-wide problem. The easy Australia-wide solution to petrol theft is for service station owners to ensure they have a national policy similar to the one the Commissioner of Police told me today exists in the United States and is driven by the industry: pay before you pump. Customers pay for their petrol before putting it in their cars. I am told that this policy must be industry-driven nationally to ensure success in removing this crime. In the meantime, unlike the member who asked the question by suggesting that police should be removed from front-line duties to use facsimile machines, we will continue to support our police. We will continue to give them the resources and continue to advocate on their behalf to ensure that this industry recognises that getting access to numberplates and cars with the intention of stealing fuel is a national problem, not just in New South Wales, and they can adopt the easy answer tomorrow—pay before you pump—to ensure there are no further incentives for people to steal numberplates. *[Time expired.]*

MARINE ENFORCEMENT TEAM

The Hon. NATASHA MACLAREN-JONES: My question is addressed to the Minister for Police and Emergency Services. Can the Minister provide advice to the House on the new ways police are targeting crime on our waterways, particularly with summer just around the corner?

The Hon. MICHAEL GALLACHER: That is an excellent question. I am delighted to thank the member for her question and to inform the House that the NSW Police Force has established a new police jet ski squadron to patrol the State's waterways to improve marine safety—the new Marine Enforcement Team [MET]—as part of the launch of this year's summer safety campaign. The Marine Enforcement Team, comprising officers from the Marine Area Command, is a dedicated mobile response unit to reduce

marine-related crime and ensure safe waterways in New South Wales. The new squad will target commercial and private vessels. The team will be located primarily at the Sydney Water Police and conduct duties in the metropolitan sectors of Sydney, including Botany Bay and Broken Bay as well as Newcastle and Port Stephens during the boating season. However, as we were told today, if the Tweed has a problem these vessels can be put onto a trailer and taken up or put on the back of launch *Nemesis* and operated from there.

The Marine Enforcement Team will have the capability also to deploy to inland waterways around the State when required. To support this police initiative, Bombardier Recreational Products today officially handed over to the NSW Police Force for the Marine Enforcement Team 10 new Sea-Doo personal watercraft jet skis it has part-sponsored. These new jet skis provide police with state-of-the-art safety and performance, allowing quicker response and the ability to reach areas inaccessible to other vessels. These jet skis feature a range of safety features, including the world's only on-water braking system for significantly greater control and manoeuvrability, which would be very handy for some snow vehicles.

They are capable of speeds of up to 115 kilometres an hour. In addition, the watercraft meet the strict requirements to be California Air Resources Board [CARB] 3-Star certified for ultra-low emissions, and with the unique sound-reduction technology the Marine Enforcement Team can operate with minimal impact to the environment. We have green men and women in blue. The deployment of the Marine Enforcement Team is a key element to providing safer waterways and the New South Wales Government is committed to ensuring police have the resources required to serve and protect the people of New South Wales this year.

The NSW Police Force has created a number of specialist teams dedicated to responding to differing needs within the community and the Marine Enforcement Team will ensure that our waterways are safe and free of crime. It also sends an important message to everyone about safe and appropriate behaviour for summer weather on the water, road, public places or at home: If people break the law police will catch them. The NSW Police Force, in particular, the Marine Area Command, is expecting, as we all are, a hot and busy summer. The capabilities of the Marine Enforcement Team will enable the provision of safe and secure waterways throughout the State. The team will provide high-visibility patrols, conduct enforcement operations, including random breath testing and compliance checks, and assist with search and rescue, emergencies and disasters.

This summer the people of New South Wales need to play safe and stay safe. It is a time of year when more people are out and about enjoying the warmer weather and they are involved in a variety of activities. Throughout the warmer months police will focus on marine safety, beach safety and security, formals, parties and schoolies, road safety and shopping security. At this time of year people should be enjoying themselves and experiencing the best that our State has to offer, not enduring heartache and mourning at the loss of family members or friends.

ULTIMO PUBLIC SCHOOL

Dr JOHN KAYE: My question, which is directed to the Minister for Roads and Ports, representing the Minister for Education, relates to the proposal put forward by the Director, Planning and Delivery, Department of Education and Communities, to the parents and citizens at Ultimo Public School regarding the sell-off of Ultimo Public School land to developers and the attempt to shoehorn the new school into high-rise residential and commercial buildings. Can the Minister provide the House with further details of this deal, including who under this plan would own the school, how much open space would students have access to under the proposed arrangements, and how much would the New South Wales Government expect to receive in cash from the sale of the land under the deal and the joint ownership of the site?

The Hon. DUNCAN GAY: I need to say a couple of things in answering Dr John Kaye's question. The first thing we need to identify is when this problem first occurred.

Dr John Kaye: It is easy; from that lot.

The Hon. DUNCAN GAY: It is easy. I thank Dr John Kaye for indicating where the problem came from. The problem occurred when the former Labor Government sold off a lot of sites in that area.

The Hon. Lynda Voltz: That is not true.

The Hon. DUNCAN GAY: It is true. Opposition members can be in denial all they like.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the first time.

The Hon. DUNCAN GAY: They will remain in the losers lounge as long as they are in denial.

The PRESIDENT: Order! I call the Hon. Lynda Voltz to order for the second time.

The Hon. DUNCAN GAY: In answer to the member's point relating to a high-rise solution, the Minister said it was a one-off suggestion that was dependent on the school's acceptance. Given the outrage and the coverage in the media, it would be obvious to any member that the school is not all that excited about this suggestion. The Minister said that the school would discuss the suggestion and establish whether it was interested in that option or in a different option. It is a constructive suggestion from a Minister who was left with the legacy of a Labor government that sold off a number of schools in the area. Now the school community—

The PRESIDENT: Order!

The Hon. DUNCAN GAY: The Hon. Lynda Voltz might give me a chance to answer the question. If the school community rules out this solution the Minister will continue to work with it to find other solutions to the problems that are affecting it.

PETROL THEFT

The Hon. GREG DONNELLY: My question is directed to the Minister for Police and Emergency Services. In light of data released to the New South Wales Opposition that showed that fewer than 3 per cent of motorists who drive off without paying are being charged through the New South Wales police fax hotline and comments—

The PRESIDENT: Order! Stop the clock. If the Hon. Lynda Voltz wants to continue the discussion with Dr John Kaye she should do so outside the Chamber.

The Hon. GREG DONNELLY: In light of data released to the New South Wales Opposition that showed that fewer than 3 per cent of motorists who drive off without paying are being charged through the New South Wales police fax hotline and comments in the *Daily Telegraph* this morning that the O'Farrell Government is reviewing the fax hotline to report petrol drive-off theft, what is the timetable and reporting date for that review?

The Hon. MICHAEL GALLACHER: The member is suggesting that there are not enough arrests and therefore is inferring that the police are not making enough arrests.

The Hon. Greg Donnelly: Point of order: There is no inference whatsoever in my question. I asked a straightforward question and the Minister is imputing improper motives.

The PRESIDENT: Order! There is no point of order. The Minister has been asked the question and it is in order for him to answer it.

The Hon. MICHAEL GALLACHER: As I indicated earlier, the Government will continue to support initiatives put forward by the police that it believes will assist in tackling this crime. It is one thing to say that the fax system is not working when in reality the police, on receipt of information, do whatever they can to arrest offenders when an offence has been committed. The member referred to percentages. As I interpret it, the numbers are not to his liking and therefore—

The Hon. Greg Donnelly: Point of order: Once again the Minister is imputing improper motives.

The PRESIDENT: Order! There is no point of order.

The Hon. MICHAEL GALLACHER: I assume that the member is not satisfied with the percentages and he believes that they should be higher. I do not know what Opposition members suggest would be a reasonable figure, but police are doing the best they can, given that in many instances the numberplates are stolen or modified and the picture is unclear. In a number of circumstances the police cannot take a matter to court. However, if they have physical evidence or admissions that identify the person who committed the offence they will take the matter to court. I again make the point that this issue could be

resolved if we had national consistency and people simply did not have an opportunity to steal petrol or to commit fraud. This issue could be resolved if service station owners ensured that people paid for their petrol before filling up their tanks.

As the Commissioner of Police said, it would be unrealistic to expect major supermarket chains to allow their customers to fill up their trolleys, walk out the front door and put the groceries into their cars before returning to pay for them. The industry and service station operators believe it is okay to continue that practice. The Commissioner of Police is correct. The Government supports the police and the approach taken by the commissioner to ensure national consistency by applying pressure on the industry to remedy this issue. We will continue to support police. Whether it is 3 per cent, 4 per cent or 5 per cent, or even 1 per cent or 2 per cent, they will continue to have our support because we know that they are doing the best they can given the evidence they have.

ROAD RULES

The Hon. DAVID CLARKE: My question is directed to the Minister for Roads and Ports. Can the Minister update the House on further recent changes to road rules in New South Wales?

The Hon. DUNCAN GAY: The changes we announced to the New South Wales road rules last week are about common sense. From time to time we need to review our road rules to ensure they are as effective and relevant as they can be and, just as importantly, to ensure they are enforceable so that they do what they are intended to do, that is, improve road safety and traffic management. In many cases it takes only clarification, the tightening of existing road rules and minor amendments to make all the difference. We also need to take into account changes to Australian road rules and implement them in New South Wales, in the interests of uniformity with all States and Territories.

One of the changes about which I have received the most positive feedback is the change to signalling at roundabouts. At present, as drivers enter a roundabout they are only required to give a signal as to whether they will turn right or left. Common sense tells us a more sufficient warning consistent with those required at an intersection would make a world of difference. Nothing else changes at a roundabout. Give-way rules will not change. But from now on drivers will be required to give a change of direction signal for long enough to give sufficient warning to other drivers and pedestrians. That will help the flow of traffic at roundabouts. Some roundabouts have traffic signals. When the traffic lights are out, the old rule required that the give-way rules at signalised intersections apply. The amendment clarifies that the roundabout give-way rule will apply to drivers when traffic lights at a roundabout are not working or only partly working.

The suite of 2012 New South Wales road rule changes have been delivered as one package. They will come into effect on 1 November 2012. Apart from our announcements about these changes, Transport for NSW will undertake extensive advertising. The changes have been posted on its website and that of Roads and Maritime Services. There is also a "Changes to the Road Rules" guide, which will be published in various different languages to ensure all sectors of our community are made fully aware of these changes. Along with the "hands free means hands off" campaign that I talked about earlier, this is another way of ensuring drivers use our roads safely and responsibly. When changes need to be made, the New South Wales Government has a habit of just getting on with it. We are a government that delivers. As I indicated earlier, it has taken nearly 30 years to deliver volumetric loading; it is the same with these sensible changes. The changes mean that those waiting at an intersection who see a driver signalling before getting to the intersection an intention to turn left will know they will be able to get through that intersection. That will make a big difference to congestion at roundabouts.

The Hon. MICHAEL GALLACHER: The time for questions has expired. If members have further questions they can place them on notice.

BOGGABRI COALMINE

The Hon. MICHAEL GALLACHER: Earlier in question time today I was asked a question by the Hon. Jeremy Buckingham regarding Fullerton Cove. I advise the House that at this early stage we have gone through our records but cannot find a question from the member addressed to me about Fullerton Cove. However, we are aware of a question he asked of me, on behalf of the Attorney General, on 5 October 2012 relating to Boggabri police. That question was answered shortly afterwards. We will continue to search over the course of the day and report back to the House tomorrow if any further matters come to light, but it would appear that it was the Boggabri police matter that the member was talking about, not Fullerton Cove.

NORTH RICHMOND BRIDGE

The Hon. DUNCAN GAY: On 18 September 2012 the Hon. Paul Green asked me a question about North Richmond Bridge. I provide the following response:

I am advised:

Roads and Maritime Services has been working with key stakeholders, the community and Hawkesbury City Council looking at ways to alleviate congestion on Richmond Bridge and its approaches.

Planning and investigation works are being undertaken in two stages, to alleviate congestion in the short and long term.

The stage 1 report includes a traffic analysis of the cause of congestion and the structural suitability of the existing Richmond Bridge. This was discussed at a community workshop on 24 July. A preferred short-term solution is being developed, taking into account the community and stakeholder feedback, prior to the allocation of funding for implementation.

The community workshop also discussed long-term options for improvements.

A report on four long-term options has been published and the community has been invited to provide feedback. The report outlines the design for each option and has the results of investigations prepared as part of the project, including flood modelling and traffic flows.

This is a major milestone in the long-term plan to improve Richmond Bridge. Information sessions were held on 10 and 13 October at the North Richmond Community Centre for the community to hear more about the plans and speak to project team members.

Feedback received on the four options will be considered before a decision is made on the preferred long-term option. Following this decision, the required road corridor will be reserved to enable construction to take place in the future.

EDUCATION FUNDING

The Hon. DUNCAN GAY: On 18 September 2012 the Hon. Amanda Fazio asked me, representing the Minister for Education, a question about funding cuts to the New South Wales Department of Sport and Recreation. The Minister for Education has provided the following response:

This question should be directed to the Minister for Sport and Recreation.

M5 WEST WIDENING PROJECT

The Hon. DUNCAN GAY: On 18 October 2012 during question time the Hon. Lynda Voltz asked me a question about breakdown lanes on the M5 West and asked me to confirm that breakdown lanes will be available for the entire length between King Georges Road and Fairford Road as part of the M5 West widening project. I responded in the House at the time that my understanding was yes, but that I would undertake to get information. I am further advised by Roads and Maritime Services that the entire length of the proposed works will have breakdown shoulders except in four locations where there are existing bridge structures. The shoulders in those locations will narrow to approximately two metres, which is not wide enough for a breakdown lane. So breakdown lanes will be for the full length of that section of the M5 except for four locations at which there are bridges.

NEWCASTLE ART SCHOOL

The Hon. MICHAEL GALLACHER: On 18 September 2012 the Hon. Peter Primrose directed to me, representing the Minister for Tourism, Major Events, Hospitality and Racing, Minister for the Arts, a number of questions about the Newcastle Art School. I provide this succinct response to those questions by the Minister:

The question regarding the future of the Newcastle Art School should be referred to the Minister for Education.

HUNTING IN NATIONAL PARKS

The Hon. GREG PEARCE: On 18 September 2012 the Hon. Robert Borsak asked me, representing the Minister for the Environment and Minister for Heritage, a question about a Public Service Association survey regarding hunting in national parks. The Minister for the Environment and Minister for Heritage has provided me with the following response:

I am aware of the survey.

I am advised as follows:

The National Parks and Wildlife Service takes all reports of illegal activity in national parks seriously, and works cooperatively with NSW Police and the RSPCA in investigations and joint operations. Matters relating to firearms and animal welfare legislation are followed up by the NSW Police Force and the RSPCA respectively.

The National Parks and Wildlife Service is also currently working on a memorandum of understanding with the Game Council NSW, which will include arrangements for better information sharing so that both organisations can be more effective in their shared goal of stopping illegal hunting.

VISITOR ECONOMY TASKFORCE REPORT

The Hon. GREG PEARCE: On 18 September 2012 the Hon. Sophie Cotsis asked me, representing the Minister for Industrial Relations, a question about recommendation 15 of the final report of the Visitor Economy Taskforce. The Minister for Industrial Relations has provided me with the following response:

This question should be referred to the appropriate Minister, the Hon. George Souris, MP, Minister for Tourism, Major Events, Hospitality and Racing.

INCOME MANAGEMENT SCHEME

The Hon. GREG PEARCE: On 19 September 2012 the Hon. Jan Barham asked me, representing the Minister for Family and Community Services, and Minister for Women, a question about the Federal Government Income Management Scheme. The Minister for Family and Community Services, and Minister for Women has provided the following response:

The Bankstown Income Management trial is a Commonwealth Government program. The Commonwealth is responsible for collecting data about the trial and making decisions about who is placed on income management.

The Public Service Association of NSW has imposed a work ban directing its members "not to participate or undertake any activities in relation to the implementation of income management" in Bankstown.

CYSTIC FIBROSIS NEW SOUTH WALES

The Hon. GREG PEARCE: On 16 October 2012 Dr John Kaye asked me, representing the Minister for Family and Community Services, and Minister for Women, a question about funding for Cystic Fibrosis NSW. The Minister for Family and Community Service, and Minister for Women has provided me with the following response:

The former Labor Government reviewed the Community Services Grants Program [CSGP] in 2010. Cystic Fibrosis NSW was funded under this program.

The Labor Government reclassified services into two new programs, Community Builders and Early Intervention and Placement and Prevention [EIPP]. Services which could not be classified under Labor became "preserved". Cystic Fibrosis NSW is funded under this program as a "preserved" service.

A review of the "preserved" services was conducted in 2011-12 by an independent consultant to confirm if preserved services fit in the department's continuum of care and support and, if so, where they fit.

The findings of the independent review will assist in identifying how funded services align with the department's core responsibilities to ensure funding is appropriately targeted. The report is currently being considered. No decisions have been made.

Service providers have been briefed by the department on the progress of the review. Further briefings will also be provided to any service that is affected by the outcome of the review.

Questions without notice concluded.

TABLING OF PAPERS

The Hon. David Clarke tabled, pursuant to section 506 of the Crimes Administration of Sentences Act 1999, the report of the NSW State Parole Authority for the year ended 31 December 2011.

Ordered to be printed on motion by the Hon. David Clarke.

Pursuant to resolution Government Business given precedence.

BOARDING HOUSES BILL 2012

Second Reading

Debate resumed from an earlier hour.

The Hon. JAN BARHAM [5.08 p.m.]: On behalf of The Greens New South Wales, I speak in support of the Boarding Houses Bill 2012. I commend the Government on the process followed to deliver this

legislation and particularly thank the Minister for Ageing, and Minister for Disability Services and his office for the ongoing discussion on this issue, and for releasing the discussion paper and the exposure draft bill. Boarding houses are a crucial part of the accommodation mix in New South Wales, and have been since the earlier years of the colony.

For much of the history of this State, boarding houses have provided shelter to people at all levels of society. For nearly 200 years however, there have been reports about problems associated with New South Wales boarding houses. Recently, the problems have largely been associated with the fact that they cater primarily for the needy and vulnerable. In 2004 a report released by the Australian Housing and Urban Research Institute, entitled "Boarding Houses and Government Supply Side Intervention", referred to the important source of low-cost accommodation provided in most Australian cities. However, the report stated:

Despite their importance, the number of boarding houses is in decline for a range of reasons. To counteract this trend, a number of State and Local Governments have implemented strategies and programs to arrest or slow decline. These strategies range from the provision of financial assistance to boarding house operators for building maintenance to capital works programs to replace lost boarding houses.

Unfortunately, what followed was a further decline in the boarding house sector and complaints about the standards and safety for the residents. In 2006 in a NSW Ombudsman's report entitled "Monitoring Standards in Boarding Houses" the Ombudsman, Bruce Barbour, stated in his foreword:

People who live in licensed boarding houses in our community are often highly vulnerable. Most have an intellectual disability or a psychiatric illness, or both. Many are elderly. Almost all rely on government benefits for income, the majority of which can be spent paying for board and lodging.

The purpose of the report was to outline the findings from an inquiry that highlighted serious problems in the way boarding houses are licensed and monitored in New South Wales. Some of the problems related to the failure of particular regions within the Department of Ageing, Disability and Home Care to properly carry out their monitoring responsibilities. However, even where monitoring had occurred in accordance with the department's requirements, limitations were found in the monitoring system. At the time of the report, the Department of Ageing, Disability and Home Care had also prioritised completion of its review of the Youth and Community Services Act 1973. Because of the issues identified, Mr Barbour stated quite clearly that he would continue to maintain a particular interest in a timely outcome of that review of the Act and in the implementation of any changes arising from the review. Unfortunately, that did not happen.

Over the years numerous reports have been released and no doubt the Ombudsman and many of the non-government organisations in the disability sector in particular heard of the horror situation faced by many vulnerable people living in boarding houses. The Tenants Union, Shelter NSW and many others had made these issues known. Unfortunately, nothing seemed to be happening to resolve the issues. In August 2011 a groundbreaking report was released by the Ombudsman—a report quite unlike anything I had read before. On reading the report one could sense the frustration of the Ombudsman. The report was entitled "More than board and lodging: the need for boarding house reform". The Ombudsman states in his message:

This report is about marginalised and vulnerable people living in accommodation that does not afford them adequate protection, support, or rights; and the need for significant reform to address this longstanding and unacceptable situation.

The report goes on to state:

My office has made many recommendations over the past nine years aimed at improving the circumstances of people living in licensed boarding houses and progressing the broader reforms.

The slow pace of work and the lack of practical action to commence necessary reforms are unreasonable given the implications for the individuals living in boarding houses.

This report was in response to action that was taken in 2008 with the forming of the Interdepartmental Committee on the Reform of Shared Private Residential Services, which was established to explore an overarching, centrally administered regulative framework that would cover accommodation standards and occupancy protection for shared private residential services. Unfortunately, that matter did not progress. At the time of coming to this place when the new Government was elected in May 2011, I put on notice that this matter should be progressed and I moved a motion calling for papers.

I congratulate the Government on the respectful way it has dealt with this issue and on assuring me that the Government was very keen to progress the issue. I note the Minister is in the House this evening and I again congratulate him on his honest and dedicated approach to this very important issue which has lingered for many,

many years. The interdepartmental committee issued a report in August 2011, just after the release of the Ombudsman's report. The Government then proceeded quickly to ensure that action followed. A discussion paper and an exposure bill were released earlier this year for consultation with the community and to allow non-government organisations and other interested parties to comment and provide input into what was proposed through the interdepartmental committee process and on the points that had been raised.

The first key issue that the interdepartmental committee found should be addressed was the need for a legislative framework for the industry to regulate boarding houses. It is amazing that there has been no register of boarding houses. Caravan parks were in the same situation: there was no register in place. Thankfully, some of these issues are being tied up so that if people who live in these premises or in caravan parks have concerns about their treatment or the standard of their accommodation they can have access to information about redress, such as, taking the matter to a tribunal or court, if necessary. The second key issue that was identified related to occupancy rights and responsibilities. For many years it has been noted that there is a need to ensure that residents in these places, whatever type of premises they are, have certainty about their accommodation and that operators know what is required of them and their obligations.

The occupancy principles contained in schedule 1 refer quite clearly to the state of the premises; the rules of registrable boarding houses; the penalties that apply; and, a very important point, the quiet enjoyment of premises so that residents are not disturbed and are able to have quality of life. The occupancy principles also state that inspections and repairs must be carried out at a reasonable time and that the resident is entitled to four weeks' written notice before the proprietor increases the occupancy fee. These are all very fair and reasonable issues that have been raised following periods of consultation in order to identify any problems.

Other reports have informed this whole process over time. The Richmond report in 1982—a landmark report—identified that many of the State's people suffering from mental illness were housed in boarding houses and that, increasingly, boarding houses continued to move from being a socially acceptable home away from home to places where people were at risk. The Burdekin report in 1993 estimated that 70 to 80 per cent of the 1,300 people living in boarding houses in central Sydney had a serious mental illness and that most of those people never saw a health worker. According to the report, boarding houses had become convenient repositories for chronic but rarely hospitalised clientele.

I will mention some of the other areas of concern in relation to shared accommodation. Another area of concern relates to student accommodation. Minister Dominello spoke about student accommodation in Ryde in a private member's statement and later introduced a private member's bill that addressed the issues of inappropriate shared accommodation. A former member, Mr David Barr, also raised the safety of tenants in backpacker premises and introduced the illegal backpacker accommodation bill in 2002. That legislation provided local government with the power to call on the then Fire Brigade to enter backpacker premises to check whether the safety of the residents was assured and whether there were appropriate fire safety measures in place.

Those previous bills demonstrate that we know there are problems in New South Wales regarding the provision of an adequate supply of affordable housing for at-risk people, people with disabilities and people who need special support. In that light, the licensed residential centres were an important issue because they referred to the need to provide accommodation for people with disabilities. In 1973 when the Youth and Community Services Bill was introduced Neville Wran stated that it did no more than change the name of the department, state certain laudable objects on the part of the Minister, provide for the constitution of a certain advisory body and give the Minister the power to promote certain new project centres. That was then, and now we are aware that this Act provides that a boarding house containing two or more people with disabilities be licensed to ensure that they are provided with care and support.

There are 31 licensed residential centres in New South Wales and they accommodate less than 700 people. It is obvious that many more of those premises need to be made available. The fact that there are only 31 licensed residential centres is indicative of the chronic malaise in the sector. For a long time the number of boarding houses in New South Wales has been decreasing. Most boarding house residents are disadvantaged and one-fifth of Australia's homeless reside in boarding houses. While it is recognised that boarding houses including licensed residential centres provide essential accommodation to many vulnerable residents, the sector has been neglected. It has mounting problems and faces a variety of challenges. It has clearly been in decline for decades.

Since 1994 a total of 156 licensed boarding houses have been closed in New South Wales, resulting in the loss of 2,625 places. During this time the Ombudsman has reviewed 133 deaths in licensed boarding houses

and produced six reports culminating in the special report in 2006, which made a plea for action. Unfortunately, at that time we did not see action. The 2011 report came out after shocking examples of abuse and mistreatment of people at the Grand Western Lodge and the 300 Hostel in Marrickville. During the coroner's inquiry into six deaths in less than 14 months at the 300 Hostel in Marrickville it was reported that Magistrate Mary Jerram found the facility often had blocked toilets, unclean rooms and no fans and there was only one working shower. The situation was reported in the media as Dickensian neglect. It is sad that this sort of activity still happens in today's society.

Magistrate Mary Jerram made a series of recommendations which should have surprised no-one because many of them echoed the recommendations already made by the Ombudsman or those that were presented as preferred options in the Interdepartmental Committee on Reform of Shared Private Residential Services 2010 briefing paper. Magistrate Jerram called on the Minister to: implement mandatory registration of all operators of boarding houses accommodating two or more persons; enact legislation addressing accommodation and service standards and providing greater occupancy for boarding house tenants; and create a new regulatory body separate from the Department of Ageing, Disability and Home Care to monitor, prosecute and arbitrate disputes between boarding house operators and tenants.

For the most part the bill addresses all the issues that have been raised. As I stated previously, I commend the Government for bringing it forward. Some concerns have been raised, and I believe that the Opposition will move amendments regarding the safety of unaccompanied children in registered boarding houses. Those children should not be put at risk and I look forward to that matter being considered. The Greens are supportive of that issue being raised by the Opposition. I commend the bill to the House.

The Hon. HELEN WESTWOOD [5.25 p.m.]: I support the Boarding Houses Bill 2012 and commend the Government and Minister Andrew Constance for introducing it to the Parliament. As other members and speakers have acknowledged, it is long overdue. We are well aware of the vulnerability of people with disabilities who are living in boarding houses. Much of the detail has been covered but I will add my voice in support of this bill. The proposal for the two-tier regulatory scheme for registrable boarding houses is a good one which will lead to protections for people with disabilities who live in boarding houses. The arrangements for occupancy agreements also are very important, as is the boarding house register.

The test to ensure that proprietors are fit and proper people is another important aspect of the bill. We must have background checks on proprietors to ensure that they are people who will not place at risk or exploit vulnerable people with a disability. They must also be people who will ensure that the premises that people with a disability call home are of a high standard and give them a good quality of life. It has not been raised by other speakers but it is important to address the issue of boarding houses that are in close proximity to or within the site of licensed premises. There probably are not too many examples of that situation but when I was in local government a boarding house was approved within the site of a licensed gaming hotel.

I fought hard against it but I lost. Those who had great lobbying power and influence regrettably won out on that occasion. That made me really aware of just how easy it is to get a boarding house approved on the site of licensed premises where gaming and alcohol are available. I feel that places vulnerable people at much greater risk of the abuse of alcohol and exposure to problem gambling—the consequences of which we are all well aware. While I accept that that is beyond the ambit of this bill, we should visit that problem in the future. It may happen only occasionally, but we as legislators should prevent it from ever recurring.

The Opposition is concerned about young people and children in boarding houses, particularly those under the age of 18. That is a matter to which the Government and the Minister should pay close attention. I accept that this bill is a great improvement on current legislation, but some areas should be improved by amendment to ensure that young people and children are not at risk of living unsupervised in boarding houses. I urge the Minister and the Government to take note of that important matter. It is worthwhile reiterating the 12 occupancy principles that will ensure boarding houses are of a high standard and in a condition that will ensure that people with disability are not at risk—ensuring security of tenure and providing a reasonable dispute resolution process. They are all very important principles that the Opposition and people involved in the boarding house sector are pleased to see as part of this bill. I commend the Minister and the Government for their inclusion in the bill.

Power is conferred by this bill to councils to enable them to carry out inspections. All members of this House know that without enforcement powers, abuses will continue. I hope that training will be provided for local government inspectors because this is not an area in which local government inspectors have gained

previous experience. There is no doubt that council officers are highly qualified and professional, but it is important for training to be provided in this new area of enforcement. The Government should ensure that councils have the capacity to provide training to inspectors and ensure they carry out inspections appropriately. I point that out because I am not aware whether the Government has held discussions with the Local Government and Shires Associations about training or whether additional funding is required. I simply make the point that this is a new area of enforcement for local government inspectors and they should be provided with training before they exercise the powers conferred by the bill and carry out inspections.

Overall I add my voice to support for the bill. It is a vast improvement on current legislation and is long overdue. Any legislation that ensures that people with disability are protected and that their human rights are upheld while reducing as much as possible the risks of harm and abuse being suffered by vulnerable people in our community, particularly people with disability, is a great step forward. I commend everyone who was involved in the preparation of this legislation.

Mr DAVID SHOEBRIDGE [5.34 p.m.]: I commend the speech made by the Hon. Jan Barham in support of the Boarding Houses Bill 2012 and commend her close consideration of the rights of boarding house tenants in New South Wales. This is a matter that has been of longstanding concern to The Greens. For my part, that extends not only to my work in Parliament but also to my work in local government and on the executive of the Local Government Association. The operation of boarding houses in New South Wales is a matter of continuing concern for councillors and people involved in the community sector. It is estimated that there are approximately 7,500 people in approximately 750 boarding houses in New South Wales, but only approximately 23 boarding houses that are registered under the current provisions of the Youth and Community Services Act. In other words, the great majority of boarding houses have relatively unregulated discretion about the circumstances in which residents of boarding houses live and the circumstances in which occupancy can be terminated.

There is very little protection of the basic rights of thousands of often vulnerable people who are tenants in boarding houses. This is a matter that has been discussed in New South Wales politics for approximately three and a half decades. Just last week I spoke to representatives of the Tenants Union. Dr Chris Martin, who is probably one of the most skilled advocates for the rights of tenants, said that this type of reform has been a key request from the Tenants Union since 1977. Throughout the 10 years he has been working at the Tenants Union, he repeatedly asked the former Government on behalf of the Tenants Union to introduce legislation that would regulate the sector and provide some rights to boarding house tenants. I recognise that the task is difficult: the providers of boarding house accommodation do not wish to incur any further costs and believe that even a slight elevation in standards will result in increased costs being passed onto boarding house tenants; moreover, boarding house tenants are often already surviving hand-to-mouth and have marginal existences.

However, the level of criticism in coronial reports and in reports by the Ombudsman makes it very clear that the Government has had to act. I genuinely and wholeheartedly commend the Government and Minister Constance for introducing this legislation. The scope of the legislation could be extended to cover all boarding houses, which The Greens would support, but the Government is not willing to do that. I accept that the Government is adopting a limited reform position to assure majority acceptance by the sector and that the Government will formulate a set of regulations that will protect most people in boarding houses. I genuinely accept that as a public policy decision adopted by the Government, based on a close understanding of the sector. Again I commend the Government because, after three and a half decades of requesting government to take action, legislation has finally been introduced to Parliament.

The legislation will be limited to two classes of boarding houses. The first category is general boarding houses, which are premises providing beds for a fee or reward for use by five or more residents, not counting any residents who are proprietors or managers of the premises, or who are relatives of the proprietors or managers. The second category is assisted boarding houses, which are defined in clause 37 of the bill to be boarding premises that provide beds, for a fee or reward, for use by two or more residents who are persons with additional needs, not counting any persons with additional needs who reside there with their competent relatives. Those two classes of boarding houses will cover the majority of residents in boarding houses in New South Wales.

However, the legislation does not cover very small boarding houses that are a particular concern in suburbs that surround many of our universities and where we find three or four people being crammed into a single bedroom of a small house. The Government should maintain vigilance in relation to overcrowding in small boarding houses. Hopefully at some point the Government will introduce legislation that clarifies the

rights and obligations of proprietors and tenants of small boarding houses. The key reform of this legislation is the introduction of the occupancy principles. As the law currently stands, boarding house tenants can effectively have their tenancy terminated at will by the proprietor. In other words, they have no security of tenure, despite in some cases having resided in a boarding house for 10, 15 or 20 years. One Wednesday afternoon, they can be told, "You're out." The stories we hear are of tenants who come home to their boarding house and find their belongings on the street, which is utterly unacceptable. Occupancy principles are contained in schedule 1 to the bill. Occupancy principle No. 10 provides:

Notice of eviction

- (1) A resident must not be evicted without reasonable written notice.
- (2) In determining what is reasonable notice, the proprietor may take into account the safety of other residents, the proprietor and the manager of the registrable boarding house.
- (3) Subclause (2) does not limit the circumstances that are relevant to the determination of what is reasonable notice.

The Greens would have preferred to see a standard minimum with a reasonable requirement, such as once a tenant has been in a boarding house for 12 months the standard minimum period of notice is 14 days, but it could be longer if reasonable notice requires it to be longer. I know that has been a matter of ongoing discussion between the Minister, the Tenants' Union and the industry, and I accept that there are reasons from both sides as to why a minimum notice provision might create some difficulties. From the tenants' side it might put in place an accepted standard minimum that becomes a de facto reasonable notice in all circumstances; the proprietors' side may want some additional flexibility about reasonable notice.

The truth is that a bald reasonable notice provision will produce a reasonable amount of litigation, at least at the start of this Act, in the Consumer, Trader and Tenancy Tribunal. One can only hope that after a period of time there will become effectively rules of thumb, periods of notice produced after a bit of litigation in the tribunal that put in place the kinds of accepted minimum periods of notice. Obviously, it is reasonable in some circumstances to have immediate termination of a tenancy agreement. If the tenant has assaulted another tenant or the manager and if there is ongoing concern about the violence of the tenant, managers need to think not only of the interests of a single tenant but also the interests of the other people who live in the boarding house.

Immediate termination may be entirely reasonable in those circumstances. If it is contested it will be a matter for the Consumer, Trader and Tenancy Tribunal to look at in all the circumstances, but one can easily picture circumstances where immediate termination may be reasonable. However, in most other circumstances The Greens believe that two weeks notice would be a significant protection. Members must remember that we are talking about marginal people who have no spare cash, who often do not have a car, who have difficulty getting their belongings to another place and who have difficulty finding another place because there are so few boarding houses. I accept that there are reasons why that provision has not been adopted in the bill. The Greens will be accepting the bill in its current form.

It is good to see that the occupancy principles will be deemed by legislation to be part of each of the occupancy agreements entered into. It is also good to see that they will be retrospectively imposed on existing agreements. I note that clause 31 of the bill provides that a resident must be provided with accommodation in compliance with the occupancy principles; that a resident must be given notices, receipts or other information required by the occupancy principles; and that the proprietor must exercise the proprietor's rights or powers under any agreement subject to those occupancy principles. The legislation does not explicitly say that a tenant has a right to enforcement of the occupancy principles, but that is how I read clause 32 of the bill.

I understand that is the way the Government has constructed this clause. Rather than explicitly including a right to enforce the occupancy principles in clause 31, that right is implied because of the right to bring an application under clause 32. One of the remedies that can be granted by the Consumer, Trader and Tenancy Tribunal on application by a tenant—or, indeed, on application by a proprietor—is an order as to compensation. However, as with much in this bill, the details will be found in the regulations because there is a regulation-making power to cap the amount of compensation that can be ordered. Again, that is a matter that Parliament and the sector will have to pay close attention to once the regulations are gazetted.

There is an ongoing discussion between the Opposition, my colleague the Hon. Jan Barham and the Government about what to do in relation to unaccompanied children and young persons. Clearly, it is preferable that a young person with a disability who is not accompanied by a competent person be housed in

accommodation fit for the purpose, and a boarding house without relevant certification as an assisted boarding house or other accommodation is inadequate accommodation. The Opposition has foreshadowed an amendment that will prohibit general boarding houses being used to house children with a disability unless they are with a competent relative. The spirit of that amendment is strongly supported by The Greens. As I understand my colleague the Hon. Jan Barham, that amendment is supported by The Greens.

The Government's answer, as I understand it, is that it will table in this House a regulation that requires boarding houses to give notice of any of those instances so those concerns can be addressed by the appropriate authority. As I understand the Government's argument, it is better that children—even children with a disability—have some accommodation at night rather than be thrown out on the street, and then notice is given to the appropriate authority to intervene. I can understand that argument, but it would seem a clearer way through to support the Opposition's amendment and prohibit it and then also require a notice provision to be given. When someone has been refused occupancy because of that fact, requiring immediate notice to be given would seem a preferable step forward. By no means would The Greens see this amendment as a make or break on this legislation. As I said, 35 years is long enough. I commend the bill to the House.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [5.47 p.m.], in reply: I thank all members for their heartfelt contributions to the Boarding Houses Bill 2012. I note, in particular, that the Hon. Helen Westwood said in her contribution that this bill is a vast improvement that is long overdue. That sums up the sentiment across both sides of this Chamber. This is in line with the three Ombudsman's reports and coronial inquests into six deaths in this area. One must wonder why it has taken so long for this issue to be dealt with. This bill is a great credit to the Minister for Ageing, and Minister for Disability Services, the Hon. Andrew Constance, who is in the Chamber, and the Hon. Anthony Roberts, who also has some responsibility in respect of this important issue. They have brought this issue to the Government and it has acted to finally rectify some of the most glaring injustices that have occurred in this area over many years.

It is worth noting that despite the reports and coronial inquests, the action on this front, whilst being long overdue, reflects the action taken by the member for Ryde in November 2010. At that time he proposed the Environmental Planning and Assessment Amendment (Boarding Houses) Bill to help manage the growing issue of overcrowding and unsafe student accommodation. However, it was ignored by the then Labor Government. The key tenets of the Boarding Houses Bill are to introduce a centralised register for New South Wales boarding houses—as Mr David Shoebridge mentioned, principle-based occupancy rights to guide the relationship between residents and boarding house proprietors, which is long overdue; the extension of accommodation standards; enhanced powers of entry for Ageing, Disability and Home Care and local council inspection regimes; and, importantly, increased penalties for non-compliance with regulations.

As Mr David Shoebridge said, these regulations will contain quite a lot of detail. Certainly, the Government believes it is important that some flexibility in the regulations be retained. The Opposition's proposed amendment requires that a condition of boarding house authorisation be that the operator ensures that a child or young person with a disability is not permitted to reside in the authorised boarding house without the written consent of the director general, unless the child or young person is residing in the boarding house with a competent relative.

We understand the rationale behind the proposed amendment and I note The Greens support for it, but it is important to the Government that flexibility is retained. Our strong preference is to deal with this issue by regulation. No-one really is sure of the number of children that would be affected by the proposed amendment or, indeed, how many children are in these circumstances. That is why it is important to get this right. The 18-month review will look at all the circumstances to ensure that the Government has got this right. I reiterate that we are determined to get it right and, unlike previous governments, we are finally prepared to act on all these matters.

The regulations this Government will introduce are intended to include protections, such as the imposition of licence requirements for boarding house proprietors to immediately notify Family and Community Services should a young person approach for accommodation. The proposed regulations also will allow a person to be screened out of assisted boarding house accommodation by the use of the screening tool if a more appropriate accommodation option is available for that person. This will enable those under 18 years to be screened out if there is a disability or youth service for which they are eligible.

However, it will also enable a person under 18 years to remain in the assisted boarding house if this is the only available option. This thereby avoids the potential for them to have to sleep rough, move to a general

boarding house or undergo some other undesirable option. We strongly believe that we need to retain the flexibility on this important issue and we will address it comprehensively in the proposed regulations. Again, I congratulate the responsible Ministers. I am certainly pleased to be part of a Government that is willing to finally act in this important area. It is a challenging policy area that has been neglected for far too long. Accordingly, I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

The CHAIR (The Hon. Jennifer Gardiner): Order! I propose to deal with the bill in parts.

Parts 1 to 3 [Clauses 1 to 33] agreed to.

The Hon. MICK VEITCH [5.56 p.m.]: I move Opposition amendment No. 1 on sheet C2012-134:

No. 1 Page 51. Insert after line 8:

82 Unaccompanied children and young persons with disabilities not to be housed

- (1) It is a condition of a boarding house authorisation that the authorised operator ensures that a child or young person with a disability is not permitted to reside in the authorised boarding house without the written consent of the Director-General unless the child or young person is residing in the boarding house with a competent relative.

- (2) In this section:

child or young person means a person who is under 16 years of age.

disability means a disability of the kind referred to in section 36 (1) (a) (iii).

Those involved in this sector and those in the community generally are concerned about the welfare of children and young people. I urge the Government to support this amendment, even in light of the comments of the Parliamentary Secretary in his speech in reply. The amendment proposes to prohibit children and young people from residing in registered assisted boarding houses. People with Disability Australia noted that the longstanding New South Wales Government policy and practice is to not allow children and young people to be registered boarding house residents. The licensing conditions set out in the Youth and Community Services Act 1973 clearly state that no person under the age of 18 shall be the resident of such a centre.

The important point to make is that this bill should be strengthened in regard to the protection of children and young people. The Opposition merely seeks to strengthen what it has said is a good bill. No-one doubts the importance of this amendment; in fact, it was canvassed during the second reading debate by a number of members. The purpose behind the amendment is to mandate people to find suitable and safe accommodation for young people in New South Wales. This amendment is about strengthening the legislation, certainly not weakening it. Despite the Parliamentary Secretary's comments in reply, the Opposition remains of the view that the amendment will add value to what already is good legislation.

The Hon. PAUL GREEN [5.58 p.m.]: The Christian Democratic Party, and probably in this case the Shooters and Fishers Party, will not support the amendment. After undertaking consultation with the Opposition and the Minister we believe that some flexibility is needed. Certainly from my nursing history I can attest that every situation is unique and cannot be applied to a particular age and time; the complete holistic situation needs to be considered. Therefore, we agree with the Minister on the flexibility the bill will provide. We understand that the provisions will ensure people are screened to avoid this type of situation. Sometimes in rare situations an assisted boarding house is the only option available for some individuals. I am sure the department will be aware of the vulnerabilities and needs of such individuals.

As the Hon. Mick Veitch commented earlier, by making it stronger it definitely does make it black and white, and that is a concern for the Christian Democratic Party. By making it stronger the bill becomes far less

flexible, and that is dangerous in this situation. I know of individuals who could find themselves in situations such as this. It requires a little common sense, a lot of compassion, mercy and decent decision-making. Clinically it can be done but it is not in the best interest of those the Government is attempting to protect.

The Hon. JAN BARHAM [6.00 p.m.]: The Greens support this amendment and believe it is an important provision to have included in the bill to ensure the protection of those young people. As was stated earlier in the debate, persons under 18 have not previously been able to reside in this type of accommodation. This amendment will prescribe the provision in the Act. I acknowledge that the Parliamentary Secretary has stated that the regulations will address the issue, but I believe it is of such great importance that it should be in the bill. Young people with disabilities and their needs should be catered for. If this amendment is incorporated into the bill, it might bring home sooner the importance of more accommodation and greater assistance and opportunity being provided for these young people.

In the second reading debate my colleague Mr David Shoebridge said that these people could be left out on the street if they are not allowed to reside in such premises. A difficulty arises for local government when it is required to look after the safety of people in its community. When council is notified of an unsafe premises and the need to investigate, whether due to a lack of fire controls or safety measures in a building, it makes a decision based on the information presented to it. By deeming a structure uninhabitable council makes someone homeless and local government is then required to find alternative premises.

Why is that responsibility, restriction, duty of care and requirement to care placed upon local government and not the State Government? Why is this requirement placed on local government and not on the major parties and not the State Government? This is about looking after people and making sure the vulnerable are not put at risk. Legislation is the way to ensure that that will happen. I am aware that this matter has been raised and a number of non-governmental sector organisations have highlighted this concern. If it means that the Government will introduce regulation to strengthen and clarify its position, I believe that the community will have been well served by the amendment having been discussed in this place. It is of such importance that The Greens offer their support for this amendment.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [6.03 p.m.]: It is very clear that the intentions of those opposite are honourable but clearly they fail to understand that introducing the amendment to this bill removes the flexibility so eloquently referred to earlier in debate by the Hon. Paul Green. The Government is keen to retain flexibility within the bill to deal with unique permutations and situations. One of the outcomes of the proposed amendment is that potentially a child would be sleeping rough and not be able to stay in a boarding house if the proprietor enforced the amendment. That is an unintended consequence. There are potentially other unintended consequences that may flow from this amendment. The Government believes that flexibility should be the touchstone here and it is committed to dealing with these issues by way of regulation, as I referred to in my speech in reply to the second reading debate. The Government will be opposing the proposed amendment.

Question—That Opposition amendment No. 1 [C2012-134] be agreed to—put and resolved in the negative.

Opposition amendment No. 1 [C2012-134] negatived.

Part 4 [Clauses 34 to 91] agreed to.

Part 5 [Clauses 92 to 105] agreed to.

Schedules 1 to 3 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Matthew Mason-Cox, on behalf of the Hon. Greg Pearce, agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Matthew Mason-Cox, on behalf of the Hon. Greg Pearce, agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

**CRIMES (ADMINISTRATION OF SENTENCES) LEGISLATION AMENDMENT
(INTERSTATE TRANSFERS) BILL 2012**

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO. 2) 2012

RAIL SAFETY (ADOPTION OF NATIONAL LAW) BILL 2012

Bills received from the Legislative Assembly.

Leave granted for procedural matters to be dealt with on one motion without formality.

Motion by the Hon. Matthew Mason-Cox agreed to:

That these bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

Bills read a first time and ordered to be printed.

Second readings set down as orders of the day for a later hour.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 2 to 5 postponed on motion by the Hon. Matthew Mason-Cox.

ELECTRONIC CONVEYANCING (ADOPTION OF NATIONAL LAW) BILL 2012

Second Reading

Debate resumed from 17 October 2012.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [6.11 p.m.]: I lead for the Opposition on this important debate on the Electronic Conveyancing (Adoption of National Law) Bill 2012, which the Opposition supports. The purpose of the proposed national law is to promote efficiency throughout Australia in property conveyancing by providing a common legal framework that enables a document in electronic form to be lodged and processed under the land titles legislation of each participating jurisdiction, but does not detract from the fundamental principles of the Torrens system of land title as incorporated in the land titles legislation of each participating jurisdiction. In order to achieve this object, the national law, which is an appendix to this bill, authorises the registrar in each participating jurisdiction to operate or authorise the operation of an electronic lodgement network and provides for the making of rules relating to the operation of the electronic lodgement network.

The jurisdictions proposed to be participating jurisdictions under the national law are New South Wales, Victoria, Queensland, Western Australia, South Australia, Tasmania and the Northern Territory. In applying the national law as the law of this State the bill contains application provisions that provide for the meaning of various terms used in the national law and for the application of other laws of this State in relation to the national law. New South Wales has agreed to host the Electronic Conveyancing National Law and this bill fulfils that agreement. The bill provides for the continuation of registration and settlement of property interests under the Torrens title system, which is now nearly 150 years old in this State.

National electronic conveyancing is a business solution for the preparation and lodgement of documents with land registries in the various States and the electronic transfer and settlement of real property

transactions. The decision to introduce a national system for electronic conveyancing was part of the National Partnership Agreement, arising out of the Council of Australian Governments, to deliver a seamless national economy in 2008. Stakeholder consultation has been conducted nationally on this issue since 2004. The savings dissociated with, or believe to be a dissociated with, national electronic conveyancing have been estimated to exceed \$580 million over the next 20 years or so, according to the Australian Registrars National Electronic Conveyancing Council. In July this year a consultation regulation impact statement was distributed nationally and comments were sought.

A crucial aspect of the bill before the House is that it provides for the digital signature of electronic documents by subscribers to the electronic network. Those subscribers will be lending institutions and also solicitors and licensed conveyancers acting on behalf of their clients. Clause 12 of the bill, which is the appendix to the bill before the House, sets out the circumstances when a subscriber will be able to repudiate or deny a digitally signed document that can be done at any time prior to settlement of a conveyancing transaction. This section has attracted some criticisms from the Law Society of New South Wales and also the Law Council of Australia, which I will now refer to briefly.

The Hon. Matthew Mason-Cox: Can't help yourself, can you?

The Hon. ADAM SEARLE: I can help myself. But I think it is important to place on record that the professional body representing solicitors—who I understand still do most of the conveyancing in this State, notwithstanding the existence of licensed conveyancers—has some technical criticisms of the bill. Not being in any way expert in this field of the law, I would not wish to pronounce myself an expert on these matters, so I want to place those matters on record.

The Hon. Matthew Mason-Cox: You're more of an ambulance chaser, aren't you?

The Hon. ADAM SEARLE: That comment is most unbecoming of the Parliamentary Secretary, and he does himself and his Government no service by making it.

The Hon. Matthew Mason-Cox: I withdraw it.

The Hon. ADAM SEARLE: I acknowledge the withdrawal. The Law Society of New South Wales says that there are several fundamental issues that have not yet been satisfactorily resolved, such as the problematic drafting of the attribution rule, the failure of the bill to address financial settlement and the definition of "digital signature". I quote from its letter:

The Committee considers that the current form of the attribution rule, in particular the basis upon which a subscriber can repudiate the subscriber's digital signature as set out in clause 12(4) is confused and unworkable.

This issue of attribution is critical in determining whether legal practitioners are being asked to accept uninsurable risks in participating in electronic conveyancing. Until this issue is resolved the Committee is unable to support the Bill.

The Hon. Paul Green: Who signed it?

The Hon. ADAM SEARLE: It is signed by the President of the Law Society, Mr Justin Dowd.

The Hon. Paul Green: Are you sure?

The Hon. ADAM SEARLE: I am sure that the document that I have bears a replica of the signature. The point is that the Law Society and the Law Council have expressed concerns about current drafting, and they also cast doubt upon the willingness of the profession to embrace this reform. The Law Society goes on to say in its letter, which is addressed to the Government:

The Committee is concerned however that adopting the Bill in its current form without satisfactorily resolving such fundamental issues as the attribution rule jeopardises the ability of the profession to participate in the proposed electronic conveyancing system. This will severely limit the uptake and utility of the system which is disappointing given the resources and time spent in consultation to date.

The Committee urges you to defer further action in relation to the Bill until these issues are resolved.

I do not wish to pronounce myself an expert in this area, but—

[*Interruption*]

The Parliamentary Secretary, like me, is not expert in this area, but it is concerning that the peak group of lawyers has identified some significant problems with the way in which this important measure is being transformed into law. I would urge the Government to take some urgent advice about this matter, because there is no objection from this side of the House as to the policy objective. As I indicated, we support the legislation. Certainly, we support the policy objectives of the legislation. But we would be most concerned if there were some profound, indeed fundamental, technical problem that meant it was not able to be properly implemented; or that there were, to use the words of the President of the Law Society, uninsurable risks that would probably prevent the profession from embracing this measure or series of measures; or, if they did, exposing them to potential risks to their law cover insurance, or perhaps not even being covered by it if those risks are indeed uninsurable. These are serious criticisms, and I would ask the Parliamentary Secretary, to the extent that he is able, to take some advice about that and to respond in a way that can give some assurance to the House that the measure, which is likely to pass this Chamber, is technically feasible and is able to be carried into effect properly.

The Hon. PAUL GREEN [6.18 p.m.]: The Electronic Conveyancing (Adoption of National Law) Bill 2012 synchronises State and national laws by enacting the electronic conveying national law as part of an intergovernmental agreement. The intention of the national law is to provide a legal basis for a national scheme for electronic conveyancing to promote cohesive organisation across Australia in property conveyancing and to provide a common legal framework. The bill will allow documents in electronic form to be lodged and processed under the land titles legislation of each participating jurisdiction. This will not diminish the fundamental principles of the Torrens system of land titles legislation of each participating jurisdiction.

The bill proposes a number of reforms. Enactment of the national law will allow the implementation of national electronic conveyancing in Australia. Specifically, it will authorise the Registrar General to receive electronic documents that have been lodged electronically and to register those documents electronically. The Registrar General will also be able to operate or to authorise one or more persons to operate an electronic lodgement network, to set the circumstances for access and use of an electronic lodgement network and to examine conformity with any conditions for access and use of an electronic lodgement network.

The bill provides that the Registrar General does not have liability either as a result of conducting or failing to conduct an examination of compliance as long as the Registrar General acts in good faith. The bill provides also that by entering into an approved form of client authorisation a person may permit a conveyancing professional to digitally sign electronic documents on that person's behalf, to launch electronic documents with the Registrar General, to approve any financial settlement involved in the transaction, and to do anything else essential to complete the transaction electronically.

The Christian Democratic Party notes that the Minister for Finance and Services spoke about numerous cost savings, efficiency gains and the security of the electronic system. He also spoke about the national verification of identity, which should reduce property fraud and the overall exposure to liability for stakeholders in conveyancing. We note that the Hon. Adam Searle gave a concise outline of the Law Society's vulnerabilities in relation to electronic signatures and I will not repeat those. This legislation is a great way forward. The Minister for Finance and Services has been a great ambassador for the New South Wales conveyancing industry but there is quite a lot more work to do. I am pleased that the Minister is so interested in the conveyancing industry and I am sure this is just the beginning of many reforms in the industry nationally as well as in New South Wales to ensure that people comply with the licensing guidelines and carry out their conveyancing duties with integrity and honour. The Christian Democratic Party commends the bill to the House.

Dr JOHN KAYE [6.22 p.m.]: The Greens support the Electronic Conveyancing (Adoption of National Law) Bill 2012 in its intent, which is to take the issue of conveyancing into the twenty-first century, to recognise that the State can live without the inconvenience and the cost of paper conveyancing and that it can avoid it if it moves to an electronic system. The intent of this legislation is to adopt the intergovernmental agreement and, hence, the content of the national law, which was agreed to by all the participating jurisdictions except the Australian Capital Territory. As I understand it, New South Wales is the lead jurisdiction in the implementation of this proposed legislation. It is therefore very important that in New South Wales it receives the necessary scrutiny.

Like the Opposition spokesperson, I am not an expert in these matters, and, unlike the Opposition spokesperson, I am definitely not an expert in these matters. My interaction with conveyancing has been largely to do with houses that I have purchased over the years. In matters of great technical detail, such as conveyancing, one should listen fairly carefully to the experts—the people who practice in the field—and to the

concerns they raise. I ask the Parliamentary Secretary to address the issues raised by the Opposition. These issues have been raised by the Law Council of Australia and, as I understand it, they are threefold. The first concern relates to the definitions regarding digital signatures, the second relates to rules regarding repudiation of digital signatures, and the third relates to the lack of provisions regarding electronic settlement. The definition of "digital signature" in clause 3 of the national law, which is in the appendix to the bill, states:

Digital signature means encrypted electronic data intended for the exclusive use of a particular person as a means of identifying the person as the sender of an electronic communication or the signer of a document.

However, the definition of "digitally sign" in clause 2.1 of the rules in draft 10.5 states:

Digitally sign means, for electronic Documents, to apply a Private Key to the electronic Documents as a means of applying the Subscriber's Digital Signature.

The concern raised by the Law Council is that the national law does not include the concept of a private key—a private key being central to the security of a digital signature. There is a variety of ways in which one can approach this issue but the concern is that the national law does not capture the concept of a private key. Yet, as I understand it, having the private key as part of the definition of "digital signature" or "digitally sign" is important because it specifies and limits the concepts of digital signature to those that contain a private key. Without that there is some concern that digital signatures could come into practice that do not contain a private key and therefore do not have the level of security that a private key would provide. I therefore ask the Parliamentary Secretary to address in his response the absence in the bill of a reference to a private key relating to digital signature.

The second issue raised by the Law Council is the reliance on digital signatures. Clause 12 of the national law contains a number of provisions that relate to the reliance and repudiation of the subscriber's digital signature. The concerns raised by the Law Council go to the issue of repudiating that digital signature. In this regard the Law Council stated:

To repudiate the digital signature, the subscriber has to bear the burden of proving not only that the subscriber or someone with that person's actual or implied authority did not apply the relevant private key but also that:

- the perpetrator was able to apply the relevant private key only because there was a failure by the subscriber or any of its employees, agents, contractors or officers to comply with the Rules (including those relating to the security of computers); and
- the subscriber took "reasonable care".

The Law Council's concern relates to the issue of reasonable care and placing into conveyancing practices a need for a level of electronic sophistication that simply is not within the reach of lawyers and conveyancer subscribers. There is concern also about the issue of onus of proof—being able to prove that the perpetrator was only able to get away with using the relevant private key because of the failure of the subscriber or any of its employees to comply with the rules. The Law Council stated further:

Apart from usual and reasonable business digital security measures, hacking is a system risk which is more cost effectively and equitably met on a system wide basis and not an individual level.

The point of the Law Council is that by putting the onus back on individual practitioners the national law loses its ability to address this on a system-wide basis, which would be more cost effective. The third issue comes down to inclusion of the provisions regarding electronic settlement. Since 2005 electronic conveyancing has proceeded on the basis that it will replace physical attendance at the premises to exchange cheques and registry instruments and physical lodging and processing of registry instruments. The concept was always that electronic lodgement of processing would be integrated into a single activity. The problem with the national law is that the intergovernmental agreement of 6 August 2012 and the law itself makes it clear that the terms of the intergovernmental agreement require a broader scope of the national law than the electronic conveyancing of documents. The Law Council's view, which I have no reason to dispute, is as follows:

... practical issues confronting legal practitioners and others who will use the national electronic conveyancing system, such as the financial settlements of conveyancing transactions, need to be addressed in the National Law.

The Law Council's view is that the national law should look at all steps of the process, recognise that they are an integrated process and put them together in one location. As I said at the outset, I am not an expert on the kinds

of electronic transactions that are foreseen by this law, nor do I have any expertise in the laws and practices of conveyancing. However, the Law Council raised three serious concerns relating to this legislation. Getting it right from the outset by addressing those concerns will reduce future costs and reduce litigation that may stem from this legislation if we get it wrong. The suggestion by the Law Council is that the legislation should not proceed unless all three issues are addressed.

The Hon. Trevor Khan: So you are voting against it?

Dr JOHN KAYE: I was asked whether I was voting against it. I ask the Parliamentary Secretary in his speech in reply to address these matters and to make clear how they need not delay the progress of the bill either by undertaking to introduce amendments that address them or by explaining how the Law Council has in some way missed one or other aspect of the bill that addresses its concerns.

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [6.32 p.m.], in reply: I thank members for their contributions to the debate on the Electronic Conveyancing (Adoption of National Law) Bill 2012. As members have stated, this bill has one clear purpose; that is, to create a national system of electronic conveyancing in Australia. I note the comments of Dr John Kaye and the Hon. Adam Searle relating to some of the concerns raised by the New South Wales Law Society and the Law Council of Australia, in particular, in regard to section 12 of the Electronic Conveyancing National Law, which is an appendix to this bill. It concerns what is referred to as the attribution rule, in particular the basis upon which a subscriber can repudiate the subscriber's digital signature as set out in clause 12 (4). They contend that is confused and unworkable. I note that the issue of attribution is critical in determining whether legal practitioners are being asked to accept uninsurable risks through participation in electronic conveyancing that may negatively influence the take-up of the new electronic conveyancing system. It is a question of confidence. For electronic conveyancing to be successful it is essential that all participants can have that confidence in the electronic documents that are created and signed within the network.

The Australian Registrars National Electronic Conveyancing Council, which is a council of all the Australian Registrars General or their equivalent established by the intergovernmental agreement to oversee implementation of the national electronic conveyancing, has been consulting with key stakeholders including the Law Council since the end of March this year. Initially the draft attribution rule was much stronger than at present and was based on the recommendations of a national consultation program overseen on behalf of the States and Territories by the national law firm Clayton Utz. The original attribution rule was directly based on the recommendations in the report prepared by Clayton Utz after extensive consultation with key stakeholders in conveyancing and with widespread agreement that a strong attribution rule was essential for electronic conveyancing and to instil confidence in all the players in electronic conveyancing.

After representations by the Law Council of Australia and a number of other stakeholders the Registrars General agreed on a compromise that softened the proposed attribution rule for the benefit of solicitors and licensed conveyancers participating in electronic conveyancing. At the time the Law Council indicated that it was an agreement with the proposed compromise, subject to seeing the wording in the legislation. It appears that to some degree the Law Council's current position is based on a concern that the way in which Parliamentary Counsel has drafted the proposal may not give effect to its understanding of the compromise.

While the Law Council still has reservations, the registrars have consulted with representatives from professional insurers around the country on the legal framework in general and changes to the Electronic Conveyancing National Law and the attribution rule in particular. The insurers sought a number of minor amendments to the draft participation rules applying to users of electronic conveyancing, most of which have been accommodated. Indeed, they have raised no issues in relation to the redrafted attribution rule. Similarly, consultation with the Australian Institute of Conveyancers has disclosed no further issues with the amended attribution rule.

The enactment of the Electronic Conveyancing (Adoption of National Law) Bill 2012 will lay the foundation for the implementation of a uniform legislative and business environment for conveyancing across this country. The system will enable end-to-end processing of electronic real property transactions by facilitating the electronic preparation, lodgement and processing of documents under the land titles legislation of each participating jurisdiction. By making possible end-to-end processing of electronic conveyancing documents, streamlining the conveyancing process generally and minimising cross-jurisdictional differences, this bill will allow significant cost savings and benefits to flow for the electronic conveyancing industry. However,

fundamental principles of the Torrens system such as indefeasibility will continue to apply and the overall security of electronic transactions should be increased. The Electronic Conveyancing National Law is a worthwhile measure that should be supported by all. I thank members for their consideration of the bill and accordingly strongly commend it to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Matthew Mason-Cox, on behalf of the Hon. Greg Pearce, agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

[Deputy-President (The Hon. Natasha Maclaren-Jones) left the chair at 6.38 p.m. The House resumed at 8.00 p.m.]

TATTOO PARLOURS AMENDMENT BILL 2012

Second Reading

Debate resumed from 17 October 2012.

The Hon. LYNDIA VOLTZ [8.00 p.m.]: I speak to the Tattoo Parlours Amendment Bill 2012, which the Government has brought in to address issues left unresolved by the original bill it introduced. I note a number of changes in this amendment bill. It will confer additional powers on authorised officers regarding entry into premises and the conduct of searches for the purpose of ensuring compliance with the Tattoo Parlours Act. It also expands the definition of "close associate" of an applicant for a licence or a licensee to include certain contractors and employees. One assumes that the Government's intention in broadening the definition is to allow for receptionists and others in the industry who may hold a licence but are not actually the persons doing the tattooing work to be subject to probity checks by police.

The bill makes further provisions with respect to licences, such as, the information that must accompany an application for a licence, the display of information by licensed tattooists and operations and the conditions that apply to licences. The bill also makes provisions with respect to the handling of criminal intelligence material provided to the Administrative Decisions Tribunal by the Commissioner of Police. One assumes that those provisions involve privacy issues. If a licence application is rejected an applicant is able to appeal that rejection and, obviously, police would not want material they have provided on criminal intelligence to be circulating in the public domain. My colleague the Hon. Steve Whan will elaborate on the Opposition's position and our concerns about this amendment bill introduced by the Government.

The Hon. STEVE WHAN [8.04 p.m.]: The Opposition will be supporting the Tattoo Parlours Amendment Bill 2012. The shadow Minister in the other place will have the opportunity to consider this measure further and be able to make more detailed comments than I am able to make tonight. The objects of the bill are: to provide authorised officers with the authority to enter tattoo parlour premises; to require the licensing of tattoo parlours; to expand the definition of "close associate" of an applicant for a licence to include contractors and employees; to make additional provision for the information that must be supplied when applying for a licence; to make provision with respect to the handling of criminal intelligence material; to allow the commissioner to require a licensee or close associate to provide information in connection with investigations for security determinations about licensees; and to make provision for the making and keeping of parlour records.

When introducing the bill, the Minister made a number of comments about this second tattoo parlours bill that this Parliament has dealt with this year, saying that it provides important provisions to strengthen and

support the current Act in its objective to break the stranglehold that outlaw motorcycle gangs have over the tattoo industry in New South Wales. Obviously, the Opposition supports measures designed to crack down on illegal motorcycle gangs and their activities in this particular industry. In speaking to the original bill the Opposition made a number of comments about the actions it thought should be taken by the Government in cracking down on outlaw motorcycle gangs. I will return to that in a little while. The Minister said in his second reading speech:

This amending legislation is evidence of the care being taken by this Government to get this new licensing regime right by providing the best legislative framework.

That hints at the fact that this is the second go the Government has had at addressing this matter. Presumably the Government found some issues needed further work following the passing of the original legislation and has therefore come back to the House with this legislation. The Minister went on to say that some minor issues had been identified. The Minister outlined that the bill made further provision to strengthen requirements in relation to probity checks conducted by the Commissioner of Police and that that was essential for ensuring that undesirable criminal elements are prevented from operating in the industry.

As I mentioned earlier, this is the second bill introduced this year dealing with tattoo parlours. Its introduction is against a background of unprecedented levels of gun crime across Sydney. The Government asserts that much of the gun crime is committed by bkie gangs. Further, the Government asserts that bkie gangs operate tattoo parlours and that these are the subject of reprisal attacks and are also involved in other types of organised crime, such as drug distribution. The level of gun crime in New South Wales is a clear indication that so far the Government is failing in its response to gun crime. Methamphetamine production and distribution are on the increase, compounding the effect of the Government's inability to get on top of gun crime. While the Opposition will support measures that the Government brings forward to try to address some of those issues, it is apparent that the Government is not reducing gun crime to the levels that all in New South Wales would like to see.

Day after day in the media we see reports and photographs of people who have been shot and the areas where shootings have occurred. Unfortunately, we have seen far too many examples of gun crime in Sydney, which demonstrates that the Minister's constant claims that things were worse before are simply not true. In budget estimates this year we asked the police representatives what was happening about legislation to outlaw illegal motorcycle gangs and we were told that they were working on that issue. In his reply, perhaps the Minister will elaborate on whether any progress has been made in that regard.

Every week we hear about a new shooting, and attacks are becoming increasingly brazen and dangerous to bystanders. What started as drive-by shootings seems to be escalating to kneecappings on the streets in broad daylight. In the past 12 months alone there have been more than 115 shootings. Although the Government is targeting bkie-run tattoo parlours, it is clear that more needs to be done. However, we should consider the level of red tape that will be imposed on legitimate tattoo parlours that are not involved in criminal activity as a result of this legislation. The shadow Minister in the other place will have more to say on that. The popularity of tattoos has surged over recent years. The Government should ensure in targeting those who conduct illegal activities that its registration requirements are not too onerous on legitimate businesses.

The Opposition also is concerned that the Government is not providing New South Wales police with the resources they will need to conduct the necessary background and security checks required by the legislation. Without adequate resources legitimate businesses may face delays and a red-tape nightmare. The NSW Police Force is already under-resourced. Around 300 police officer positions have been taken from local area commands to fill transit officer positions. The Government brags about creating transit officer positions, but it neglects to mention that it has removed the officers who were formerly operating on the trains. When we look at the net position of law and order in New South Wales, we have certainly not progressed. Many local area commands in western and south-western Sydney are below strength, and all we get from the Government every day in this place is rhetoric and no proof that it is living up to its pre-election promises. Many of us in the south-east of the State have noted the cutback in the intake at the Goulburn Police Academy. We are concerned because the intakes must be kept at regular levels to ensure the State does not fall below authorised strength levels.

As I said, the Opposition will support this bill because we have consistently supported legislation that attempts to crack down on activity that leads to shootings in Sydney and particularly attempts to crack down on illegal bkie gangs. Indeed, the former Government introduced legislation to outlaw illegal motorcycle gangs, but, unfortunately, that legislation was knocked down in the High Court. It took the Government a significant

amount of time to put in place a replacement piece of legislation, for which the Government was quite rightly criticised. We are now waiting for the Minister and the Government to take action on outlaw motorcycle gangs through legislation.

In the meantime, this is the Government's second attempt this year to introduce legislation targeting illegal activities of tattoo parlours. I acknowledge that it is inevitable with any government that there will occasionally be pieces of legislation that need to be fixed, and it is the job of Opposition to ensure that, where reasonable, we support that process. Therefore, we will vote in support of this legislation but we will continue to urge the Government to do more to tackle the issues relating to illegal bikie gangs and their activities in New South Wales, and in particular to do more to tackle the escalating gun crime in Sydney.

Mr DAVID SHOEBRIDGE [8.14 p.m.]: On behalf of The Greens I speak on the Tattoo Parlours Amendment Bill 2012. Only five months ago—on 23 May this year—the original Tattoo Parlours Bill 2012 was passed by the New South Wales Parliament. A number of concerns were raised at the time about the operation of that bill and whether it was a sensible use of police resources to have police checking the ledger records of tattoo parlours rather than fighting crime. The Greens remain of the view that regulating tattoo parlours is not a sensible use of police time and that there are other government agencies that could deal with the regulation of tattoo parlours and at a great deal less expense to the New South Wales community.

At the time of the original bill there were concerns about how these powers would be used by police. What would be the extent of police search powers? How would police undertake the checking of records? Should police officers with their high level of training and skills go into tattoo parlours and comb through records as an obtuse way of cracking down on gun crime in New South Wales? It always seemed to The Greens a very nebulous connection at best between shootings on the streets of Sydney and regulation of the tattoo industry. In the five months since the passing of the original bill, the legislation has proven to be an ineffective way of dealing with bikie crime, with not a single instance being raised of these new powers or these new provisions leading to a reduction in bikie-related organised crime.

Part of the reason for that may be because of the rushed nature of the legislation that the Government brought into this House. The Government brought in the legislation only a little over five months ago and we are already amending it. It is like a short-lived romance; five months ago the Government tattooed "I love Mandy" on its forearm and now it wants the tattoo surgically removed by the Parliament because it has now realised that Mandy is not so sweet. I have to give the Minister credit for the way he introduced this bill and the front with which he approached the Parliament. In his second reading speech, the Minister for Police and Emergency Services said:

This amending legislation is evidence of the care being taken by this Government to get this new licensing regime right by providing the best legislative framework.

That could be one view of an amendment bill introduced five months after the original legislation. Another view could be that this is yet another one of those hasty responses to headlines in the *Daily Telegraph* and concerns expressed on talkback radio—a piece of legislation from the long-suffering members of the Parliamentary Counsel's office, which is delivered to a political timetable, not a rational legislative timetable and rushed through the Parliament. I do not know how long the bill spent in the lower House—it was probably passed 4½ minutes after it was printed. It was then brought to this House and voted on with, as usual, very little ability for other interested parties to seriously consider the detailed provisions.

When legislation is rushed through to meet a political objective and not carefully crafted to ensure that it meets the long-term interests of New South Wales, we get these kinds of ad hoc amendments five months later, as we see with this bill. That being said, the bill mainly relates to machinery provisions that should have been in the original bill. Even with these amendments it is very likely that this bill will be largely ineffectual in cracking down on bikie crime or any kind of organised crime in New South Wales.

Dealing in more detail with the bill, schedule 1 expands the definition of "close associate" for the purpose of the Act. In the previous bill the meaning of close associates of an applicant for a licensee applied to people who had a financial interest or power in the business. I think it excluded banks or any kind of registered financial institution that was a creditor. The new definition has been extended to include existing or prospective employees in the business. That seems to be consistent with the original intent of the close associate provision.

Schedule 1 [2] inserts an offence provision into the Act for body art or tattoos carried out without a licence, with 50 penalty units for the first offence and 100 penalty units for the second or subsequent offence. If

the licensing regime required a person to be licensed before doing tattoos, one would have thought the legislation would include a penalty for an unlicensed person doing tattoos. However, the requirement was not included in the original bill for the obvious reason: The original bill was rushed through to get a political fix. It was not carefully thought out legislation that put in place a rational form of regulation. When The Greens looked at the penalty units it was difficult to see whether the Government had considered whether they were consistent with the penalties for comparable offences in other legislation. I would be interested to know from the Minister whether the ministry considered whether this offence was comparable to other offences.

This year the Law Reform Commission said that ad hoc penalty provisions are increasingly littering our legislation. I think that at last count there were some 7,000 penalty provisions in New South Wales legislation, with wildly different penalties for similar offences. This provision seems to be simply another example of adding a random element to the penalty scheme in New South Wales. Perhaps the Government did consider whether such penalties were comparable with other offences in other legislation. Item [4] in schedule 1 inserts an additional requirement when making a licence application so that, in addition to required application material, copies of three forms of personal identification of an approved kind must be provided for each person identified under section 12 as a close associate.

Operators of tattoo parlours are being required to provide a weight of paperwork, which will no doubt be sifted through and assessed by highly paid police officers. One wonders whether that is a rational use of police resources to supposedly crack down on bikie crime. I would rather see the police dealing with extortion, drug running, violent standover tactics and firearms offences than checking three copies of the driver licence of the part-time secretary or office administrator employed in a tattoo parlour in Auburn. However, the Government can direct where police resources go, and it has chosen to direct police to check the credentials of the part-time receptionist at the tattoo parlour in Auburn.

Schedules 5 and 6 change the commencement date for a licence to be the date specified on the licence, rather the date on which it is collected. That seems to be a sensible way of putting in place records; the department issuing the licence will know how long the licence runs for, rather than having to double-check what date the licence was picked up by the tattoo parlour operator. It is surprising that the original bill provided for the commencement date to be the date on which the licence was picked up. I cannot think of any other legislation that provides for the validity of a licence to commence on the date the licence is picked up. That is another example of the hasty drafting of the original bill, which must be patched up only five months down the track. Schedule 1 [8] inserts a new section 19A, which relates to further information that the commissioner may require as part of determining if a licensee continues to be a fit and proper person. The commissioner can provide written notice requiring the licensee to provide information that is relevant to the investigation specified in the notice or to provide records that are deemed relevant.

The new section 19A (1) (c) authorises a person to comply with such a notice and authorises the commissioner to obtain information, including financial and confidential information, relevant to the licensee or close associate. There appears to be little, if any, restriction on what the commissioner can request, when he can request it, whether the time frame is a reasonable time frame, whether the request for records is reasonable. Such provisions could be used in an oppressive way when the commissioner does not have sufficient power to shut down a tattoo parlour on the basis of a genuine or proven concern about criminality but instead seeks to shut down a tattoo parlour by repeated, onerous and unreasonable requests for information to effectively drive them into the ground through administrative processes. That would be a most unfortunate way for tattoo parlours to be regulated.

The Greens have a modest amendment that would at least put some restraint on the commissioner's power. Our amendment proposes a new section 19A (2), which provides that the commissioner is not to require a person to do a thing under subsection (1) unless he is satisfied that it is reasonable in the circumstances to require the person to do that thing. In other words, before making a request the commissioner must turn his mind to whether the request is reasonable. The purpose of the amendment is to require the commissioner, or a delegate of the commissioner issuing the notices, to think at some point about whether the request is reasonable.

A more stringent requirement would provide an objective test of reasonableness and require the notice to be reasonable, and allow the person the subject of the notice to test the reasonableness in the Administrative Decisions Tribunal or the Supreme Court. We know that the Government is concerned whenever The Greens propose an amendment to insert some kind of external oversight into legislation. That is why we have crafted an

amendment that sets the bar lower and simply requires the commissioner to consider the reasonableness of the request. One hopes that the Government will see some sense and put in place a modest restraint on the commissioner's powers requiring him to consider the reasonableness of a request before issuing a notice.

Several other provisions in the bill have the appearance of fixing an unwieldy and unworkable initial bill. One example shows the Government's lack of consultation on or consideration of the implementation of this legislation and what the effects would be in the real world when it sought to impose such regulation across the entire tattoo industry with the limited resources available to New South Wales police. Schedule 1 [22] inserts transitional provisions, including new requirements relating to the expected processing backlog when the scheme commences. Indeed, it imposes a six-month freeze on applications after the date of commencement for the purpose of provisions of the Act that deem refusal for those applications when a licence has not been granted within 60 days. The original legislation provided that if the police did not issue a licence within 60 days of the request, there was a deemed refusal.

Obviously, with hundreds of tattoo parlours and only a limited number of police to check applications, when the new regime commences a great bulk of applications would be refused because the police will not be able to handle them all within 60 days. That should have been obvious to the Government when it introduced the legislation back in May. It would have been obvious if the Government had sat down with the police and worked out what resources were available and how they would deal with the expected flood of applications when they brought in this new regulation. But the Government did not do the groundwork. The Government did not consider the reality of putting the legislation in place. So five months down the track we are trying to fix the legislation in order to make it work. The Greens will not be opposing the bill because in large part it slightly improves fairly broken legislation that the Government brought before the House five months ago.

But once again it shows not so much the political dangers but the real dangers of legislators marching to the beat of the *Daily Telegraph* and responding to the Chicken Little complaints by members of the Opposition about shooting numbers and the alleged crime spree that has taken over Sydney when for the past decade we have seen falling crime rates across Sydney and New South Wales in almost all categories of serious violent crime. Despite the evidence that a considered response would have been appropriate we got a rushed political response five months ago that we are now trying to patch up. If that is how the Government wants to go about its law and order legislation it is no change from the previous Government, but it is a great disappointment given that this Government said about two years that it would do things differently and stop the law and order auction in New South Wales. Maybe it has stopped the law and order auction. Between the Government and the Opposition it looks like more of a giveaway than an auction, and it is continuing today.

Reverend the Hon. FRED NILE [8.31 p.m.]: On behalf of the Christian Democratic Party I am pleased to support the Tattoo Parlours Amendment Bill 2012. The bill provides important provisions to strengthen and support the Tattoo Parlours Act in its objective to break the stranglehold that outlaw motorcycle gangs have over the tattoo industry in New South Wales. The Premier spelt out the need for this legislation in April this year. An article dated 21 April 2012 in the *Australian* stated:

In an attempt to stem Sydney's escalating gang violence, the NSW Premier has announced plans to crack down on tattoo parlour ownership, with the NSW Police Commissioner given the final say on who is fit to run a tattoo business.

...

Barry O'Farrell said the statewide ban on bikies owning tattoo parlours would hopefully come into effect in May, giving police the power to close tattoo parlours and to refuse new applications.

As a result of that the Tattoo Parlours Act was introduced. The April article also stated:

The move will affect 23 gangs, who Mr O'Farrell said used tattoo parlours as a front for criminal activity.

Mr O'Farrell said the police would also have new powers to use drug-detection dogs to patrol and enter tattoo parlours without a search warrant.

From the many reports that are coming in it is obvious that there is a serious association between tattoo parlours and criminal gangs, especially bkie gangs. In July this year the NSW Police Force and the Department of Fair Trading, using new powers allowing them to enter parlours without a search warrant, targeted tattoo parlours in the Sydney central business district, Kings Cross, Newtown, West Ryde, Merrylands and Crows Nest areas. The 28-year-old owner of the Crows Nest tattoo parlour was served with three court attendance notices for the offences of possess prescribed restricted substances, goods in custody and possess non-firearm for discharging

irritant. The charges related to a car stop conducted by police during the previous month and the man was due to face Parramatta Local Court in August. Another report comes from ABC News and is dated 28 June 2012. It states:

A former Sydney bikie boss will stand trial for setting a police wagon on fire, after waiving his right to a committal hearing.

Scott Orrock is charged with setting fire to the paddy wagon in April outside his tattoo parlour at Newtown, in Sydney inner's west.

That was obviously an arrogant action in which that man showed his disrespect for the police and his insolence in regard to police carrying out their duties. A war has been going on between different bikie gangs to control tattoo parlours, which has led to a number of fire bombings. Last year a tattoo shop at South Hurstville burst into flames after a four-wheel drive ploughed through its front window shortly before 1.00 a.m. The incident caused serious damage to the tattoo parlour and also put at risk the people in that building. The Coogee Ink tattoo parlour in Coogee Bay Road was also firebombed. These activities point to the involvement of bikie gangs and criminal gangs. However, it was shown that some minor issues in the Tattoo Parlours Act need to be clarified and strengthened by further legislation, which is the reason for the amendment bill.

The bill makes further provisions to strengthen requirements in relation to probity checks conducted by the Commissioner of Police. The bill also provides authorised officers with important compliance and enforcement powers that will strengthen the ability of NSW Fair Trading and the NSW Police Force to regulate the tattoo industry effectively and efficiently. This legislation will enable authorised officers entering premises to examine records and other documents, make copies of documents, take photographs, film, or make audio or video recordings that they consider necessary. The bill also strengthens requirements for licensed premises by prohibiting people other than licensed tattooists from performing body art tattooing procedures on licensed premises. Another improvement provided by this bill is to make it a condition of an operating licence that an operator does not permit an individual to perform a procedure at licensed premises unless that person holds a tattooist licence.

This bill provides important safeguards for consumers using the services of a tattoo parlour by ensuring the tattooing procedure can be performed only by an appropriately licensed person. The bill makes some minor amendments to the licensing procedures and provides additional regulation-making powers to ensure that regulations can be made that provide for the issuing of permits for visiting international tattooists. The bill makes no provision for competency requirements such as demonstrated knowledge of infection control procedures because those matters fall within the Public Health Act 2010 and its supporting regulation. In view of that the Christian Democratic Party is pleased to support the bill.

The Hon. AMANDA FAZIO [8.38 p.m.]: I am concerned about some parts of the Tattoo Parlours Amendment Bill 2012. They are the same concerns that I raised in relation to the Tattoo Parlours Bill, which we dealt with earlier this year. We are going through the procedure of amending legislation which deals with tattoo parlours in order to close down perceived linkages between the operation of tattoo parlours and organised criminal gangs and outlaw motorcycle gangs. For the life of me I cannot see why we do not extend the licensing requirements to not only be a character test but also to ensure that licensed tattoo artists have some training to minimise disease transfer, particularly by blood-borne diseases.

I raised this matter when we dealt with the last bill and the Hon. Michael Gallacher said he would raise the issues with the Minister for Health. For that reason I withdrew my amendment. I was not certain, nor was the Minister, whether the provision of TAFE courses to minimise the transfer of blood-borne diseases through the tattooing process was sufficiently widespread to ensure that TAFE had the capacity to deal with the issue across New South Wales. I will not go into the cutting of TAFE funding—I would be here all night and it is not relevant to the bill. However, if we are bringing in a regime of licensing body artists and tattooists we should be looking at the full gamut of what the community expects those licensing conditions to be.

It is not good enough to simply say people have to pass some sort of character test and not be involved in organised crime. Given that tattooing, even in what appear to be reasonably professional settings, can lead to the transfer of hepatitis—particularly hepatitis C, which is a long-term scourge in our community—the Government is missing a good opportunity in this bill to try to do something about that. As my colleague the Hon. Steve Whan said, the Opposition will not be opposing this legislation. However, I think this is a missed opportunity to ensure that the tattoo industry is not propping up organised crime and is not presenting itself as a health problem in the longer term for New South Wales.

I am sure that providing enough courses for people seeking licences as body art tattooists would be cheaper in the long term than dealing with the effects of hepatitis C, which is a long-term scourge. This is a little short-sighted when one considers the cost of managing the long-term health effects and those people who get to the crisis stage of needing a liver transplant. We cannot regulate the designs that body tattoo artists put on people—however awful some of those might be—but we should be able to make sure that people who get a really ugly tattoo do not get a really ugly blood-borne disease at the same time.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [8.41 p.m.], in reply: I thank all members for their contributions to this debate. The key objective of the Tattoo Parlours Amendment Bill is to strengthen and support the current Act in its aim to remove outlaw motorcycle gangs from the tattoo industry. The amendments proposed in the bill will ensure that the licensing regime is robust and effective, and will allow NSW Fair Trading and the NSW Police Force to effectively and efficiently oversee the tattoo industry.

For the benefit of members, Fair Trading is the regulator, not the NSW Police Force. The provisions of the Act have not commenced in full and, as such, no licences have been issued. An offence of unlicensed activity was included in the original legislation. This is a new penalty for specific circumstances to ensure that people cannot circumvent the licensing regime, for example, by claiming that no money changed hands between the customer and the artist. Further, the original bill enabled an adverse security determination to be issued at any point during the life of the licence. It is crucial that this occurs as new criminal intelligence may emerge that may cause the Commissioner of Police to consider the licensee unfit to hold a licence, and the new information requirements support the commissioner in this regard.

The Hon. Amanda Fazio raised an issue in debate as she did at an earlier time with regard to skin penetration. As a result of inquiries that have been made, I am satisfied that the provisions under the Public Health Regulation 2012 which deal with skin penetration do cover this issue sufficiently in that regard. The new licensing regime focuses on ensuring that tattoo parlours are legitimate businesses, not fronts for criminal activities. For this reason, the licensing scheme includes a stringent fit and proper person test to ensure that owners, operators and employees of parlours are not involved in or associated with organised crime.

The health aspects of the tattoo industry are appropriately dealt with under the Public Health Act and regulation. Licensed operators and artists must ensure that they comply with all necessary health regulations, and they will also be subject to the necessary local government and health inspections. The current health requirements appear to be operating effectively, and it is not considered appropriate to require operators and artists to comply with additional health requirements under the proposed licensing regime. It is our view that adding new health requirements will simply increase the level of red tape and therefore cost to the industry. For that reason, we are satisfied with the current proposal.

The Hon. Steve Whan accuses the Government of dragging its feet. The Greens, on the other hand, accuse us of a kneejerk reaction. The reality is that, on this issue, neither the Labor Party nor The Greens matter. They are irrelevant on this issue because this was a result of consultation with police about an ongoing approach by the Government in a raft of different areas to ensure that police had the power to deal with organised crime, particularly outlaw motorcycle gangs, as they operate in this area of the tattoo industry and the ability to challenge people operating in that environment. The sad reality for the Australian Labor Party is that it had its chance in government to take significant steps to get these people out of this industry and did absolutely nothing. They had 16 years in government; this issue did not appear in the last 12 months.

Many communities will say, and the Hon. Paul Green would know from his work with local government, that this has been a real concern for local government throughout New South Wales for some time. These tattoo shops have continued to open and operate, and many of them have direct links with outlaw motorcycle gangs in the area. Sadly for the Labor Party, it had its chance. It was in government and did absolutely nothing about it. On the other hand, the Hon. David Shoebridge does not believe there is a problem. He says that crime rates are fine, everything is fine and there is no real problem in this area. We have both ends of the spectrum. I again rest my case that both are irrelevant in relation to this.

The police believed that there were a number of opportunities for them to severely impact upon the business plans of organised crime as they made the transition through to front organisations that gave them greater scope to supplant themselves in communities and also gave them the appearance of a legitimate business from which they could operate their illegitimate criminal activity. This has obviously been borne out through not

only the New South Wales experience but indeed internationally. If one looks at the history of outlaw motorcycle gangs one sees that this has been a significant part of the history and development of their business plan.

What the police put forward was an opportunity for the Government to consider a measure by which they could directly attack that business plan. Other attacks on the business plan include the revamping or restructuring of the New South Wales Crime Commission. These pieces of legislation do not stand in isolation—they work cooperatively; they work together; they are a part of a cohesive plan by the Government to address organised crime. The Crime Commission Bill and subsequent reforms to the Crime Commission are about strengthening the ability of police to target the resources of criminal organisations as they create facade companies as a means to wash their illegally obtained money through those front companies and give it the appearance of legitimacy.

Equally, even a simple thing such as banning colours around Kings Cross was about stamping the authority of the police on outlaw motorcycle gangs and saying to people who wanted to go to the Cross, "You do not have to stand for the intimidation. We are not all going to turn a blind eye to the intimidation that prevailed under 16 years of Labor." It was about the community, through the NSW Police Force, taking yet another step to reclaim parts of the Sydney central business district that up until now had become a bit of a battle zone in respect of bikies trying to stake out their authority in areas such as Kings Cross. Of course, this gave police another tool by which to step up their approach to dealing with crime.

Piece by piece, slowly but surely, the police have been bringing them in. The same approach has been adopted by the Government and the police to dealing with gun crime. Finally we have a Federal Government that recognises that the importation of guns is a major problem. I am not having a go at previous governments, but previous regimes did not see the situation in the same way as policing agencies saw the importation of guns. The facts are now undeniable and are there for all to see. As recently as the past couple of days the NSW Police Force uncovered another elaborate means by which Australian organised crime gangs are importing to New South Wales illegally obtained brand-new, fresh and ready-to-operate guns.

The other reform pushed for by the Government and the police was greater control of ammunition by legislation, which gave us another obstacle to place in the path of organised crime gangs, particularly outlaw motorcycle gangs. That ended their ease of access to ammunition and to weapons. They are but a few of the legislative measures that address organised crime by outlaw motorcycle gangs. Who would have thought that legislative embargoes on consorting would have had the impact they have had? One has only to listen to the bleating from outlaw motorcycle gangs that are concerned about the effects of the Government's consorting legislation to know that it has destabilised their control of an environment of which they erroneously thought they had sole control. They do not. The people of this State control our communities and our environment. What the Government has done through the police is regain control and infuse uncertainty into the minds of organised criminal gangs. The Government and the police have let them know that the regime has changed. There is more change to come.

It is really quite shameful for the Labor Opposition to criticise the Government for tackling these problems. But, then again, Labor is bereft of ideas. Labor was bereft of ideas in government and is bereft of ideas now because Labor Opposition members are still in denial in relation to the outstanding work of the police with regard to targeted drive-by shootings, to adopt the term used by the police. The NSW Police Force is achieving outstanding results through its work in dealing with criminals. That work has been underpinned by the consorting legislation and by utilising the assistance of the Crime Commission—something that Labor never thought of when drive-by shootings were at their highest-ever level. Labor did not utilise the powers of the Crime Commission despite the fact that the commission was willing to accept a request. The current Government did ask. This Government instituted the involvement of the Crime Commission, and that is producing results.

However, members should bear in mind that complete change cannot be expected to occur overnight. The Opposition continually expresses the concern that every night of every week another drive-by shooting occurs. Drive-by shootings occur, but not at the rate they occurred in previous years. That is all because of the fine work being done by the NSW Police Force and the great relationship between this Government and the police. We listen to the police. We sit down and talk to them. We ask them what needs to happen. They explain it to us, we listen, and we work with the Police Force. The police most certainly are the representatives of the community in this fight against organised crime, in particular outlaw motorcycle gangs, and that is exactly why the Government continues to enjoy a good relationship with the police. That is something that Labor members could never have even dreamed about.

One only has to examine Labor's record in this area. Labor did nothing of any substance. Nothing done by the Labor Government stands as any testament to the Labor Government addressing this problem. By supporting our police the Government is turning around this fight, piece by piece, to ensure that outlaw motorcycle gangs and people involved in organised crime realise that the regime has changed in New South Wales. That is long overdue. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 and 2 agreed to.

Mr DAVID SHOEBRIDGE [8.55 p.m.]: I move The Greens amendment No. 1 on sheet C2012-139:

No. 1 Page 4, schedule 1 [8], proposed section 19A. Insert after line 31:

- (2) The Commissioner is not to require a person to do a thing under subsection (1) unless the Commissioner is satisfied that it is reasonable in the circumstances for the Commissioner to require the person to do that thing.

I referred to this amendment during the second reading stage and made clear its intent, which is to require the commissioner to turn his or her mind to the reasonableness of a request that is made under the extensive new powers of new section 19A, which states:

19A Commissioner may require further information

- (1) For the purpose of an investigation by the Commissioner as to whether a licensee continues to be a fit and proper person to hold a licence, or whether it would be contrary to the public interest for the licensee to continue to hold a licence, the Commissioner may, by written notice served on the person concerned, require a licensee, or a close associate of a licensee, to do one or more of the following things:

I pause to state that the person concerned includes employees and related third parties. There is a broad class of people to whom the request can be directed. The commissioner can require the person to "provide, in accordance with directions in the notice, such information as, in the opinion of the Commissioner, is relevant to the investigation specified in the notice". That may refer to bank accounts that date back 20 years or a whole series of computer documents that are extremely difficult to extract. It may refer to all manner of things. If such a request were made by subpoena in a court it might be considered to be deeply oppressive, but there is no restriction in this amending provision on what the commissioner can request. There is no restriction in this provision, or in any other part of the bill.

New section 19A subsection (1) (b) states that the person can be required to "produce, in accordance with directions in the notice, such records as, in the opinion of the Commissioner, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them", and subparagraph (c) can require the person to "authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b)". It is not clear whether that provision can compel a lawyer to produce documents. I would be interested to know whether it is intended to allow the commissioner to require a person to have their lawyer produce material. I was hoping that the provision is not intended to pierce legal professional privilege, but I would be interested to know the Minister's opinion. Is the provision intended to require the production of accountancy records? What other types of records would be available to the commissioner through this provision?

Subparagraph (d) allows the commissioner to issue to a person a requirement to "furnish to the Commissioner such authorisations and consents as the Commissioner requires for the purpose of enabling the Commissioner to obtain information (including financial and other confidential information) relevant to the investigation from other persons concerning the licensee and close associates of the licensee." Subparagraph (d) evokes very troubling concern about whether that confidential information is intended to be legally confidential information.

Is it really the Government's intent to allow the commissioner by notice to pierce legal professional privilege and get confidential information that is held in the hands of a lawyer of an associate? If so it would be

an extreme overreach of the notice provisions by the commissioner. I am assuming, in the absence of a clear indication from the Government, that those well-entrenched legal rights are not being overrun by the wording of this legislation and that even the reference to confidential information in paragraph (d) is not intended to overcome those well-entrenched rights of legal professional privilege. It would be useful if the Government clarified that on the record.

I return to the fact that these powers are effectively unlimited in scope and extent. If it was a subpoena being issued by a court and it was found to be vexatious or oppressive there would be some way of limiting it. There is no other external review of this. I accept from the beginning that if we had brought forward an amendment that would make these notices amenable to review in the Administrative Decisions Tribunal we would not have got to first base. It is very clear the Government is not interested in putting additional checks and balances of that type into the legislation. What we have done instead is bring forward a very modest amendment that just requires the commissioner to consider the reasonableness of the request and form the opinion that the request and its extent are reasonable. That is proposed subsection (2) of our amendment. I commend the amendment to the Committee.

The Hon. STEVE WHAN [9.01 p.m.]: The Opposition feels this is a reasonable amendment and will be supporting it.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [9.01 p.m.]: The Government does not support this amendment. The words of Mr David Shoebridge in his contribution to the second reading debate should have set alarm bells ringing for the Opposition when he said, "This is about restraining the power and authority of the commissioner." The Opposition apparently believes this amendment, which will make it a little more difficult for the commissioner in dealing with these matters, is reasonable. Mr David Shoebridge raised the question of legal professional privilege and my understanding is that it will not be affected. It also is important to recognise that the provisions in the amendment, I understand, are already in the existing legislation. The bill relates to new information for the life of the licence as opposed to when the licence first commenced, so this is an extension of that.

The Hon. Steve Whan: So it is already in the legislation.

The Hon. MICHAEL GALLACHER: It is already there. Once again it highlights the fact that the Labor Party did not read the bill.

The Hon. Steve Whan: No, you just contradicted yourself.

The Hon. MICHAEL GALLACHER: The Labor Party is now in a position where it is supporting an amendment that will in effect make it more difficult, to use Mr David Shoebridge's words, by restraining the power of the commissioner in dealing with the classes of people described in the legislation.

Mr DAVID SHOEBRIDGE [9.03 p.m.]: We should be clear about the proposed restraint. The restraint is that the commissioner has to form the opinion that the commissioner's own request is reasonable. He has to turn his or her mind to whether the request is reasonable. The fact that the Government will not even come at that extraordinarily modest check and balance in this legislation shows how blind it is to putting in place even the most modest forms of accountability. Not every inquiry that the NSW Police will make under the Tattoo Parlours Bill will inevitably be of people who are criminals. The Minister cannot assume that at the start of every inquiry and of every notice being issued by the police that the people running the tattoo parlour will be criminals.

The police may be of the view that there is a criminal element but innocent people are investigated by police and innocent people inevitably will be the subject of notices issued by the commissioner. Yet this Government will not even put in place the kind of modest check and balance where the person issuing the notice has to turn their mind to the reasonableness of the notice. It is likely that without these kinds of restraints there will be the potential for a culture to build up within the NSW Police Force of vexatious and oppressive requests for information that will get to such a point that we will eventually see some kind of legal challenge to these kinds of proceedings and notices. That will likely end up in Supreme Court and High Court challenges. Two years from now we will probably have to come up with an amending bill.

It would be far better to put into good practice reasonable and modest restraints on administrative action and police action rather than wait for untrammelled powers to be used oppressively to found compelling

court cases that will be expensive to the State and that bring down the legislation. We will end up two years later, as we saw with the previous Government's bikies bill, with millions of taxpayers' dollars and thousands of hours of police investigation being wasted because the legislation is so broad and extraordinary in its scope that it ends up offending basic constitutional rights and freedoms. The Government has no interest in even that kind of modest restraint. It is most unfortunate that it will not accept this amendment. I note that usually this kind of bloody-mindedness ends up in a judicial review of these kinds of actions by the Government and with the issue blowing up in the Government's face. We wait to see the inevitable challenges to these kinds of powers in the courts.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [9.06 p.m.]: The test of course is relevance. The honourable member has tried to make relevance plus reasonableness the two tests that need to be satisfied, making it yet again more difficult for the commissioner. This legislation is not about unfairness, it is about relevance in relation to the evidence that is brought forward.

I refer the Hon. Steve Whan to section 15 of the original legislation, which is about the director general requesting further information. He will see that the legislation already stipulates the ability for the director general, in this case, and the commissioner to request further information. He and his party are now party to—it sounds like the Marx Brothers again—putting a reasonableness test into the legislation as well as relevance. They are setting another question. Any application that goes before the Administrative Decisions Tribunal will be looking at relevance. The Greens and the Opposition want to make it that little bit more difficult for the commissioner to be able to get stuck into people who quite simply should not be involved in this industry.

Question—That The Greens amendment No. 1 [C2012-139] be agreed to—put and resolved in the negative.

The Greens amendment No. 1 [C2012-139] negatived.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Michael Gallacher agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Michael Gallacher agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

BUSINESS OF THE HOUSE

Postponement of Business

Government Business Orders of the Day Nos 8 to 10 postponed on motion by the Hon. John Ajaka.

PASSENGER TRANSPORT AMENDMENT (TICKETING AND PASSENGER CONDUCT) BILL 2012**Second Reading**

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.12 p.m.], on behalf of the Hon. Duncan Gay:
I move:

That this bill be now read a second time.

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

Leave granted.

The Government is committed to delivering a better transport system for the people of New South Wales.

We want to provide a system people want to use.

We need to ensure we have the right legislative instruments to deliver efficient and effective public transport services.

The purpose of the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012 is twofold:

1. to consolidate regulation making powers to allow for future consistent passenger ticketing and conduct offences for all transport modes into the Passenger Transport Act 1990; and
2. to enable the introduction of an integrated, electronic ticketing system across the transport network.

I would like to firstly outline the context and reason for this bill.

As part of the implementation of a National Rail Safety Regulator and National Rail Safety Law in early 2013, the Rail Safety Act 2008 will be repealed.

The National Rail Safety Law will not make provisions for operational issues related to ticketing, revenue protection and passenger conduct.

While the National Rail Safety Law will retain current New South Wales fatigue management requirements for train drivers and drug and alcohol testing requirements for rail safety workers.

It will not make provisions for rail operational issues related to ticketing, revenue protection and passenger conduct.

To avoid the loss of these regulation-making powers, the bill will insert the power in the Passenger Transport Act 1990.

Currently, some of the legislation which governs passenger transport is inconsistent.

This makes no sense when we are trying to create an integrated transport system.

There are two regulations that govern ticketing, revenue protection and passenger conduct: the Rail Safety (Offences) Regulation 2008, for rail; and the Passenger Transport Regulation 2007, for bus and ferry.

These regulations broadly cover the same subject matter, but do not treat passenger conduct offenses committed on the network in the same way.

It will make it easier for public transport customers to understand their rights and responsibilities when travelling on the public transport network.

As the House is aware, the Government is currently conducting a review of New South Wales passenger transport legislation.

The NSW Passenger Transport Legislation Discussion Paper was recently released and gives customers and industry stakeholders an opportunity to comment on any proposed changes.

Having all public transport regulation making powers under a single piece of legislation will make any future changes easier to implement.

This bill also allows for future amendments to regulations to provide consistency across transport modes.

New South Wales has been promised an electronic ticketing system for over 14 years.

The previous Government promised public transport customers they would have an electronic ticketing system by the Sydney Olympics in 2000.

Regrettably, it did not happen then or in subsequent years.

I am pleased to advise that, after only 18 months, this Government is delivering on our commitment to introduce electronic ticketing.

This bill is important as it will enable the future consistent introduction of an electronic ticketing system, to be known as the Opal card, across all public transport modes.

As this is a first for New South Wales, there is a need to define this new type of ticket in legislation.

As the Government is trialling the Opal card on ferries from December 2012, it is necessary to:

1. amend the legislation to define what an electronic ticketing system is, and
2. amend the regulations to enable the Opal system to operate in parallel with current ticketing arrangements.

Customers will experience a ticketing system that is simple, convenient and efficient.

The Opal card will make travel on public transport easier and simpler for people living, working and visiting Sydney, the Hunter, the Illawarra and the Blue Mountains.

Currently there are a number of significant differences between the powers of revenue protection officers operating on the bus and ferry network, and transit officers operating on the rail network.

This bill will make the powers for authorised officers, such as revenue protection and transit officers, consistent.

A consistent approach to these roles will make it easier for passengers to understand their responsibilities, rights, and obligations as well as the roles and responsibilities of enforcement officers across the public transport network.

The power for an authorised officer to require a person to state his/her name and address will be transferred from the Rail Safety Act to the Passenger Transport Act.

This applies in circumstances where a person is reasonably suspected of committing an offence against the Act or against the regulations in relation to graffiti offences.

The retention of this power for authorised officers maintains their ability to enforce the current offences.

Additionally the power of an authorised officer to enter railway premises for the purposes of inspection, investigation or inquiry will be transferred from the Rail Safety Act to the Passenger Transport Act.

The consistent application of authorised officers' powers will create more certainty for public transport customers and ensure regulations continue to play an effective role in deterring anti-social behaviour.

As the House would be aware, in February 2012 the Premier, Minister Gallacher and Minister Berejiklian announced the establishment of the NSW Police Transport Command.

The safety and security of transport customers is a priority for the New South Wales Government, which is why we are increasing the number of police who patrol the public transport network.

The bill proposes that NSW police officers will automatically be authorised officers for the enforcement of regulations on public transport.

This, and the consolidated regulations that will follow, support the operation of the dedicated Police Transport Command which will patrol trains, buses and ferries.

Having an increased police presence on our public transport networks will ease the fears of commuters and also drive down crime on the network.

The bill also proposes to transfer the provision for penalties for railway offences affecting safety from the Rail Safety Act into the Passenger Transport Act.

Under the current Rail Safety (Offences) Regulation 2008 the maximum penalty for unauthorised use of certain railway equipment is 250 penalty units or \$27,500.

This maximum penalty will be transferred to the Passenger Transport Act, but is only applicable to the offence of unauthorised use of certain railway equipment.

For example, someone interfering with equipment in a rail corridor that results in or contributes to a rail accident.

If a person commits an offence that doesn't involve the unauthorised use of certain railway equipment, the existing maximum penalty of 50 penalty units or \$5,500 under the Passenger Transport Act will continue to apply as the maximum penalty for passenger conduct offences.

Under this bill, the larger maximum penalty is only applicable to that specific serious railway offence and only by a court.

The maximum penalty amount recognises the serious safety risks that can result from certain forms of conduct on trains and railway property.

The measures proposed today will amend the Passenger Transport Act to provide for consistent and integrated electronic ticketing, revenue protection and passenger conduct provisions on public transport in New South Wales.

They send a clear message that improving public transport is a high priority for the Government.

I commend the bill to the House.

The Hon. MICK VEITCH [9.12 p.m.]: I lead for the Opposition in debate on the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012. The stated object of this bill is to amend the Passenger Transport Act to enable passenger ticketing and conduct offences for all transport modes to be consolidated into one regulation, and to enable the introduction of an integrated electronic ticketing system across the transport network. The Opposition supports the bill but I wish to place on the record the concern of the New South Wales Opposition about the way in which the Minister for Transport handled this matter.

With the introduction of the Opal card, the Government is required to amend the legislation to define an electronic ticketing system and to amend the regulations to enable it to operate in parallel with current arrangements while the Opal card is being rolled out. The Government said that the Opal electronic ticketing system will commence trials on the ferry network in December. The Government must have known for some time that this legislation was required as it is noted in its own review of the NSW Passenger Transport Legislation Discussion Paper that such a change is needed. The Government rushed this legislation through the other place last week before submissions closed on its own discussion paper. I ask the Parliamentary Secretary who is in the Chamber: If the Minister has nothing to hide why did she rush this legislation through without an opportunity for all parties concerned to be properly consulted? Many of the matters that are dealt with by this bill are canvassed in the review of the NSW Passenger Transport Legislation Discussion Paper, which notes:

Historically, legislation dealing with trains was developed separately to other transport modes.

As a result, two Regulations govern ticketing, revenue protection and passenger behaviour offences across the major public transport modes: the Passenger Transport Regulation 2007 and the Rail Safety (Offences) Regulation 2008.

Currently these two regulations treat revenue protection, ticketing and passenger behaviour offences differently for different transport modes. With the move towards a single national rail safety law, the Rail Safety Act 2008 will be repealed. The new rail safety national law does not include provisions for ticketing and offences that are covered in the New South Wales Rail Safety Act. Therefore, this bill transfers provisions relating to revenue protection, ticketing and passenger behaviour offences under a single regulation by amending the Passenger Transport Act to include in the regulation-making powers matters relating to ticketing—including smartcard ticketing—and conduct offences in relation to trains and other railway premises. This is a reasonable move that the Opposition will not oppose.

The bill also proposes a new section that provides for additional penalties for offences committed on railway premises where the court finds that the actions either caused, or were reasonably likely to cause or contribute to, danger or harm to any persons, animals, premises or property. New section 57 provides for a maximum penalty of up to 250 penalty units for such offences. The bill notes that this maximum penalty currently exists under the rail safety regulations, whereas the maximum penalty under the passenger transport regulations is 50 penalty units. The review of the NSW Passenger Transport Legislation Discussion Paper also proposes to increase penalties for some offences committed on the transport network. The review notes that there are inconsistent penalties across the different modes for the same offence and proposes that where different penalties exist for common offences, the higher value will be applied within a new single regulation. While I support consistency of penalties and increasing penalties in some cases, the Government should look closely at establishing the most appropriate penalty for each offence rather than a blanket application of the larger amount.

The bill also amends the definition of "authorised officer" to include a police officer, to give police officers powers to enter railway premises and to include in the power of an authorised officer to require a person to state his or her name and address in circumstances where the officer reasonably suspects that an offence against the Act or the regulations has been committed, and the power to make such a requirement in relation to graffiti offences on railway premises. A similar power currently exists in the Rail Safety Regulation. The Government argues that these are important amendments, given the move to the Police Transport Command providing security on the rail network. While I support these amendments I have concerns about the Minister's proposals for security on our rail network and the current rollout of the Police Transport Command. I raise a number of matters about the bill that I hope the Government will address in reply, and I specifically request the Parliamentary Secretary to do so. Schedule 1, item [17] will amend section 63 (2) of the Act by inserting a number of new paragraphs. Paragraph (ka) reads as follows:

(ka) the exclusion of persons, animals or freight from railways ...

The bill does not make clear the intent of this provision or what circumstance may lead to exclusion. Item [17] also adds new paragraphs (kk) and (ll), which read as follows:

(kk) the use of smartcards and smartcard readers and the testing and certification of smartcard readers, and

(ll) without limiting paragraph (kk), the admission of information obtained by smartcard readers, and of certificates relating to that information and to the testing of smartcard readers, as evidence (including conclusive evidence) in legal proceedings relating to an offence against the regulations ...

Would the Parliamentary Secretary clarify how an individual's privacy will be respected? With the introduction of the myki card in Melbourne and the *go* card in Brisbane—as well as internationally—in a number of instances law enforcement agencies obtained access to an individual's movements without a warrant. What plans does the Minister have to safeguard the privacy of users of the Opal card? The Government said that this legislation was necessary to prepare for the introduction of the Opal card but it has given us no information about the fare structure that will be introduced. Last year the Government increased fees for rail commuters above inflation. Earlier this year the Schott report proposed massive hikes for rail commuters. Recently the Independent Pricing and Regulatory Tribunal proposed further increases. Without any detail about how the fees will be structured when the Opal card is introduced, we cannot trust this Government not to impose additional fees on commuters.

The Hon. NATASHA MACLAREN-JONES [9.20 p.m.]: I support the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012, which has delivered on yet another transport commitment of the O'Farrell Government. I commend the Minister for Transport, the Hon. Gladys Berejiklian, for her determination and commitment to deliver real transport reform in New South Wales. For the past 14 years under Labor, the people of New South Wales were promised an electronic ticketing system. Like many Labor promises, it was not delivered. Labor also promised that the Tcard would be delivered for the Olympics in 2000 but it was not. In just over a decade the former Labor Government took Sydney from being a leader in transport with the potential of being one of the first cities in the world to operate an electronic ticketing system to one of the last cities in the world to operate such a system. Sydney was beaten first by Hong Kong with the Octopus card, in London with the Oyster card, in Perth with the SmartRider, in Brisbane with the *go* card and in Melbourne with the myki card.

The electronic system will deliver easy travel to the people of New South Wales. Furthermore this technology lays the foundation for the Opal card—the successor to the Tcard—which will be introduced on a trial basis in December 2012, firstly for Sydney's ferry system with the aim of expanding it across the transport network soon after. The bill also will make regulatory changes to the electronic ticketing system to operate in parallel with current ticketing arrangements that are in place. Furthermore, the bill begins the process of removing inconsistencies in the current legislation to ensure a smooth transition to the new system. The bill will incorporate all ticketing, revenue protection and passenger conduct for rail currently in the Rail Safety (Offences) Regulation 2008 into the Passenger Transport Regulation 2007. This will mean for the first time that rail, buses and ferries will be covered in a single piece of legislation. The Minister has highlighted on a number of occasions that the integration of the New South Wales transport system is a priority. The ability to create public transport regulation under a single piece of legislation will make further changes easier to implement. The bill will allow for future amendments to regulations to provide consistency across all transport modes.

Following the transition of these areas between Acts and to assist with the smooth introduction of the National Rail Safety Regulator next year, the bill also will repeal the Rail Safety Act which will lead to the removal of many of the current inconsistencies that exist for ticketing, revenue protection and passenger conduct between rail, bus and ferry. This will give transport users far greater clarity over their rights, responsibilities and obligations on the transport network. It will further create a far better experience for all transport users, avoiding confusion and speeding up customer service.

There have been great improvements, particularly for commuters, in other jurisdictions that already have similar systems to the Opal card. These include reducing congestion when entering and leaving transport hubs and queues for tickets because the system allows commuters to top up their travel cards at various locations around the city. Smartcards also create far better value for commuters as the best rate is calculated as the day progresses. This means that if enough journeys have been made in a day, a week or a month, travel passes evaluate the best value and the charge is then calculated automatically at a single price. The Coalition Government is committed to bringing a better transport system to the people of New South Wales. The people of New South Wales expect a seamless, convenient and accessible transport system, which is what the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012 will deliver. I commend the bill to the House.

The Hon. CATE FAEHRMANN [9.24 p.m.]: The Greens support the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012. Perhaps the most significant change facilitated by the bill is the long overdue introduction of integrated smart card ticketing for Sydney's public transport system, including rail, bus, light rail and ferries. The bill simply enables regulation-making powers relating to smart card ticketing. Other global metropolises such as Singapore, London and Paris moved to this ticketing system many years ago and, in some cases, over a decade ago. Sydney has even lagged behind other Australian cities such as

Perth and Brisbane where smart card systems have been in place since 2007 and 2008 respectively. Tonight members referred also to the myki card in Melbourne. The Greens support the bill because integrated ticketing is essential for maximising the benefits that public transport systems bring to cities. It is extremely important to minimise the barriers that people face when jumping on a train or a bus and to give genuine and easy alternatives to private vehicle commuting.

Currently in Sydney and in New South Wales there is an enormous variety of tickets and a range of fares that cover different modes of public transport. There are single and return tickets, all-day tickets, 10-trip tickets, weekly tickets, quarterly tickets, yearly tickets, multimode tickets and multi-ride tickets which are confusing and unnecessary in this digital age. The current ticketing system is old-fashioned, clunky and overdue for reform. EcoTransit, a sustainable transport group, states on its website that Sydney is one of the places where it is still possible for someone to buy a train ticket. In a 2009 Booz & Co report on integrated ticketing that included two dozen case studies around the world, the benefits of integrated, simplified ticketing were identified as including increased patronage, increases in recorded passenger satisfaction, evidence of resulting modal shift and much more. With such a list it is painful to think that it has taken so long to begin the process of integrated ticketing in a global city such as Sydney.

In her second reading speech the Minister for Transport outlined the failures of the previous Labor Government on this point. I will not repeat but note the failures that have already been mentioned tonight by some other members in this place. I call on the current Government to learn from those failures rather than being distracted by them for political gain. The bill also seeks to consolidate what the Government has described as inconsistent transport legislation. The bill will make the necessary changes to allow for all ticketing, revenue protection and passenger conduct measures to be combined in a single regulation. Currently the two relevant regulations do not treat passenger conduct offences in the same way. These changes include repealing sections of the Rail Safety Act 2008 relating to offences that will be included in provisions inserted in the Passenger Transport Act 1990. I listened with interest to the contribution of the Hon. Mick Veitch on behalf of the shadow Minister for Transport. I await with interest the Parliamentary Secretary's responses to the concerns that were raised.

Currently the New South Wales Government is conducting a review into passenger transport legislation with a discussion paper proposing changes and with a call for submissions that close towards the end of this month. It is unfortunate that the Government is moving ahead with this legislation despite the fact that that review has not been completed. The changes flagged in the Government's reform discussion paper include increases to some bus and ferry penalties in order to bring them into line with current rail penalties. Some new offences are proposed, including hindering bus drivers or officers, carrying flammable goods on public transport and interfering with a moving train. Also proposed is the introduction of a sensible lesser penalty for some ticketing offences for those under the age of 18 years. I presume from the discussion paper that this bill will facilitate these changes to penalties. It would have been highly preferable for the review to have been completed and made public before the Parliament was required to consider the bill.

The third change facilitated by the bill is to make the powers for authorised officers consistent. Currently, revenue protection officers and transit officers have different powers. With police taking over security on Sydney's public transport it is necessary to include police officers in the definition of "authorised officers" for the purposes of enforcement powers within the relevant regulation. The Greens support the bill.

The Hon. MARIE FICARRA (Parliamentary Secretary) [9.27 p.m.]: I support the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012 which seeks to combine passenger ticketing and conduct offences into one legislation to ensure that commuters are aware of their rights and responsibilities regardless of which mode of public transport they travel on. I congratulate the Minister for Transport on this sensible legislation and I have been reminded also to congratulate the Parliamentary Secretary. The bill seeks to introduce an integrated electronic ticketing system across the network to make public travel easier and more efficient for commuters. Members have spoken about the bad track record of the previous Labor Government so I will not go into that again.

Currently two regulations govern offences on public transport pertaining to ticketing: revenue protection and the conduct of passengers. The current regulations are the Rail Safety (Offences) Regulation 2008 for rail offences and the Passenger Transport Regulation 2007 for passengers who commute via bus and ferry. The bill seeks to amalgamate the two regulations. That move will make it easier to patrol ticketing and passenger conduct across the New South Wales public transport network and will implement clear and consistent regulations for any breaches. This Government is committed to delivering an integrated system of

public transport that effectively manages offences across the network. The bill will amend regulations which will result in the smooth introduction of the Opal smart card—an electronic ticketing system that will be rolled out across all modes of public transport in New South Wales. Furthermore, revenue protection officers and transit officers will be given more consistent powers across all modes of transport which will give authorised officials and commuters better clarity in relation to their rights, duties and responsibilities.

The current legislation does not provide consistent handling procedures for offences committed by passengers, as different regulations apply for the same or similar infringements across the various transport modes on the public transport network. By combining the two existing pieces of legislation, the current inconsistencies will be removed to give New South Wales commuters a greater understanding of their rights and responsibilities. This bill also clarifies the obligations of enforcement officers across the entire network, irrespective of which mode of public transport they utilise.

The Government also made a commitment to introduce the new Opal card ticketing system from 2012. It is currently being trialled on ferries operating in Sydney to give people a modern, effective and accessible public transport system that meets all passenger needs across the network. This brings the network into step with the advances of technology that exist, as we have heard, in so many other countries. The amalgamation of these two pieces of legislation and the impending introduction of the Opal card across the New South Wales transport network is indicative of the Government's commitment to improving the quality of this State's public transport system. The clarity of the legislation pertaining to ticketing and passenger conduct, alongside the modernisation of our ticketing system, will ensure that the system is more accessible and greatly improves travel arrangements for public transport commuters in New South Wales. I fully support the bill.

The Hon. PAUL GREEN [9.31 p.m.]: The Christian Democratic Party supports the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012. The object of the bill is to transfer from the Rail Safety Act 2008 to the Public Transport Act the provisions relating to ticketing and conduct offences of persons on trains and other railway premises, to include provisions enabling a smart card ticketing system to be introduced on trains, buses and ferries, and to make other amendments relevant to the enforcement of those provisions. Other members have spoken at length on this issue. Suffice to say some of our supporters have lobbied for online access to weekly tickets across the different transport modes—trains, ferries, buses or whatever. People want to buy tickets online to avoid the hindrance of the last-minute rush to secure a ticket in peak hour. Hopefully, those days will not be around for too much longer and people will be able to print their tickets at home.

The Hon. Dr Peter Phelps: They'll have their Opal card; they can just swipe it.

The Hon. PAUL GREEN: Or the Opal card—we are yet to see that. If that system gets up—I believe it will be trialled first on the ferries—we will see it used everywhere. Then we will have a platinum card for plane travel—I look forward to it all. In the meantime, we are happy that the Government is getting on with the job through this bill. We encourage online ticket purchases.

The Hon. AMANDA FAZIO [9.33 p.m.]: Like my colleague the Hon. Mick Veitch, I support the Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012. It is a good idea to have an integrated electronic ticketing system for public transport. I am sure it will make commuting much easier for the travelling public across New South Wales. However, although our transport ticketing may be moving into the twenty-first century, we are still stuck in the previous century—or probably the previous millennium—with timetables, particularly for buses. A number of Sydney areas still rely on buses that run to Monday to Friday, Saturday and Sunday timetables. In the 1920s and 1930s people did not have anywhere to go on Sundays because it was a day of rest and they might just walk to the local church. But we have come a long way since then. We now have a seven-day week economy and working and shopping environments, but many people are dependent on buses that operate to a Sunday timetable and thus come along only every hour or two. When Labor was in government I beat my head against a brick wall over this topic.

The Hon. Duncan Gay: It's still your timetable.

The Hon. AMANDA FAZIO: I know it is expensive to change weekend timetables, but the Hon. Duncan Gay and other road users lament that we now have traffic jams on weekends. I suggest that part of the reason for bad weekend traffic jams is that public transport operates to outmoded weekend timetables. Electronic integrated ticketing is a great step into the future and if we also have appropriate weekend timetables that mirror people's weekend work and life patterns we will go a long way towards making the travelling public in New South Wales much happier. I leave that challenge for the Government to try to come to grips with.

The Hon. JOHN AJAKA (Parliamentary Secretary) [9.35 p.m.], in reply: I thank all members for their contributions to the debate. The Government is committed to delivering an integrated and effective public transport system that meets our customers' needs. The Passenger Transport Amendment (Ticketing and Passenger Conduct) Bill 2012 confirms the Government's commitment to improving transport services. The bill provides for the future integration of ticketing, revenue protection and passenger conduct regulations for public transport in New South Wales. This bill is another initiative to deliver improved customer experience on transport in New South Wales. One of the most important aspects of the bill is that it will allow for the future introduction of electronic ticketing. After years of broken Labor promises, Sydney finally is getting an integrated electronic ticketing system. The Opal will be trialled on Sydney Ferries from December and will then be rolled out progressively over the rest of the transport network.

The bill provides for the future, consistent introduction of an electronic ticketing system across all public transport modes. The implementation of the Opal card on all public transport modes will then require amendment to regulations to allow its introduction and operation parallel with current ticketing arrangements. The Opal card will make travel on public transport easier for people using public transport in Sydney, the Hunter, the Illawarra and the Blue Mountains. The bill demonstrates that the Government is delivering on its commitment to introduce the modern, efficient electronic ticketing system Sydney deserves. The community expects an integrated, efficient and safe public transport network in New South Wales. Currently, some legislation that governs passenger transport is inconsistent. While these regulations broadly cover the same subject matter, they do not treat in the same way passenger conduct offences committed on the network. This results in different rules for similar behaviours because of the transport mode.

The goal of this bill is to provide consistent legislation that will make it easier for public transport customers to understand their rights and responsibilities when travelling on the public transport network. The bill proposes to transfer the regulation-making power for ticketing and conduct offence provisions for trains and railway property from the Rail Safety Act to the Passenger Transport Act. As part of the implementation of the National Rail Safety Regulator and Rail Safety National Law in early 2013, the Rail Safety Act will be repealed. Importantly, the Rail Safety National Law will retain current New South Wales fatigue management requirements for train drivers, and drug and alcohol testing requirements for rail safety workers. However, the Rail Safety National Law will not make provisions for operational issues related to ticketing, revenue protection and passenger conduct. To retain these regulation-making powers, the bill proposes to insert the power into the Passenger Transport Act.

Currently, a number of differences exist between the powers of revenue protection officers on the bus and ferry network and transit officers operating on the CityRail network. The bill proposes to support the integration of transport services by transferring to the Passenger Transport Act the authorisation for authorised officers, including revenue protection and transit officers, on trains and railway premises. A consistent approach to these roles and responsibilities of enforcement officers will make it easier for passengers to understand their responsibilities, rights and obligations across the public transport network. This will create more certainty for customers and will ensure that regulations continue to be effective in deterring antisocial behaviour. The bill proposes to transfer the provision for penalties for railway offences affecting safety from the Rail Safety Act to the Passenger Transport Act. Accordingly, the Government is transferring the highest penalty amount for those persons who commit serious railway offences that affect passenger and operator safety from the Rail Safety Act to the Passenger Transport Act.

The highest penalty amount of \$27,500 or 250 penalty units recognises the serious safety risks that can result from reckless conduct on trains and railway property. In other situations the existing maximum penalty of \$5,500 or 50 penalty units in the Passenger Transport Act will apply. The bill also proposes that New South Wales police officers be automatically authorised officers for the enforcement of regulations on public transport. This will remove any need for an instrument of appointment for New South Wales police officers to be authorised officers under the Passenger Transport Act, as is currently the case. This bill supports the Government's commitment to improving safety for customers on the transport network.

The Hon. Mick Veitch referred to schedule 1, item [17], new paragraph (ka). This will exclude people if they contradict a regulation or breach the regulations—that is, if they are drunk or to try to bring animals onto a train. Of course, the usual exemptions for guide dogs and other support animals will apply. The honourable member also raised schedule 1, item [17], new paragraphs (kk) and (ll). Privacy protections are within the department's procedure and policy rules for individual systems, which is more appropriate than having them in legislation.

In relation to the issue raised by the Hon. Amanda Fazio, it is clearly stated—as was admitted by the honourable member—that the timetables are those that this Government inherited from the Labor Government and which operated for 16 years. The Minister for Transport has prioritised the continual introduction of additional services, particularly those cancelled by the Labor Government. The Minister is also having the timetables reviewed. This bill amends the Passenger Transport Act to provide for an integrated public transport network in New South Wales. The Government is committed to building a world-class transport system after 16 years of mismanagement in this State. It will enable the Government to bring transport in New South Wales into the twenty-first century. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith

Third Reading

Motion by the Hon. John Ajaka, on behalf of the Hon. Duncan Gay, agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

MARINE SAFETY AMENDMENT (DOMESTIC COMMERCIAL VESSEL NATIONAL LAW APPLICATION) BILL 2012

Second Reading

Debate resumed from 17 October 2012.

The Hon. MICK VEITCH [9.43 p.m.]: The object of the Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012 is to amend the Marine Safety Act 1998 to give effect in this State to a nationally consistent scheme for the regulation of marine safety in relation to domestic commercial vessels by applying the Marine Safety (Domestic Commercial Vessel) National Law of the Commonwealth as a law of this State, and making provision to help ensure that the Commonwealth law and the applied law of this State are administered on a uniform basis by the Commonwealth as if they constituted a single law of the Commonwealth. The bill is the result of an intergovernmental agreement on commercial vessel safety reform entered into by the Prime Minister, Premiers and Chief Ministers that establishes through a partnership between the Commonwealth and the States a national system of regulation of all commercial vessels in Australia.

The bill applies Commonwealth law to New South Wales to ensure that there are no constitutional limitations to its application in this State. The purpose of providing a single law for the regulation of commercial vessels is to reduce the regulatory burden on the maritime industry by providing for consistency in relation to domestic commercial vessels throughout the country without compromising safety. A single national law will apply a single national standard. For example, boat builders will be able to build for the national market knowing that a vessel being moved interstate will not require modification.

As the Minister advised in the second reading speech—and very clearly—the legislation does not apply to recreational vessels, foreign vessels, defence vessels or vessels owned by primary or secondary schools or community groups. It also does not apply to inflatable rafts, sailboards, paddleboards, surf skis, kiteboards or towed recreational equipment. Extensive consultation has been undertaken to ensure that there are no unintended consequences for the industry. The legislation applies to nearly 9,500 New South Wales commercial vessels and 15,000 people who hold a New South Wales licence to operate commercial vessels. The Commonwealth and the New South Wales governments hope that the bill will be operational in January 2013, although all existing vessels and crews will be able to continue to operate as they do under the current legislation until it expires or until 2016. The Opposition supports the bill.

The Hon. CATE FAEHRMANN [9.45 p.m.]: The Greens support the Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012. The purpose of the bill is to facilitate a

Council of Australian Governments decision to establish a single national law for the regulation of domestic commercial vessels that should ensure marine safety regulations are consistent across the country. It is anticipated that the Australian Maritime Safety Authority will commence operations in January 2013 as the single maritime regulator. The Greens NSW will support this bill to ensure that these national reforms apply in this State, but we do have some reservations. New South Wales has had a high standard of maritime safety and we fear that that will be diminished with the introduction of this bill to align this State's maritime safety laws to the national law that was assented to in September. There are some problems with the national law that I will address shortly.

The Greens are fully supportive of commercial vessels being used to transport people and goods. Sea transport affords many important benefits, particularly the reduction of greenhouse gas emissions that impact on climate change and thereby reduce our carbon footprint. Ships are an ideal method of transporting bulk goods between major ports. In days gone by—before cheap oil—most goods were transported by coastal shipping. Now, as peak oil becomes a reality and the price of fuel for trucks is increasing, we may see an increase in the use of maritime vessels as a cost-effective means of transport for many types of cargo.

This bill deals with domestic commercial vessel construction, operation and crewing. It will provide certainty and consistency, particularly to smaller boat owners but also to heritage vessel operators. By having consistent regulations around the country, the crew of commercial vessels will be able to move from State to State during the off season without the need for multiple certificates. Boat builders will be assisted by this consistent national approach insofar as smaller vessels are concerned. It should make the process of designing, building and certifying smaller commercial vessels much easier because there will be only one set of rules. Boat builders will be able to take orders from clients knowing that their boats will comply in all States. This will make the resale of such vessels much easier.

However, stakeholders have expressed concern about the larger vessels that travel across State borders to interstate ports. Under the new regime, domestic commercial ships operating within the economic exclusion zone—up to some 200 nautical miles off the coast—may opt out of the regime covered by the Navigation Act with its requirement to comply with the International Maritime Organization safety regulations and opt in to the national law, which has less stringent requirements. These large ships—for example, bulk fuel carriers plying their trade along the coast between Sydney and Brisbane—will not have to opt in to these more stringent regulations, which govern training and safety equipment, thereby increasing the risk of jeopardising the safety of the ship and the environment.

In remote parts help may not be so close at hand and such a disaster could result in outcomes which would be preventable if the ship were obliged to comply with International Maritime Organisation safety and training standards. Another note of caution should be expressed with regard to the regulations. These are still in draft form and it will only be when these regulations are in operation that we will see the effectiveness of this new legislation. It will be the interpretation of such regulations by the different State regulatory bodies—in New South Wales this will be the Roads and Maritime Services—which could result in slightly different outcomes around the country. This could be confusing.

The Greens suggest that the Australian Maritime Safety Authority take a more active role in the interpretation of the regulations. The Greens support the nationalisation of the legislation and regulations to make the operation of domestic commercial vessels more streamlined and consistent. However, The Greens have reservations about some sections of the bill and would like better guarantees of safety for people and the environment from the bill. The Greens look forward to seeing the regulations being finalised and interpreted in such a way as to enhance the protection of the environment and the safety of people at sea, not to reduce the standards as they have applied in New South Wales up until now. Despite those concerns the Greens support the bill.

The Hon. PAUL GREEN [9.50 p.m.]: On behalf of the Christian Democratic Party, I speak to the Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012. This bill will amend the Marine Safety Act 1998 to harmonise State and national laws for the regulation of marine safety and regulation in relation to domestic commercial vessels by applying the Marine Safety (Domestic Commercial Vessel) National Law of the Commonwealth as a law of this State, and making provision to help ensure that the Commonwealth law and the applied law of this State are administered on a uniform basis by the Commonwealth as if they constituted a single law of the Commonwealth.

This year the Commonwealth passed new laws regulating ship and seafarer safety. Among those laws was the passing of the Navigation Bill 2012 and the Marine Safety (Domestic Commercial Vessel) National Law

Bill 2012. These bills gave effect to Australia's obligations under various international maritime organisation conventions and established the Australian Maritime Safety Authority as the single national maritime regulator. Indeed, the national laws bill implements the Intergovernmental Agreement on Commercial Vessel Safety Reform signed by the Council of Australian Governments Ministers on 19 August 2011 to develop a national approach to the safety regulation of domestic commercial vessels and to establish the Australian Maritime Safety Authority as the single national regulator for domestic commercial vessel safety in Australia.

The intergovernmental agreement formalises the agreement of all Australian governments to the operating arrangements under which the single national system will operate. Agreement on the provisions of the intergovernmental agreement and the national law bills are the result of extensive negotiations between the Commonwealth, States and Territories. The intention of the national law was to replace eight existing Federal, State and Territory regulators with one national marine safety regulator and a single national law. This would liberate manufacturers, operators and crews of commercial vessels from the previously confusing and costly regulations and reduce red tape. The bill before the House harmonises existing State and Federal laws applying the national law as a law of this State. I commend the bill to the House.

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.52 p.m.], in reply: I thank honourable members for their contributions and indicate that the Government has made it clear that marine safety is a priority. The public should be confident in the safety of commercial operators and the management of risks on the water. The Marine Safety Amendment (Domestic Commercial Vessel National Law Application) Bill 2012 provides for the national regulation of the design, construction, operation and crewing of commercial vessels in Australian waters. This bill, as I have indicated before, is one of a package of measures by the Council of Australian Governments to improve the safety and efficiencies of industry.

In July 2009 the Council of Australian Governments agreed to a national approach in regulating the safety of commercial vessels in Australia. The national law passed both Houses of the Commonwealth Parliament and received royal assent on 12 September 2012. This bill will apply the national law in New South Wales to cover any gap in the Commonwealth's constitutional reach. It will establish, through a partnership between the Commonwealth and the States, a national system for commercial vessel safety regulation. The industry has made it clear that it wants consistency in the application of legislative and administrative requirements across the country.

The national law and the national system it establishes will deliver this for industry. There will be one national regulator, the Australian Maritime Safety Authority, one set of national requirements for vessels and crew and a national compliance and enforcement system, with consistent penalties for safety breaches that put passengers or crew at risk. This means that people who rely on commercial vessels for their livelihood can be confident that every commercial vessel, wherever it is in Australian waters, will be required to meet the same nationally agreed safety standards.

I thank honourable members who were complimentary of the New South Wales system and enforcement. The Government will ensure the same standards continue. The national law also means that people who design and build vessels have the security of knowing that they do not need to have that vessel inspected every time it operates in a different jurisdiction. For those who operate a national business with a fleet of commercial vessels spread across a number of States, the national system means that there will be only one set of requirements for their fleet and crew. Operators will be able to focus on running their businesses instead of dealing with costly red tape processes. I thank honourable members for their support of this bill and I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Duncan Gay agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Assembly with a message seeking its concurrence in the bill.

STATE REVENUE LEGISLATION FURTHER AMENDMENT BILL 2012**Second Reading**

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra)
[9.55 p.m.]: I move:

That this bill be now read a second time.

The purpose of the State Revenue Legislation Further Amendment Bill 2012 is to maintain legislation governing taxes and grants administered by the Office of State Revenue. The bill continues the practice of regular revision of State Revenue legislation to address anomalies, respond to court and tribunal decisions and deal with changes in business practice. While some of these amendments are minor or technical, it is important to keep pace with changes to the commercial and legal environment and to adopt best practice from other states. The bill makes substantive amendments to four Acts as well as amendments in the nature of statute law revision. I seek leave to incorporate the remainder of my second reading speech in *Hansard*.

Leave granted.

I will deal first with the amendments to the Duties Act 1997.

The Duties Act contains provisions intended to ensure that dealings in partnership interests are subject to duty where the partnership holds dutiable property such as land in New South Wales. If a partner retires but the partnership continues, it is common for the retiring partner to be paid out the value of his or her interest, and the retiring partner's interest in the partnership assets is effectively transferred to the continuing partners.

Although the partnership interest is dutiable property for the purposes of assessing duty, doubt has now been cast on whether these transactions are subject to duty. This is because the retirement or death of a partner, or the admission of a new partner, effects a technical dissolution of the partnership even when the continuing partners agree that the partnership will not be dissolved.

The bill addresses this uncertainty by providing that the retirement, death or admission of a partner will be deemed to effect a transfer of a partnership interest.

The bill also extends the provisions allowing a credit for duty paid on a related transaction over partnership land. If a separate transfer of land held by the partnership is also subject to ad valorem duty, the duty payable on the partnership interest will be reduced to the extent necessary to prevent double duty.

The amendments to the partnership provisions are in part the result of a High Court decision, and the bill includes two other duties changes that have resulted from court decisions.

In the first matter, the High Court held that mining tenements were not interests in land for the purposes of the Western Australian duties provisions. While mining leases and mineral claims are specifically included by definition as interests in land in New South Wales the decision has cast doubt over whether that includes plant affixed to the land subject to the mining leases or claims.

The bill therefore clarifies the definition of land to provide certainty.

The second matter relates to transfers of property from the trustee of a wholly owned sub-trust of a managed investment scheme to a custodian for the trustee of the scheme. A Victorian appeal court judgement has created uncertainty as to the application of the concessional trust provisions to these transfers. The bill therefore provides for concessional duty of \$50 on these transfers.

The Duties Act currently provides certain concessions in relation to entities listed on the Australian Securities Exchange or on other members of the World Federation of Exchanges. The New Zealand Exchange is no longer a member of the World Federation of Exchanges, and as a result transactions in entities listed on the New Zealand Exchange are potentially liable to duty rates higher than those listed on the Australian Securities Exchange. The bill provides for entities listed on the New Zealand Exchange to be treated as listed entities.

Another amendment to the Duties Act is an exemption from duty for the purchase of new heavy vehicle trailers, including dollies, which was announced by the Government on 18 July.

For too long, heavy vehicle operators have realised the savings to be had by registering their vehicles and trailers in neighbouring States. This exemption will see New South Wales come into line with Queensland and Victoria, which for a number of years have charged less or no stamp duty for heavy vehicle trailers.

Combined with registration charge concessions for small heavy vehicle operators, which took effect on 1 September, this stamp duty exemption for new heavy vehicle trailers sends the freight industry a strong message that the Government is determined to reduce costs for New South Wales businesses.

The bill also contains two minor amendments to provisions in the Duties Act dealing with declarations of trust over marketable securities and transfers of company title dwellings. Both amendments are made in anticipation of the abolition of duty on marketable securities transactions from 1 July next year, but do not alter the substantive effect of the provisions.

The bill makes amendments to the Health Insurance Levies Act 1982 as a consequence of changes to the publications of the Australian Statistician. The current provisions require annual adjustment of the health insurance levy on 1 February each year, based on statistics published by the Australian Statistician concerning changes in the consumer price index for Sydney and average weekly earnings.

In future, average weekly earnings statistics are to be published on a biannual basis, rather than on a quarterly basis, and the amendments reflect this change. The annual adjustment of the levy has to be delayed because the Australian Bureau of Statistics will not publish the annual weekly earnings figures for the December quarter until February each year.

In case of future changes to the way in which the Australian Statistician publishes these statistics, the amendments also permit the annual percentage change for a particular year to be prescribed by order of the Governor if the Minister certifies that it is necessary to do so because the statistical information required to calculate the health insurance rate is not available.

The bill contains three amendments to the Regional Relocation (Home Buyers Grant) Act 2011 to clarify and extend eligibility for the grant.

The Regional Relocation Grant was established to implement the Government's election commitment to provide financial assistance to people who relocate from the metropolitan area to regional New South Wales. The grant is payable when, among other things, the applicant disposes of a home in the metropolitan area that was used and occupied as the applicant's principal place of residence and purchases a home in a regional area to be used as the applicant's principal place of residence.

Various provisions in the Act acknowledge that the metropolitan home and the regional home will not necessarily be owned solely by the person who lives there, and it was intended that the grant is payable if at least one of the purchasers is eligible.

Cases have arisen where an application is technically ineligible because not all of the joint owners are relocating from the metropolitan home. The bill corrects this anomaly by providing that only one applicant must comply with the relocation requirement when there are multiple applicants.

The second amendment will extend the grant to the purchase of vacant land on which the purchaser intends to build a home. The grant currently applies to the purchase of a completed home or to a purchase off the plan but does not extend to the purchase of vacant land, even if the applicant intends to build and occupy the home immediately after purchase.

Consistent with duties concessions in relation to new homes, the value of the vacant land must not exceed \$450,000, as opposed to the maximum value of \$600,000 for completed homes, and the laying of foundations for the home must commence within six months of completion of the land purchase or such longer period as is allowed by the Chief Commissioner of State Revenue.

Thirdly, the bill extends eligibility for the grant to persons acquiring a regional home under a long-term lease.

The grant was initially limited to people who will be owners of the land which is the site of a regional home. However, a person who purchases a home in a retirement village often only acquires a long-term lease, usually for a consideration substantially equivalent to the purchase price that would be payable to acquire the freehold.

The bill therefore extends the types of transaction that are eligible for the Regional Relocation Grant to include the purchase of a long-term lease that the Chief Commissioner is satisfied provides a degree of permanency and security of tenure equivalent to ownership. The Chief Commissioner would consider matters such as the term of the lease and the consideration payable for the grant or transfer of the lease when determining whether the lease is eligible.

The amendments to the Regional Relocation (Home Buyers Grant) Act will apply retrospectively from commencement of the grant scheme on 1 July 2011. The Office of State Revenue has been administering the scheme in anticipation of these amendments to ensure that earlier applicants are assessed for their entitlement to the grant on the basis of the proposed amendments.

The bill also includes an amendment to the Taxation Administration Act 1996, to clarify the Chief Commissioner's power to make a compromise assessment of a tax liability as part of a settlement of a dispute that is subject to an objection or an appeal to the Administrative Decisions Tribunal or court.

Such settlements can avoid costly and time-consuming litigation in cases where there is uncertainty about relevant facts or about the application of the legislation to the facts of the particular case.

Finally, the bill contains statute law revision amendments to the Land Tax Management Act 1956, the State Owned Corporations Act 1989 and the Taxation Administration Act 1996, including updating references to various offices, departments and authorities.

The amendments contained in the State Revenue Legislation Further Amendment Bill 2012 were the subject of consultation with industry and professional bodies.

The amendments will provide greater clarity and certainty for taxpayers in complying with State revenue legislation and will extend eligibility for the Regional Relocation Grant. I commend the bill to the House.

The Hon. ADAM SEARLE (Deputy Leader of the Opposition) [9.57 p.m.]: I lead for the Opposition on the State Revenue Legislation Further Amendment Bill 2012. The Opposition does not oppose the bill but will note a number of issues concerning the bill. The objects of the bill are:

- (a) to amend the Duties Act 1997:
 - (i) to clarify the liability to duty on a transfer of a partnership interest that occurs as a result of the retirement of a partner or the admission of a new partner, and
 - (ii) to provide a duty concession in respect of transfers relating to managed investment schemes, and

- (iii) to exempt from duty an application to register a new heavy vehicle trailer, and
- (iv) to make other minor miscellaneous amendments, including amendments of a statute law revision nature
- (b) to amend the Health Insurance Levies Act 1982 to reflect changes to reports published by the Australian Statistician
- (c) to amend the Regional Relocation (Home Buyers Grant) Act 2011

It is a debacle, if ever there was one. It extends the scheme to the purchase of vacant land in a regional area that is planned as the site for a new home and to the purchase of a long-term lease of land in a regional area, and makes other changes to the scheme. It also amends the Taxation Administration Act 1996 and clarifies the power of the Chief Commissioner of State Revenue to make compromised assessments and other miscellaneous amendments.

The amendments are intended to ensure that dealings in partnership interests are subject to duty where property is held in the name of the partnership, such as land in New South Wales. If a partner retires but the partnership continues, the retiring partner is often paid out the value of his or her interest and the retiring partner's interest in partnership assets is transferred to the partners who continue. Because of the decision of the High Court in *Commission of State Taxation v Cyril Henschke* doubt has been cast on whether these transactions are subject to duty because the retirement or death of a partner technically effects a dissolution of the partnership. The bill, as I understand it, is intended to address this uncertainty by providing that the retirement or death of a partner or the admission of a new partner would be deemed to effect a transfer of the partnership interest.

The bill also will introduce an exemption from duty in respect of the purchase in New South Wales of new trailers for heavy vehicles. As stated in the Treasurer's second reading speech in the Legislative Assembly—and I assume in the incorporated speech of the Minister in this place—the amendment is principally designed to encourage transport operators based in New South Wales to purchase and register new trucks and trailers in this State. Heavy vehicle operators are entitled to purchase trailers in any jurisdiction in Australia. An interstate-registered truck must spend at least two days travelling outside New South Wales every 90 days to meet the National Registration Scheme conditions, otherwise the prime mover and trailers must display New South Wales licence plates. This has led to a situation where transport operators based in New South Wales buy trailers in Queensland or Victoria, as those States have more favourable stamp duty regimes for the purchase of heavy vehicle trailers. This amendment will encourage transport operators to purchase heavy vehicles in New South Wales.

The bill also makes amendments as a result of changes in publications of the Australian Statistician. The current provisions in the Health Insurance Levies Act provide for the annual adjustment of the health insurance levy to be based in part on statistics published by the Australian Statistician. Some of these statistics are now published biannually rather than on a quarterly basis and so the amendments update the adjustment provisions accordingly. The bill amends the Regional Relocation (Home Buyers Grant) Act 2011 by extending its ambit. It does so because the scheme has been such a flop. The grant is currently payable when an applicant disposes of a home in a metropolitan area that was used and occupied as the applicant's principal place of residence and thereafter purchases a home in a regional area to be used as the applicant's principal place of residence. There have been occasions where a single co-owner moves, leaving the former co-owner in the original property. The Treasurer says in his second reading speech that:

... it was intended that the grant is payable if at least one of the purchasers is eligible and cases have arisen where an application is ineligible because not all the joint owners are relocating from the metropolitan home.

Even though it is now said that that was the intent, it was never legislated for. That causes me to have some doubts about whether that was, in fact, the original intention, particularly as it did not feature in any of the speeches given by Government members. I am somewhat doubtful as to that rationale. As a result of the amendment, now only one applicant will have to comply with the relocation requirement when there are multiple applicants. Secondly, the amendment will extend the grant to the purchase of vacant land on which a purchaser intends to build a home. Currently the grant applies to the purchase of a completed home or to the purchase of a house and land off the plan but does not extend to the purchase of vacant land.

Vacant land will now attract the grant so long as the value of the vacant land does not exceed \$450,000, as opposed to the maximum value of \$600,000 for a completed home, and the laying of foundations must commence within six months of completion of the land purchase or such longer period as is allowed by the Chief Commissioner of State Revenue. It is not clear what guidelines the Chief Commissioner of State Revenue

will have to follow when determining the longer period. It is remiss of the Government not to set out some type of guideline in the legislation before the House. This is a grave omission on the part of the Government. The bill also extends the eligibility of the grant to persons acquiring a regional home under a long-term lease. Currently the bill applies only to persons who are purchasing as owners a site with a regional home. The grant will now be widened to allow persons who purchase a home in a retirement village or other such long-term lease that the Chief Commissioner is satisfied provides a degree of permanency and security of tenure equivalent to ownership. I am not so sure that would necessarily apply to many retirement homes, but again there is nothing to guide the Chief Commissioner in the exercise of this discretion.

The Treasurer's second reading speech—and again I assume the Minister's incorporated speech—states that the Chief Commissioner will consider matters such as the term of the lease and the consideration payable for the grant or transfer of the lease when determining whether the lease is eligible. Members on this side of the Chamber have concerns about that, as the grants scheme is currently a flop and taxpayers' money is being used for the purpose of these grants. The exercise of the grant should be done according to transparent guidelines, not delegated to a public officer such as the Chief Commissioner without any clear guidelines that apply to prospective grant applications.

It is also worth noting that the amendments will apply retrospectively from the commencement of the scheme on 1 July 2011. It is a blatant attempt to beef up the statistics of this legislative debacle and, quite frankly, can only be described as a scam. According to the Government's own estimates, there should be something like 12,000 processed and approved grants. Instead, as the Deputy Premier indicated during the budget estimates process, there have been only 1,232 grants provided under the scheme. That makes the scheme an embarrassing flop, which the Government now has to retrospectively strap up. When quizzed about that in some detail by my colleague the Hon. Mick Veitch during the budget estimates process, the Deputy Premier said:

I would indicate that the scheme is actually administered by the Office of State Revenue so that the questions regarding funds would be better directed to the Minister for Finance and Services, the Hon. Greg Pearce.

The Deputy Premier, having been the champion of this scheme when it was introduced and having spoken about all the good things it would achieve, when confronted with the reality of the debacle that it has become does the flick pass to the Minister. During the passage of the original bill the Deputy Premier said, "This is good policy". Yet, clearly, it has not produced the goods. As to where the money allocated for the scheme has gone, we discover that \$8.5 million has gone to The Star casino for global financial crisis offset payments. I am not so sure that was the original intention. Certainly none of the Ministers or Government speakers drew that to the attention of the Parliament as one of the guiding principles of the scheme.

As indicated by the Hon. John Robertson, the Leader of the Opposition in the Legislative Assembly, last year in his budget in reply speech, the money should have been redirected to create and retain 44,000 jobs in agriculture and manufacturing in the regions over the next four years. It would have been much better to spend the money on the regional agriculture and manufacturing promotions scheme, as proposed last year by the Opposition, than on this embarrassing scheme, which the Government is now desperately trying to strap up retrospectively. It is just a scam. For example, the Treasurer says that the scheme has been administered with these type of people in mind—people who have already moved into a retirement village on a long-term lease and have applied unsuccessfully for the grant, but doing so in anticipation of these amendments. In other words, do not worry about the details, the Government will fix it up later.

The original scheme was said to have been about encouraging people to move. The bill was said to provide a \$7,000 grant, to be paid retrospectively to someone who had already moved. That provides no encouragement; it is a blatant attempt to retrospectively prop up what clearly has been shown to be a failure. At this rate, the Treasurer will just be giving away Waratah bonds for free; they have been a great success as well. Finally, the bill clarifies that the Chief Commissioner of State Revenue can make a compromised assessment with the agreement of a taxpayer in relation to the taxpayer's liability for tax for the purposes of settling a dispute about taxation, provided that a decision not to make a compromised assessment cannot be the subject of an objection by the taxpayer. Various other miscellaneous amendments are affected by the bill before the House. As I indicated at the outset, the Opposition, although not free of criticism, does not oppose the legislation.

Dr JOHN KAYE [10.11 p.m.]: The Greens do not oppose the State Revenue Legislation Further Amendment Bill 2012. From time to time the Treasurer or Minister for Finance introduces legislation to fix up a number of minor or relatively minor matters, many of which arise as a result of decisions made by courts in New South Wales and elsewhere; this is such legislation. It relates to a number of matters, including the transfer

of partnership interests, dutiable land under mining leases or mineral claims, managed investment schemes, new heavy vehicle trailers, health insurance levy changes, amendments to the regional relocation grant, extension of the grant scheme to purchases of vacant land, extension of the grant scheme to long-term leases, and joint owners of a regional home. The Greens do not raise objections to any of those.

I will address a couple of those matters. The first is the new heavy vehicle trailers. I think there has been some misunderstanding of statements made by The Greens about this. The problem, as I understand it, is that New South Wales has a higher rate of registration duty on heavy vehicle trailers than do the other States; indeed, New South Wales is losing registration revenue as a result of owners of heavy trailers going interstate to register their vehicles in those States. There are two ways in which one could address such a problem. The first and most common way—the way advocated by this legislation—is to drop the registration costs to be in line with those of other States. Of course, that would stop vehicles being registered interstate, but it would also lower the amount of revenue collected from each vehicle.

It would also send a message of a race to the bottom—a race for which the States have demonstrated a quite remarkable capacity since Federation. The other alternative would be to have gone to the Treasurers or finance Ministers in other States and attempted to negotiate a uniform fee that was somewhat higher than is being applied in some other States. This is an important source of revenue because it has to be acknowledged that eventually the use of road transport for freight will come to an end—not just because of a need to reduce greenhouse gas emissions, but also because inevitably we face increasing shortages of liquid fuels and that will drive up the costs of road freight and inevitably cause a shift to fixed rail freight.

The opportunity was available to achieve a uniformly higher rate of duties on registrations of vehicles across Australia, to stop the leakage of vehicles out of New South Wales and to raise revenue that could have been hypothecated to contributing to the building of a new rail system for New South Wales. That opportunity has been lost by this legislation. It is important that we not allow duties and registration charges to fall below the attributable cost of a road trailer. Of course, the attributable cost ought to include greenhouse impacts, as well as road damage and congestion costs. Unless and until that is achieved, there is effectively a cross-subsidy by taxpayers of the road freight haulage industry. That cross-subsidy ought not please anybody on the right-hand side of this Parliament because of their disdain of cross-subsidies.

The Hon. Dr Peter Phelps: I agree with you—and that is beginning to worry me.

Dr JOHN KAYE: Nor does it please anybody on the left-hand side of politics because they are concerned not only about money being leached out of important activities such as public education but also about the creation of incentives for environmentally damaging activities such as road freight haulage.

The Hon. Dr Peter Phelps: It is a market distortion.

Dr JOHN KAYE: It must be the lateness of the hour, but I find myself in agreement with the Government Whip; and that is indeed frightening. It is important that we get this right. The multibillion dollar freight moving industry in Australia needs to be on a firm economic footing, with all externalities internalised, including attributable costs of road damage, greenhouse gas congestion and resource depletion. Until that happens, we will be causing market distortions. The Greens are concerned that lowering the duty on registration would increase market distortions. The other area of interest is the amendments to the Regional Relocation (Home Buyers Grant) Act. During budget estimates the Hon. Mick Veitch did his usual skilled job of exposing the absurdities of this grant.

The Hon. Mick Veitch: It's a dud.

Dr JOHN KAYE: He exposed the dud characteristics of the Regional Relocation Grant. I do not think anyone in this Chamber is hostile to the idea of regional relocation, but we are hostile to the idea of money being wasted—on the additionality of the spending of that money not only on people who would have moved anyway but also on people moving effectively across the road. So there are clear design issues with the regional relocation grants. It is a great shame that this opportunity was not taken to try to fix some of those design issues, particularly in an era in which \$1.7 billion is being cut from the funding of public education and some \$800 million is being cut out of the budget of the health system. Clearly the Government is arguing there is a shortage of cash. This would have been a great place to begin to fix this dud scheme and stop the wastage of money. That being said, The Greens do not oppose the legislation.

The Hon. MICK VEITCH [10.18 p.m.]: I have some brief comments to make about the State Revenue Legislation Further Amendment Bill 2012, but particularly regarding the amendments proposed to the Regional Relocation (Home Buyers Grant) Act 2011. I refer specifically to items [3], [6] and [11] of schedule 3 which, as the explanatory note to the bill states:

... allow an application for the regional relocation grant to be made in respect of a purchase of vacant land in a regional area, that is intended to be the site of a home. The laying of the foundations of the regional home must commence within 26 weeks (or such longer period as the Chief Commissioner may approve) after the purchase is completed.

I ask the Minister for Finance and Services: Who will police these provisions? What are the compliance processes for the schedule 3 provisions? Who will check that the laying of foundations commenced within the time frame outlined in the legislation? Will it be the responsibility of local government to sign off on compliance checks? It would be nice to know who will police those provisions. I turn now to the extension of the grant scheme for long-term leases. The explanatory note in the bill states:

Schedule 3 [12] allows the transfer of, or a grant of, a long term lease in respect of a regional home to be treated as a purchase of a regional home. Accordingly, the purchase of the lease can qualify as a regional relocation. A lease of land is a long term lease if and only if the Chief Commissioner is satisfied that the lease gives the lease holder a degree of permanency and security of tenure that is equivalent to an estate in fee simple in the land.

It clearly states—and the Opposition has said this for a long time—that the scheme's criterion was a failure. The scheme needed to be broadened to allow more people to access it. As Dr Kaye said, no-one is disputing the \$49 million in funding being targeted to New South Wales, but the scheme has not worked as expected and is in need of modification—the Deputy Premier admitted that during the budget estimates. Why has it not been extended to those renters in western Sydney who wish to relocate to a regional area to take up employment? Why was this not considered when the Government is looking at broadening the eligibility criteria for the Regional Relocation Grants scheme? The scheme has clearly not met expectation. Some \$49 million was budgeted for it last year.

The New South Wales budget summary for 2012-13—part of the call for papers dated 5 June 2012—reveals funding of \$46.9 million in the 2011 budget, but there was a reallocation to offset the GST payments for The Star of \$8.5 million. This money was budgeted to stimulate regional economies in country New South Wales but the unspent funds were transferred to offset the GST payments for The Star. No-one can suggest that is a good thing. The Minister for Finance and Services is sitting at the table so I will not put those opposite in a position of saying anything about it. It is wrong, and not one country person in New South Wales would say that was what the scheme was meant to do. The other issue with the scheme is where people are moving to. I must thank the Minister for Finance and Services, who is always very quick to respond to my questions on notice about the Regional Relocation Grant scheme.

The Hon. Greg Pearce: Fulsome answers.

The Hon. MICK VEITCH: The Minister's answers, which are very good, indicate from a study of postcodes that the majority of those taking up this scheme are moving to coastal New South Wales, not west of the Great Dividing Range and, as someone who lives west of the Great Dividing Range, I am biased about this. A scheme that is meant to stimulate regional economies in country New South Wales should be looking at economies west of the Great Dividing Range as well as those up and down the New South Wales coast. The broadening of eligibility for this scheme—

[Interruption]

I do not support the view that everyone should move to the coast. I find living west of the Great Dividing Range wonderful. The scheme should be encouraging people to move to all areas of country New South Wales—that is another issue around the eligibility criteria and the targeting of the problem.

The Hon. Dr Peter Phelps: You cannot do that.

The Hon. MICK VEITCH: Are you saying you do not support the scheme?

The Hon. Dr Peter Phelps: I am saying that you cannot force people.

The Hon. MICK VEITCH: Eligibility is a problem and the Government has clearly acknowledged that because legislation is now required to broaden it. The Deputy Premier admitted during budget estimates that

there was a problem and that further dialogue was needed around the eligibility criteria, as well as where those who take up the scheme are going. The Government budgeted for 7,000 grant places in a year and—according to answers received to questions on notice—as at 30 June some 862 of the 7,000 grants had been taken up. Clearly, the scheme is not working. The \$49 million in funding should be used to support the creation of new jobs in regional New South Wales. The bill does nothing more than to acknowledge that the scheme has significant problems and is in need of further surgery.

Reverend the Hon. FRED NILE [10.25 p.m.]: On behalf of the Christian Democratic Party I support the State Revenue Legislation Further Amendment Bill 2012. The bill provides, extends and clarifies various tax concessions and exemptions. It also removes liability on declarations of trust over marketable securities following the abolition of duty on 30 June 2013. The bill clarifies a concession for transactions relating to company title dwellings. It extends the meaning of land for duties purposes to plant affixed to mining leases and mineral claims. The bill provides an additional concession for transfers within managed investment schemes. It also provides that securities quoted on the New Zealand exchange are eligible for the same duties concessions as securities quoted on the Australian Stock Exchange or major world exchanges.

Importantly, the bill provides an exemption from motor vehicle duty for an application to register a heavy vehicle trailer. The proposed exemption is part of a broader list of government measures to help ease the financial pressure on road freight operators in New South Wales brought about by increases in national heavy vehicle registration charges. Additionally, a large number of truck trailers being hauled on New South Wales roads display Queensland or Victorian number plates, which means that transport operators are buying and/or registering new trailers in other States, with New South Wales forfeiting associated registration revenue. The Government needs a way in which to force those operators to register their truck trailers in New South Wales.

The bill amends the Health Insurance Levies Act. It also amends the Regional Relocation (Home Buyers Grant) Act to remove an anomaly that disqualifies an applicant in circumstances where they should be eligible, it extends eligibility to the purchase of vacant land on which the purchaser intends to build a home and it extends eligibility for the grant to include the grant or transfer of a long-term lease. Finally, the bill confirms that the Tax Commissioner may make a compromise tax assessment to reflect a settlement of a tax dispute. It also includes statute law amendments to correct references in State revenue legislation. The Christian Democratic Party is pleased to support the bill, which will improve the State's economy. It will greatly assist business and increase employment opportunities in New South Wales.

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [10.28 p.m.], in reply: I thank all members for their excellent contributions to debate on this important bill. The New South Wales Government is committed to having best practice revenue laws. The State Revenue Legislation Further Amendment Bill 2012 makes important amendments to the Duties Act 1997 to ensure that legislation is current and consistent with best practice administration. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Greg Pearce agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

ADJOURNMENT

The Hon. DUNCAN GAY (Minister for Roads and Ports) [10.31 p.m.]: I move:

That this House do now adjourn.

GENETICALLY MODIFIED CROPS

The Hon. NIALL BLAIR [10.31 p.m.]: Last week in this place the Hon. Jeremy Buckingham attacked Government members for what he said was turning their backs on science and vilifying The Greens, the scientists and those who recognised the need to be honest with the people of this State. As a member of this House with a horticultural science degree, I take exception to that comment. We are starting to hear from The Greens that they are somehow a viable alternative to voters in regional New South Wales. Tonight I point out to the House The Greens' real attitude to science and research that matters to the people of regional New South Wales, particularly in relation to agriculture.

The Greens say that they will not give the green light to genetically modified crops or any other versions of genetically modified farming, despite widespread support for biotechnology amongst Australian farming groups and the scientific community. While I do not stand here advocating for or against genetically modified crops, it is important to point out that The Greens are so single-minded on this issue they refuse to accept any scientific evidence that does not fit their agenda. One of The Greens key land use policy statements claims that they aim to provide accurate information to farmers and consumers about the long-term effects of genetically modified crops. I would like to know, however, how The Greens can discover this information when they support the destruction of scientific research.

Members may remember that in July 2011 Greenpeace protesters broke into a CSIRO-operated farm near Canberra and destroyed a field trial of genetically modified wheat. This terrorist act was supported by The Greens, with Federal Greens member Shane Rattenbury claiming that "you have to stand up for what you believe in sometimes". The CSIRO had been granted approval by the Federal regulator to begin highly controlled trials of the new variety of wheat. The wheat's genetic make-up had been altered to improve its nutritional value, modifying the level of resistance to starch, which promises significant health benefits for obesity and bowel cancer. Bowel cancer is the second most common cancer amongst Australians and it is largely preventable. The wheat that the CSIRO is currently working on is expected to dramatically assist in reducing the incidence of bowel cancer. But due to the actions of this fanatical group, supported by The Greens, the field trial had to be abandoned and critical research delayed for more than a year.

There are far too many other examples of how Greens' activists have hindered valuable scientific research around the world. Another example is golden rice and its potential to stop vitamin A deficiency, which causes serious health problems for millions of people globally. Golden rice, which has been genetically improved to produce betacarotene, could more than halve the disease burden of vitamin A deficiency in developing countries. Unfortunately, golden rice has not yet reached fields, let alone plates, anywhere in the world due to a particularly ferocious scare campaign run by anti-GM activists and no doubt supported by The Greens. Up to 500,000 children go blind every year due to vitamin A deficiency. In India alone it is estimated that golden rice could help reduce the burden of vitamin A deficiency by up to 59 per cent or save up to 40,000 lives each year. Deaths from vitamin A deficiency are currently estimated at 71,000 annually among pre-school children.

While The Greens aggressively defend the position of the experts on climate change, they will conveniently ignore the substantial body of scientific evidence on the value and importance of biotechnology and genetically modified crops because it does not fit with their media strategy. How does this disconnect from reality sit with the electorate? An examination of recent election results shows that constituents are beginning to realise the truth of The Greens' agenda. Last month's New South Wales local government elections reflected that the people of New South Wales, particularly those in rural and regional areas, are well aware of The Greens' damaging policies. The Greens experienced a large swing against them across the State. In the Australian Capital Territory elections last weekend The Greens experienced a 5 per cent swing against them and lost two of their four seats.

With the support of The Greens dwindling in the metropolitan areas, they are now trying to rebadge themselves to represent regional communities. They will find it hard to do this while they support policies such as the carbon tax, which will have a huge impact on regional businesses; the banning of live exports, which was a knee-jerk reaction that has devastated cattle producers; or damaging amendments to the Murray-Darling Basin plan, which will threaten irrigation communities. Only last week the New South Wales Greens voted against cloud seeding in the Monaro. That is an entire gamut of terrible policies that have been, and will continue to be, catastrophic for the regions. The Greens now claim to support regional people and base their policies on scientific evidence. However, the reality is that they are only interested in science or regional issues when it suits their agenda.

AUSTRALIAN ARABIC COMMUNITY

The Hon. SHAOQUETT MOSELMANE [10.36 p.m.]: I was delighted to hear that Australia recently won a temporary seat on the United Nations Security Council. The Federal Labor Government and, in particular, our Minister for Foreign Affairs, the Hon. Bob Carr, must be congratulated on the effort and success. It is also a credit to the former Prime Minister, the Hon. Kevin Rudd, who laid the foundation to this victory. With this success though comes a heavy responsibility. We have a responsibility to be fair and just and to look at international issues with both eyes wide open. Our credibility as a fair and responsible nation demands that we take just and fair decisions. I hope that we maintain this position on the United Nations Security Council for the next five years and into the future as the United Nations deals with the tensions of the Middle East that directly affect, in one way or another, the Australian Arabic Community.

So a peaceful future is as critical to the Arab peoples in the Middle East as it is to the Arabic community in New South Wales. We must be sensitive to their fears and we must be wary not to advertently or inadvertently play on political or sectarian differences or on charged political emotions that trouble some in the New South Wales Arabic community. The Middle East is slipping into poverty and economic, social and political instability. The recent killing of the Lebanese Chief of Security had Lebanon teetering on the verge of civil war, only to be held back by some wise political leadership and, thankfully, a united Lebanese army. Now awash with weapons, Lebanon is an arena for regional and international disputes, ready to ignite. I sincerely hope and wish that that does not happen.

Syria's internal war has to date accounted for the deaths of an estimated 30,000 innocent civilians, and sadly there is no resolution in sight. Syria's internal military conflict, fuelled by national, regional and international power play, has now spilled into Turkey with Kurdish fighters engaged in border combat with Turkish army units on a daily basis. The Jordanians were recently successful in uncovering a terrorist plot, but the Jordanian authorities may not be able to prevent future internal strife. That in turn will have significant ramifications for the Palestinian people and the political dynamics with neighbouring Israel. After seven decades of Israeli occupation, another Palestinian Intifada may well be on the cards. Libya and Iraq remain deep in military and political tension, and the Arab Gulf has not escaped turmoil with the Bahrain clamp down and tensions in other Gulf states remain high.

I raise these issues so as to bring some light on and understanding of the many issues, as well as the political and military conflicts, that are of concern to the Arabic community of New South Wales. The Australian Arabic community is a diverse group of people coming from across 23 countries in the so-called Middle East. They differ in historical, cultural, religious and sectarian backgrounds. However, they are united in language and to some degree by political traditions. Whether Coptic Egyptians, or Bahrani or any other communities coming from the Arab world, they are all in deep fear for the wellbeing of their families and friends, and for the future of their communities.

Many of these communities have developed a growing sense of apprehension about tensions in the region and rightly so given the deteriorating circumstances. Unity amongst the Arabic community remains firm but cracks have emerged. Thankfully, most community leaders remain vigilant against emerging cracks and any attempt by extremists who seek to play on the community's sectarian and political differences. The overwhelming majority of the leadership in the New South Wales community are alert and aware of the consequences of sectarian tensions. To their credit, they have resisted sectarian conflict and, as we have seen following the recent Sydney protest, they came together in a show of unity. I take this opportunity to congratulate them and the leadership of the Australian Arabic community on their understanding and capacity to read the situation and resist rising emotions to get involved in the raging tensions of the Middle East.

BELLATA GURLEY ACTION GROUP AGAINST GAS

The Hon. JEREMY BUCKINGHAM [10.40 p.m.]: I will again speak about the failure of The Nationals and congratulate the landholders of the Gurley and Bellata areas on their ongoing campaign against coal seam gas and the companies with interests in Petroleum Exploration Licence area 470, which are Leichhardt Resources and farm-in partner Planet Gas. Since visiting the Bellata Gurley Action Group Against Gas in the middle of last year I have watched closely how this community has come together in its fight against gas. The group recently wrote to the companies involved to outline a number of demands. I have been given permission by the farmers to read much of that letter onto the record as evidence of the community spirit and the

determination of people whose lives and livelihoods are being put at risk by this Government and their Nationals representatives in the other place. It is written on behalf of the group by their lawyer in relation to Petroleum Exploration Licence 470—Landholders and Access Arrangements. The letter reads:

We refer to the above matter and our previous correspondence with you in October last year. Our client group, the Bellata Gurley Action Group Against Gas, has instructed us to write to you again in light of the NSW Government's recent announcement of its decision to offer a number of Petroleum Exploration Licences for renewal, of which Petroleum Exploration Licence 470 (PEL 470) is included.

We are instructed that our client group holds signed declarations by 100% of the landholders within the boundaries of PEL 470 that they will not grant access to any company wishing to explore for Coal Seam Gas (CSG) on their land.

We are instructed to inform you that the lands within PEL 470 make up some of the most productive agricultural lands in NSW. Our client asserts that the land use practices within PEL 470 make up a critical agricultural industry cluster for cereal grain growing, including wheat growing and in particular durum pasta that is world renowned, as well as pulses, oilseeds, cotton and cotton seed.

Our client group has engaged an independent expert to undertake an assessment in relation to the soils within PEL 470. The report of that assessment addresses a number of matters including the suitability of the particular soils within PEL 470 for CSG activities.

The Hon. Rick Colless: Which ones?

The Hon. JEREMY BUCKINGHAM: Vertosols. The letter continues:

After field research and the completion of a literature review the report finds that the particular soils within PEL 470 are not suitable for development as gas fields due to the hazards associated with gas infrastructure and gas development activities as a consequence of the presence of the highly expansive and highly erodible soils. It finds that CSG development within PEL 470 would face a very high risk of pipe failure, and damage to the extensive soil conservation works resulting in substantial and costly soil erosion.

The independent expert assessment also included an analysis of the Review of Environmental Factors for PEL 470 prepared on behalf of your company. The report states that the particular REF does not adequately address many of the matters that ought to be addressed regarding the soils of PEL 470. It identifies that the REF contains incorrect statements regarding the soils of PEL 470, and does not address in any way their immense capacity for continued and sustainable agricultural production, which our client contends is misleading.

Our client also draws to your attention that relevant public authorities that have care and control over public lands within PEL 470 have stated their opposition to CSG activities on lands within PEL 470. Most notably the Directors of the North West Livestock Health and Pest Authority recently wrote to the Director General of the Department of Trade and Investment objecting to the renewal of PEL 470. Further, Moree Plains Shire Council has consistently resolved not to support or allow any CSG activities on lands that it has care and control over.

We are instructed that you have sought a 6 year renewal of PEL 470 and that renewal will contain a proviso that you make reasonable endeavours to resolve access issues by the end of the term for which PEL 470 is renewed. It is our client's contention that access issues will not be able to be resolved.

Our client asks that you withdraw any application to renew PEL 470. That you consider the matters identified in this letter and the fact that every landowner in PEL 470 has indicated that it will not voluntarily grant access for CSG activities on their land. That you also consider that each of the landholders within PEL 470 has signed a declaration objecting to the renewal of PEL 470 and does not in any way support the NSW Government's decision to offer PEL 470 for renewal.

The letter concludes:

That this Liberal National government intends to impose CSG on any community ignores the serious risks presented by this industry. But that it does against such well reasoned and clear opposition like this from the Gurley Bellata Group Against Gas shows their contempt for the very people that elected them.

TRIBUTE TO BRUCE LESLIE WARD

The Hon. RICK COLLESS [10.44 p.m.]: I offer my condolences to the family and friends of Bruce Leslie Ward, who passed from this mortal life on the morning of 24 September 2012. Bruce originally came from Denman, in the Hunter Valley, and, after achieving his diploma in agriculture from C. B. Alexander Agricultural College at Tocal, his early working life was with intensive agriculture in dairying, irrigated grain production and horticulture, all within the Hunter Valley of New South Wales. The western plains, however, were beckoning Bruce and in 1981 he moved to Collarenebri to take up the position of general manager with one of the largest cotton producers at the time, Colly Farms Limited, and in later years he became a director of the company.

Despite his success with Colly Farms, his inquiring mind and insatiable appetite for knowledge introduced Bruce to the teachings and writings of a gentleman by the name of Allan Savory, who some years earlier had perfected a decision-making process known as holistic management. Bruce and his wife, Suzie, founded a company called Holistic Results and they moved to Moree and began a program working with Allan Savory to introduce Australia to the process of holistic management, particularly as a methodology of addressing the management problems associated with the extensive pastoral regions of Australia. They introduced a comprehensive training program for farming communities on how to better make decisions for the best possible outcomes on social, economic and environmental bases, and embraced the concept that any decision that does not address equally all three aspects cannot be a sound decision.

I was fortunate to participate in one of the early training courses run by Bruce Ward while I was employed by the Soil Conservation Service. At that time my duties included the management of some 30,000 hectares of land surrounding the foreshores of Copeton Dam, the major irrigation water storage on the Gwydir River. The department was charged with managing this land to prevent soil erosion occurring and contributing to the siltation of the dam. The land had been resumed some 20 years before I became involved with it. Bruce Ward had invited Allan Savory to Australia and I approached the men following a public forum and introduced myself. The next day I accompanied them both on an inspection of the foreshores, where an innovative land management program was born, as was a very deep friendship with Bruce and Suzie Ward. I worked closely with Bruce for many years following that inspirational day, both within the department and later as a private agricultural consultant, and later again after I commenced my duties as a member of this place.

Over the next 20 years or so Bruce Ward personally trained over 2,500 people, and his work has been taken up by many more. These people collectively manage millions of hectares of land in Australia and New Zealand, and Bruce was a personal mentor to many of them. The founder of holistic management, Allan Savory penned a very sincere message on the passing of Bruce Ward, and I quote part of that message here:

Since my school days I have often thought of life like a game of cricket in which each of us comes in to bat once for our team. For some of us the team is family, for others it is also community or nation and yet for others all of humanity. While being an intensely family orientated man, Bruce also saw that his family and friends could not be an island unto themselves and he thought bigger and batted for Australia. Unfortunately, none of us, no matter how well we bat, get to carry our bat "not out" forever. Inevitably each of us faces the umpire's upraised arm as we are stumped, bowled, caught or run out, and what matters to the team—be it family or nation—is how we played our innings. The teams for which Bruce played—family and fellow Australians—can all feel proud of Bruce's performance at the crease. He never let the team down at any level. Such people are to be treasured and long remembered, as we will remember Bruce.

To Bruce's wonderful family, Suzie, David and Camilla, Andrew and Sally, grandchildren Olivia, Lucas, Daisy and Kingsley, his mum, Dorothy, and all the extended family, I extend my personal condolences. You can all be reassured that this world is a better place for Bruce Ward having walked upon it.

TRIBUTE TO RAY GIETZELT, AO

The Hon. LYNDIA VOLTZ [10.48 p.m.]: I pay tribute to Ray Gietzelt, who recently passed away, and I offer my condolences to his wife, Vi, his daughters Suzanne and Joanne and son-in-law Ray, and his six grandchildren and nine great-grandchildren, whom he adored. Ray Gietzelt was perhaps, amongst a handful, one of the most outstanding figures of the trade union movement in Australia during the twentieth century. He was a keen defender of rank and file rights and of membership control of collective bargaining. Ray is best known as the crusading National Secretary of the Miscellaneous Workers Union, where he was affectionately known around the office as the Gaffer.

Speaking at Ray's retirement dinner after almost 30 years as general secretary of the union in July 1984, former Prime Minister Bob Hawke outlined Ray's achievements. He noted that in 1955 he was elected the youngest union Federal Secretary in Australia, and he took the union membership from 19,000 to over 120,000 and made the Missos what it is today. At the time Bob Hawke, who also spoke at Ray's recent funeral, acknowledged the significant role that his mate Ray played in his life. "When I decided to run for President of the ACTU, it was Ray's intense support and his tireless work on my behalf as much as anything else that got me there," he said.

Ray, his brother, Arthur, and his sister, Fay, grew up in Newtown where their father, Arthur, ran a small business selling solid rubber tyres. Ray noted that the business did well as the tyres were very popular. This was because the steel nails thrown from horse drawn carts would puncture pneumatic tyres. Ray and his brother attended Newtown Public School as young boys. His brother, Arthur, recounted how his father's business ensured that they had a comfortable childhood and they both wore shoes to school. He recalled,

however, that at least a dozen other children in that school did not and shivered during the cold winter months. The business collapsed in 1929 under the weight of the Depression and Ray and his family moved first to Enfield and then to Sans Souci in search of cheap rent. At the age of 16 Ray enrolled in a chemistry course at Ultimo Technical College, which he attended at night as well as working a 44-hour week at the Incorporated Laboratories.

When the Japanese bombed Pearl Harbour he and four mates decided to sign up and joined the Army. In 1942 he applied for a transfer to the 9th Field Company of the Royal Australian Engineers, the unit his brother was also in. Alongside his patrol duty in search of Japanese soldiers being driven out of Lae by the Australian Infantry, he was part of the crew that completed the remarkable task of extending the track over the Owen Stanley pass. In 1940, before his enlistment in the Army, Ray had joined the Federated Miscellaneous Workers Union as it was the only union that had a constitution that covered chemical manufacture, including paints and varnishes. As Jeff Lawrence, a former Secretary of the Australian Council of Trade Unions and Federated Missos, stated:

The Army experience was important to Ray. The sense of comradeship it gave him was transferred to the union. The Missos was the way he would fight for the betterment of society.

When he returned from the war, Ray began work in his father's small chemical company, Getz Products, where he continued his union membership. He also became interested in the accountability of the union and moves to return control to the union rank and file. As Ray outlined in his book *Worth Fighting For*:

My initial impressions of the union were that its leaders worked actively to prevent rank and file members from voicing their opinions on wages and conditions of employment

Ray's transformation of the Missos was an outstanding battle. Ray, alongside Harold Facer, George Ford, Jack Dwyer, Jim Reid and Mary Rohan and many others, formed the nucleus of the Progressive Committee group. In 1951, alongside rank and file members, they established the Protest Committee to organise for the removal of eight officials, including the branch secretary. The union retaliated by attempting to cancel Ray's membership. Ray took the union to the Industrial Relations Commission where Justice Richards ruled in his favour and his membership was reinstated. After a fiery annual general meeting which the union hierarchy tried to shut down Ray Gietzelt took out a summons against the union.

The Protest Committee was represented by a talented young lawyer, Lionel Murphy. The incumbent union officials were represented by another lawyer by the name of John Kerr. The court handed down a unanimous 18-page verdict against the union and in favour of the Protest Committee. In the subsequent elections the Protest Committee won all positions it contested with a 4:1 margin. The new leadership of the Missos set about defeating the BALM incentive payments in the paint industry, casualisation of the watchmen on the wharves, the lockout of workers for joining a union at the Arthur Murray studios and, perhaps their greatest task, cleaning up the Askin Government. In the final sentence of his memoirs Ray notes, "the great Australians who have kept alive Labor's idealism and in particular the ideal of advancing the rights of workers and their dependents". It is clear that Ray Gietzelt was one of those great Australians.

EUTHANASIA

The Hon. CATE FAEHRMANN [10.53 p.m.]: Since I became involved in the campaign for voluntary euthanasia, I have been overwhelmed by the touching personal stories that members of the community have shared with me. These people have been compelled to share their stories after watching a loved one needlessly suffer excruciating pain before their death. Particularly poignant was the story of Sarah Edelman describing her father's experience in palliative care following his diagnosis with incurable cancer. "The cancer that was growing inside of him caused him severe pain whenever he ate, so dad was limited to tiny quantities of soup," wrote Edelman. She was shocked to discover that her father was not exaggerating when he said he was eating less than a two-year-old. Edelman was quick to praise the attentiveness of nursing staff and the facilities of the palliative care centre that her father was admitted to weeks after his diagnosis. Unfortunately, her father's condition quickly declined. She wrote:

It is impossible to describe the weakness and fatigue that beset my father in those last few weeks of his life. The fatigue was utterly debilitating—incomparable to anything I have ever imagined, and with it came deep despair. The weakness increased daily, progressively robbing him of every capability. As even tiny amounts of food caused stomach pain, dad gave up on eating. On their daily visits doctors ... had nothing to offer for dad's weakness and malaise.

Two weeks later, Edelman wrote that her father no longer had the strength to leave his bed, he was no longer able to go to the toilet and he was too weak to locate the call button. Shortly after, Edelman recounts, her father developed oral thrush from not eating, causing painful inflammation of his mouth which made it almost impossible for him to speak. Unable to swallow anything, her father tried to drink which resulted in fluid pouring into his lungs. Edelman reflects:

I suspect what made dad's experience particularly difficult was that he was mentally alert, and so aware of every aspect of his degeneration. As dad's quality of life diminished, he started longing for death. Repeatedly he told doctors that he could not bear it anymore and that he wanted to die. He described the process as "torture" and he wanted it to end "today". On one occasion he told the doctor "I never imagined that dying would be so difficult". The best the doctor could offer him in response was "it shouldn't be too long now" ... Dad had never previously been interested in euthanasia, and if there had been any quality of life to extract over the next few days he would have seized it.

This difficult story does not stand alone. Ronda wrote to tell me the story of her husband, Wayne, a successful businessman and marathon runner who after being diagnosed with an incurable brain disease recognised he would progressively be unable to walk, talk, write, eat or see properly, that he would eventually be unable to stand, and that this would typically be followed by death by choking. While he still possessed the ability to do so he obtained the Nembutal drug—dubbed the peaceful pill—and ended his own life months, perhaps even years earlier than he would have had to if voluntary euthanasia were available. Wayne's decision to die was not recognised within our justice system and as a result Ronda was subject to a police investigation that lasted nearly a year and ended with an autopsy of her husband.

Val wrote a similar story of her 94-year-old mother, a former barrister facing her own mental and physical degeneration, who decided to starve herself to death over a prolonged four-week period. Shirley retold to me a story of her husband, Russ, who was diagnosed with an advanced tumour in his left lung. At 78 years old he decided to decline chemotherapy on the grounds that he had been fortunate enough to have lived a good life. Only months later, as his family was struggling to cope with the debilitating effects of his diagnosis, Russ attempted to take his own life by taking a large dose of morphine and slashing his wrists. After this, Russ was rushed to hospital where he told specialists he had had enough of the pain. It then took Russ several months to die at his local hospital.

Beth told me about how she and her children watched her husband, Frank, suffer a series of strokes. After living a very poor quality of life for a year, Frank suffered his third stroke. By this point Frank was in a great deal of pain, having lost all bodily movement, rendering him unable to speak or swallow and causing the restriction of his bodily functions to the extent that he had no dignity left at all. In hospital Frank refused a drip and pointed to letters on an alphabet board saying, "Had enough, no more". Beth watched the gradual dehydration and starvation of her husband over the next few weeks, an experience she describes as horrendous.

The Rights of the Terminally Ill Bill to be introduced to Parliament next year will hopefully bring an end to tragic stories like these. It is a fundamental right that individuals die in comfort, in dignity and at the time of their choosing if they so require. These stories that have been shared with me are a pertinent reminder of just how personal is the choice for voluntary euthanasia. The religious, ethical and personal beliefs of others should no longer be permitted to prolong the suffering of the terminally ill.

THE GREENS

The Hon. Dr PETER PHELPS [10.58 p.m.]: Often we ask which planet The Greens are on. In the past we had the spectacle of Bob Brown referring to fellow members of The Greens as "fellow Earthians". However, I recently received a document the provenance of which I cannot accurately ascertain, but sheer incredulity at its contents leads me to believe that it is an official document of The Greens. It purports to be about a "Strategic Planning Day—draft agenda ideas", as proposed by Carol Vernon, Bruce Knobloch and Cate Faehrmann. The document suggests an opening scenario, "Framing and Visioning", where the key question is: What would you tell an alien? Two minutes is allocated for that scenario. It goes on to say, "Write how you would describe the world to an 'alien' doing a survey of the planet." This surely transcends the madness into which The Greens have descended previously if they are in the habit of talking to alien life forms. But it gets better. Later the document talks about The Greens re-envisioning themselves and participants completing an individual SWOT—strengths, weaknesses, opportunities and threats—analysis. It states:

SWOT for whole group (as a whole group or is this too big and too challenging?) Strengths (maximise), Weaknesses (make a joke of it and don't spend too long)—

because we do not want to think too much about our weaknesses—

Opportunities ... Threats (not being re-elected is a big stick!)

The ladies and gentlemen of Canberra proceeded to take a very big stick to The Greens in the recent elections. The document also suggests "Mapping: narrative for next campaigns" in which participants envisage themselves as members of "the CDP", "the Libs", "the ALP" and "(the Nats?)"—who are only in brackets. Obviously The Greens' outreach into New South Wales is half-hearted and only vaguely realistic.

The Hon. Duncan Gay: So they don't care about the country?

The Hon. Dr PETER PHELPS: They clearly do not care about the country if they are prepared to put both The Nationals and the Shooters and Fishers Party in brackets. The fact that this document has come to me indicates the massive rifts and divisions currently within The Greens movement. It is a further example of why they are completely unsuitable for government.

[Time for debate expired.]

Question—That this House do now adjourn—put and resolved in the affirmative.

Motion agreed to.

The House adjourned at 11.01 p.m. until Wednesday 24 October 2012 at 11.00 a.m.
