

**CRIMES AND OTHER LEGISLATION AMENDMENT (ASSAULT AND INTOXICATION) BILL 2014  
LIQUOR AMENDMENT BILL 2014**

**Bills received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Michael Gallacher.**

**Motion by the Hon. Michael Gallacher agreed to:**

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

**Second Reading**

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [2.24 p.m.]: I move:

That these bills be now read a second time.

The purpose of the Liquor Amendment Bill 2014 and Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 is to make our streets safer by introducing new measures to tackle drug- and alcohol-related violence. Recent months have seen a number of serious violent alcohol- and drug-fuelled assaults in the Sydney central business district [CBD] and elsewhere that shocked the community across the State and, indeed, across the nation. The New South Wales Government has heard the community's call for action. We are committed to continuing to address drug- and alcohol-fuelled attacks on our streets and the increase in violence used in those attacks.

On 21 January 2014, the Premier announced the Government's response to alcohol-related violence. That response outlined a broad range of tough measures designed to tackle alcohol- and drug-related crime and antisocial behaviour in the Sydney CBD and across New South Wales. As the Premier and the Government have continued to say, there is no single or simple cure-all for these problems. However, I am confident that these reforms will make a significant difference in tackling drug- and alcohol-fuelled violence on our streets. An amendment has been made to the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 in the other place to make it abundantly clear that a person subject to a mandatory minimum sentence for the aggravated offence of one punch will serve a non-parole period of at least eight years in prison. I seek leave to incorporate the remainder of the second reading speech in *Hansard*.

**Leave granted.**

The measures announced today build on the targeted approach to tackling drug and alcohol fuelled violence that we adopted since coming to government. Our reforms to date have included putting an extra 420 police officers on our streets since December 2011; implementing a three strikes licensing scheme, targeting irresponsible venues; trialling sobering-up centres in Kings Cross, Coogee and Wollongong; introducing a plan of management for Kings Cross that includes new late-night transport options, tough new licence conditions for licensed premises, drink restrictions and new security measures; passing new laws that allow for offenders to be banned from licensed venues in Kings Cross, provide for the use of drug detection dogs in the area without police requiring a warrant, and will result in identification [ID] scanners to be used in high-risk Kings Cross venues; strengthening the violent venues scheme, which applies special conditions to the State's most violent venues; extending liquor freezes in Oxford Street Darlinghurst and Kings Cross; and launching a multimedia advertising campaign aimed at

warning of the dangers of excessive and binge drinking.

The introduction of those reforms has coincided with, according to the Bureau of Crime Statistics and Research [BOCSAR], a reported reduction in alcohol-related violence across the State. However, more needs to be done to improve the safety and amenity of the Sydney central business district, particularly late at night, and that is the basis of these measures. The Government's tough and comprehensive package to tackle this problem will send a strong and consistent message that alcohol and drug fuelled violence will not be tolerated. Together, the Liquor Amendment Bill 2014 and Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 will give effect to the Government's reforms to tackle drug and alcohol related violence. The Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 promotes personal responsibility of offenders. The Liquor Amendment Bill 2014 strengthens the Government's existing management approach to licensing.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [2.27 p.m.]: I lead for the Opposition in debate on the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. The Opposition does not oppose these bills. Last November the Opposition announced Drink Smart Home Safe, a comprehensive policy designed to address the escalating problem of alcohol-related violence and coward punch attacks on our streets. The policy committed the Labor Party to the immediate introduction of six measures: an 18 month trial of Newcastle-style alcohol restrictions in Kings Cross and the Sydney CBD [central business district], including 1.00 a.m. lockouts, 3.00 a.m. last drinks, and no shots served after 10.00 p.m.; treating every Friday and Saturday night in our city like a major event with enhanced high-visibility policing and the introduction of late-night trains from Kings Cross to Town Hall and Central stations; risk-based licensing providing hotels and bottle shops with the financial incentive to operate a safe premises; a new and independent liquor regulator; the establishment of undercover sting operations to catch outlets selling alcohol to minors; and the mandatory collection and reporting of alcohol sales data so that policymakers can build a true picture of the extent of alcohol-related harm in New South Wales.

The Labor Party's policy is evidence based and the product of extensive research. It is the result of careful consultations with doctors and paramedics and the Leader of the Opposition's time spent with police in Kings Cross and the Sydney CBD. Police Commissioner Scipione has said that dealing with alcohol and its effects consumes about 70 per cent of a front-line police officer's time, which is obviously far too much. Paramedics, nurses and doctors attended to almost 60,000 alcohol-related hospitalisations in 2012 and experts like Gordian Fulde and Alex Wodak have been sounding the alarm to all who would listen that on Friday and Saturday nights our hospital emergency departments turn into zoos.

The Labor Party's approach is to tackle alcohol-related violence at its source; that is, alcohol availability. The ultimate goal is to change our society's unhealthy relationship with alcohol into something more positive. Parts of this approach are drawn from the Newcastle experience. In May 2008, the New South Wales Liquor Administration Board imposed 1.30 a.m. lockouts and 3.00 a.m. closing on 14 licensed venues in parts of the Newcastle CBD.

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The Bureau of Crime Statistics and Research found that the measures had reduced assaults after dark by a staggering 29 per cent. A University of Newcastle study found the results were even more impressive: that assaults after dark had fallen by 37 per cent in Newcastle since the measures were introduced. But the Premier attacked Labor's policy, arguing that lockouts were not the answer. Those comments were rightly criticised by many in the community, including those of Paul Miller, a principal research fellow at Deakin University and the author of a study that found lockouts and early closing times encouraged drinkers to attend venues earlier instead of preloading at home and arriving in the city drunk.

There is a large body of work that demonstrates what works and what does not in this space. Closing clubs and licensed premises earlier has been found consistently to reduce assaults and emergency department presentations. The strict enforcement of licensing laws has also been found to be a key element in any successful management of alcohol-related violence. As I indicated, the key relationship is the culture: our continuing unhealthy relationship as a society to alcohol and the continued tolerance of public drunkenness and its consequences. In my lifetime there have been a number of long-term public campaigns that have beneficially changed both public opinion and social reality. The first is of course against smoking and also the sustained, multi-decade campaign against drink-driving. Through measures such as these Australia has successfully and sustainably reduced traffic deaths and also the effects of tobacco and tobacco-related illnesses.

The current wave of alcohol-related violence demands a similar strategy, not only here in New South Wales but across Australia, to change our attitudes to alcohol, to violence, its perpetrators and victims. Over the Christmas and New Year period there were a number of serious alcohol-related assaults: 23-year-old Michael McEwen was seriously assaulted—and left fighting for his life—while walking with friends at Bondi days before Christmas. In a tragedy on 11 January this year Daniel Christie passed away following an alcohol-related assault in Kings Cross on New Year's Eve. Before this, of course, there were the tragic events concerning Thomas Kelly. I am sure the hearts of all members go out to the family and friends affected by those and other like events. But, despite these tragedies, the Premier failed to show leadership on the issue. In the days following the Christie assault the Premier's silence fuelled a further strong media and community campaign demanding action from this Government.

After sustained pressure, the Government finally announced it would implement part of Labor's policy as well as other measures. The Government proposals now before this House include eight-year mandatory minimum sentences for those convicted under new one-punch laws where the offender is intoxicated by drugs and/or alcohol. There was also the announcement of mandatory minimum sentences for other violent assaults, but that proposal has not been progressed to date by the Government. The proposals before the House include the introduction of 1.30 a.m. lockouts and 3.00 a.m. last drinks across an expanded CBD precinct to include Kings Cross to Darling Harbour, The Rocks to Haymarket, and Darlinghurst; and a new statewide 10.00 p.m. closing time for all bottle shops and liquor stores.

In addition, they include increasing the maximum sentence to 25 years for the illegal supply and possession of steroids—up significantly from two years; increasing on-the-spot fines to \$1,100 for continued intoxication and disorderly behaviour, disobeying a police move-on order—a more than fivefold increase; a community awareness and media campaign to reduce the culture of binge drinking and the associated drug- and alcohol-related violence; free buses running every 10 minutes from Kings Cross to the CBD to connect with existing NightRide services on Fridays and Saturdays; the removal of voluntary intoxication by drugs or alcohol as a mitigating factor when courts determine sentences; enabling police to impose an immediate CBD precinct ban of up to 48 hours for troublemakers; and a range of other measures.

The Government provided this legislation to members shortly before the Parliament assembled this morning to debate these laws. Labor has taken a strong stand against alcohol-fuelled violence and has campaigned for action to be taken resolutely in this area. When the Government made its announcement, Labor in principle supported the Government. Belatedly the Government has taken a

step in the right direction in relation to measures to prevent alcohol-related assaults and to make our streets safer. However, it is disappointing that the Premier has stopped short of fully implementing Labor's plan. The Government is proposing to implement lockouts with loopholes. First of all, the lockout proposed starts later. Also, the lockout and last drinks regime proposed by this Government will not apply to small bars, restaurants and tourism accommodation establishments, which means at least 30 venues in the Sydney CBD will be exempt, including the Establishment, Zeta Bar and Marble Bar. This risks simply pushing the problem around the fringes of the precinct proposed.

The Premier's announcement also failed in key areas, including no addition of police presence announced; no addition of late-night train services; no restriction on shots or high alcohol content drinks; the Office of Liquor, Gaming and Racing to continue to operate as part of New South Wales Trade and Investment, rather than being truly independent; and the collection and reporting of alcohol sales data has not been mandated, which we think will hinder a broader understanding of the true extent of alcohol-related harm in New South Wales.

Without taking steps of this kind—which Labor is committed to—we will continue to see senseless violence on our streets. Apart from those tragic incidents I mentioned earlier, there have been in recent times a number of other shockingly violent assaults in Sydney, including Lucio Rodrigues, the 34-year-old man who died in hospital on 5 November 2013 following an attack on Goulburn Street, Haymarket early on 3 November; Faidy Taiba, a 43-year-old who was allegedly punched at Bar 333 on George Street; the case of Matthew Blackmore, which occurred on 14 July 2013, when this 33-year-old man was walking on George Street at 12.30 a.m. and was bashed unconscious in an unprovoked attack—the list goes on. I am sure members and their family members will have seen firsthand many other examples of like occurrences, which are far too widespread and have been tolerated for too long.

Unsurprisingly, around 75 per cent of Australians believe that we have a problem with excess drinking or alcohol abuse, and around 74 per cent believe that more needs to be done. And, of course, the consequences of alcohol-related harm include not only alcohol-related violence but chronic disease, domestic violence, motor accidents causing death and serious injury, and child neglect. According to the Auditor-General, the annual cost of alcohol abuse to the New South Wales Government in 2010 was \$1.029 billion, which dwarfs the around \$1 million collected in liquor licensing fees at about that time. The total societal costs were much greater, with the Auditor-General estimating it was \$3.87 billion per year, or \$1,565 for every household in this State. These figures are truly alarming; they are just too much. As alcohol becomes more affordable and more available, and of course heavily promoted, it is crucial that the New South Wales Government takes action to reduce the consequences of alcohol-related harm. Of course the Government, we say, was very slow in coming to this realisation.

One of the problem areas is availability of packaged alcohol, such as that sold at bottle shops, which we believe is undermining efforts to reduce alcohol-related harm. Bottle shops contribute to alcohol-related crime by the supply of alcohol to minors, as well as providing an affordable means to binge drink at home before going out. On this point I note the comments of the Premier in the other place on 12 December last year, when he said that "many of the drunk people out on the streets are what has been described as pre-fuelled", and described a situation where these people go out having consumed a considerable amount of alcohol at home. Of course, that really begs the question about whether venues are adhering to the responsible service of alcohol at all. If the problem is said to be people turning up at these venues already drunk, and then becoming more drunk, we must query

whether the licensed venues are doing their job properly, or indeed at all.

There are more than 2,300 bottle shops in New South Wales, and the number is growing. Last year Woolworths opened more new liquor stores than supermarkets, with 54 new bottle shops compared with 34 new supermarkets. Off-licence sales account for around 70 per cent of all alcohol purchased in New South Wales. There are nearly 18,000 liquor licensees in this State. Perhaps our planning laws need to change so that councils can properly and fully take into account the level of alcohol outlets already present in a community when determining whether or not to approve development applications.

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According to the Auditor-General, in New South Wales in 2012 alcohol was responsible for more than 1,300 assaults on police and almost 14,000 non-domestic assaults. It is good that the Government has brought forward legislation to at least attempt to deal with this issue. However, we say that the Government is slow in acting and we wonder whether the Government's close association with the leadership of the Australian Hotels Association slowed the Government's reaction. Of course, the announced centrepiece of the Government's package is not only these measures that I have referred to but the creation of a new offence of one punch assault causing death, similar to laws passed in 2008 in Western Australia. I believe that this proposal by the Government is an attempt to divert all the attention to that measure and to distract from the failure of the measures the Government had otherwise proposed.

The maximum sentence for a conviction for the new offence is 20 years or 25 years if it can be proven that the offender was intoxicated by drugs or alcohol. The bill also contains a mandatory minimum sentence of eight years. The bill almost did not contain a mandatory minimum sentence of eight years; in the way in which it was drafted the bill probably proposed a minimum sentence of six years with the possibility of parole. The Government has flagged a change to that.

**The Hon. Mick Veitch:** It's shoddy wording.

**The Hon. ADAM SEARLE:** I acknowledge that interjection. It is almost like the Government has cobbled this package together in great haste.

**The Hon. Mick Veitch:** You're not saying it was rushed?

**The Hon. ADAM SEARLE:** I am saying it was rushed. In one sense the Government delayed it for a long time before doing anything but it was dragged kicking and screaming to this Parliament. But again the Government is not prepared. The lack of preparedness can be seen in the earlier floundering announcements about mandatory minimum sentences applying more broadly but then not appearing in this package. Other features of the bill include new police powers to conduct drug and alcohol testing, the removal of voluntary intoxication as a mitigating factor in sentencing, increased fines for certain public order offences and increased penalties for the illegal possession and supply of steroids.

The proposed changes to the law are far-reaching and we think should have been given greater scrutiny than the Parliament is able to afford them on this occasion. Assaults of this nature have previously been treated as manslaughter, for which the maximum available sentence is 25 years. As I indicated, the key feature of this bill dealing with the criminal sentencing aspect is the minimum eight-year sentence. It will surprise no-one in this Chamber when I say that I do not support mandatory sentencing. Mandatory sentences do not work. Nowhere in the world where mandatory sentences

have been implemented have they led to reductions in crime. Mandatory sentences are also expensive: they promote more contested trials because defendants have nothing to lose and they create greater public expense in the administration of a system of criminal justice and greater stress for victims of crime and their families. There is also the consequential associated increase in the costs of the corrections system with the burgeoning of the jail population.

Evidence shows that mandatory sentences will also disproportionately impact the already disadvantaged parts of our society—people with mental health issues, the young, women suffering domestic violence and Aboriginal people. The massively increased fines proposed in this bill will be particularly dangerous in this area and much will depend on the discretion of law enforcement agencies in determining when and whether to apply these measures. Labor has always opposed mandatory sentencing. However, the Opposition said it would play a constructive role on this issue and, true to our word, we will and we will not oppose this aspect of the legislation. Those opposite are the Government, no matter how belatedly they have brought forward legislation to address the issues that have given rise to this package. While we will not play a blocking role we reserve the right to express our scepticism of at least one aspect of the package in this area.

I believe I am in good company in not supporting mandatory sentencing in our criminal justice system. The current Attorney General stated in the *Sydney Morning Herald* on 11 November last year that he opposes mandatory sentencing because it is "an expensive and ineffective crime-fighting tool". He also stated:

Around the world they have not reduced crime ... mandatory sentences reduce the incentive to plead guilty. This imposes additional costs on the justice system and more trauma on victims and witnesses ... For NSW the additional costs of running and building prisons would mean either higher state taxes or less money for schools and hospitals.

The Attorney General also noted:

Mandatory sentencing is discriminatory and does not consider the circumstances of an offence; it therefore frequently imposes sentences on minor offenders which are out of step with their crimes.

Former Chief Justice Jim Spigelman stated:

The preservation of a broad sentencing discretion is central to the ability of the criminal courts to ensure justice is done in all the extraordinary variety of circumstances of individual offences and offenders.

Unless judges are able to mould the sentence to the circumstances of the individual case then, irrespective of how much legislative forethought has gone into the determination of a particular regime, there will always be the prospect of injustice.

In his book *Law and Order in Australia. Rhetoric and Reality* Dr Don Weatherburn, the Director of the NSW Bureau of Crime Statistics and Research, showed that a 10 per cent increase in the jail population produced only about a 3 per cent decrease in serious crime and that a 20 per cent decrease in serious crime would need the jail population to be increased by 67 per cent, which would cost, back in 2006, about an extra \$330 million a year in detention costs plus about \$1.3 billion in new jails—money better spent on education, transport, health and the police. In today's paper, Arthur Moses, SC, a member of the Bar Council of NSW—

**The Hon. Luke Foley:** A Lib.

**The Hon. ADAM SEARLE:** I acknowledge that interjection. He has also been critical of the proposals and has indicated that they will not make the streets safer. Mr Moses wrote an article in 2006 in which he noted that this public debate on whether there should be mandatory sentencing focused on a claimed bad decision by one judge to advocate a change in the law to abolish the sentencing discretion of all judges. Many of the examples of sentences that have attracted public opprobrium for being too light are subject to appeal mechanisms which can correct any sentence that is out of keeping with the sentencing regime applicable to those offences.

It is understandable in human terms to have a belief that in a particular case a sentence is not appropriate; people are entitled to have that view, particularly those people most directly and tragically affected by the events. However, I believe that those examples attract the attention they do because they are so out of keeping not only with community expectations but also with the sentences that the courts generally hand down. As the shadow Attorney General in the other place noted, mandatory sentencing has been tried in this State before and it has failed; it was such a disaster that its previous experiment was replaced. More recently mandatory sentencing was pursued by the Federal Government in offences relating to people smuggling, but juries refused to convict defendants.

There is a fair bit of literature in this field that shows that where juries regard the mandatory minimum sentences as disproportionate to the offences alleged, acquittals can flow even where the facts might otherwise, to the casual observer, appear to have been proven. An outcome where juries acquit because of the disproportionate sentences that may otherwise flow is not in the public interest and serves to create injustice because even where a custodial sentence should be imposed in those circumstances it is not. I believe that would only serve to undermine public confidence in the criminal justice system. In the case of people smuggling, as a result of those acquittals the Commonwealth refused to continue prosecutions.

Mandatory sentencing will not reduce the incidence of alcohol-fuelled assaults and the Government, to be fair to it, has focused on the punishment aspect rather than the deterrent aspect. It stands to reason that a person whose mind is affected by drugs and alcohol will not be in a position to make any kind of rational assessment as to the sentencing regime that would apply to them if they commit an offence. That is just not a realistic prospect. In today's paper, Mr Stephen Odges, Chair of the Criminal Law Committee of the New South Wales Bar Association, states that one of the obvious effects of this bill is that a mandatory sentencing regime will apply to people affected by drugs and alcohol so that people who are completely cold-stone sober who, in a cruel, calculated undertaking perpetrate certain offences will not be subject to those mandatory sentencing regimes which creates a clearly ridiculous situation.

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The Opposition believes that mandatory sentencing will have both unintended and adverse consequences. It is just not possible for any Parliament, no matter what expertise sits within it and with what goodwill it approaches this issue, to create a mandatory sentencing regime that will be appropriate to every situation. Inevitably this means there will be inappropriate or unjust results which are bad for the community and for public confidence in the criminal justice system. I will not refer to the correspondence from the New South Wales Law Society or the New South Wales Bar Association, which has been quoted extensively by the shadow Attorney General in the Legislative Assembly. In particular, the Bar Association provides a number of examples of factual situations that would fall within the mandatory sentencing regimes in circumstances where it is not appropriate.

I am personally aware of an example in a pub involving persons who were clearly affected by alcohol.

An argument ensued, one person pushed another and the second person hit the first person. The first person fell over hit his head and was killed. That person did not have an intention to kill. The offender had a clean record and was otherwise an upstanding member of the community but nevertheless had taken a life and received a custodial sentence for that. However, that is not of the kind of offender that we have seen in connection with the most recent notorious examples that have justly given rise to public concern. Nevertheless that offender would fall within the mandatory sentencing regime, perhaps unjustly, which is the problem with inflexible one-size-fits-all approach to criminal justice. That shows that there can be consequences beyond the individual concerned, for example, jury nullification—that is, juries will not convict when they think the penalty is disproportionate, to which I referred earlier.

However, there are other elements not just of injustice but of difficulty which I think would make those officers uncomfortable, that is, while attempting to remove judicial discretion from sentencing to some degree this legislation will not abolish discretion in the criminal justice system. It will move it from the judge to the prosecutor. While the judge may not have discretion about imposing the eight-year sentence where the circumstances are provided for in the legislation arise, a prosecutor will certainly have discretion about whether to proceed with a charge envisaged in the bill or to pursue alternative charges. There are two aspects: first, instead of justice being done openly in a court room by a judge whose decisions are open, transparent and subject to appeal the decision instead will be taken in the office of a prosecutor behind closed doors, which we think is undesirable. Second, prosecutors may well negotiate with defendants about charges to avoid a result they think is unjust. That should not be the role of a prosecutor but, of course, mandatory sentencing will give them few options, which is certainly the view of the former Director of Public Prosecutions, Mr Nicholas Cowdery, QC.

There is already concern in the area of provocation and domestic violence around plea bargaining or charge bargaining about justice not being seen to be done openly, which we think is a real risk with the proposals that are contained in this bill and that are now before this House. That in itself will undermine public confidence in the administration of justice. Where mandatory sentencing is widespread in the United States of America, the United States Sentencing Commission confirms that the bargaining over charges is the outcome of mandatory sentencing, which we think is bad. In 2008 the Victorian Sentencing Advisory Council paper included that research indicated a low likelihood mandatory sentencing regimes would deliver on their aims. It provides only a superficial or artificial consistency in sentences, largely because of the charge bargaining phenomenon and creates a significant increase in costs. That is also supported by a report of the Australian Institute of Criminology. Obviously sentencing does nothing to deter the offences.

I acknowledge that part of the criminal justice system is also about retribution and punishment. A 2012 study by the New South Wales Bureau of Crime Statistics and Research confirmed that increasing the length of stay in prison did not deter people from committing offences, largely because it is not a rational decision about whether to engage in criminal behaviour, particularly when affected by drugs and/or alcohol. In fact, the Bar Association stated:

The very nature of drug and/or alcohol-related assaults is that they are impulsive. It is entirely unrealistic to assume that such offenders consider the likelihood of incarceration before they commit such crimes.

I will not continue with the quotation but it provides the flavour of that report. Paul Miller, to whom I referred earlier, said that tough penalties seldom affect the actions of people in the heat of the moment, especially when drugs or alcohol are involved. This is because they alter the state of mind, and reduce people's inhibitions. Mandatory sentencing will also impose resources burdens on the

legal, judicial and custodial system. It will reduce the number of guilty pleas, which are currently 80 per cent of matters in court, and will increase the number of defendant trials. We think this will increase the cost to the legal system and to the public. It will make the process lengthier, more difficult for the families of victims of crime and for the victims themselves.

Assuming the legislation works as the Government believes it will, it will also significantly increase the number of people incarcerated. That is ironic given the former Opposition—now the Government—criticised the level of incarcerations in this State and in Government has shut three jails, removed some 600 Correctional Services staff and reduced Grafton jail to a mere shell. Obviously those decisions are currently being reviewed by the Government in anticipation of the success of these policy proposals that are now before the House.

I believe there are practical problems in establishing the elements of the offences created by the legislation. For example, how will the level of intoxication be established unless the offender is fairly immediately apprehended? If he or she is not immediately apprehended and able to be tested or assessed for intoxication, it may be impossible to prove the offence. I note in the bill the ability to test is linked to being arrested for the offences created by the bill. That means an officer has to arrest for that purpose for an offence that is related to those offences in circumstances where the officer must form a belief that the aggravated offence will be able to be charged if a victim dies. That requires a fair amount of forethought and knowledge on the part of an arresting officer if they are to be able to engage the testing regime provided for in the legislation.

Given those technical issues, I think there must be some real doubt about whether any of the recent notorious incidents that have given rise to the belated Government action in recalling Parliament and bringing this package to the floor of this place will come within the ambit of this legislation. The legislation provides a massive incentive for alleged offenders to flee to ensure there is little or no chance of them being assessed for drugs or alcohol before they are captured. I do note in a positive sense the inclusion in the bill of the exclusionary provisions of the Crimes Amendment (Murder of Police Officers) Bill 2011 regarding persons with cognitive impairment, which is an obvious point. I am glad that the Government has included that in the regime.

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It is inevitable that the bill will impact adversely on Aboriginal incarceration rates unless the law enforcement agencies are very sensitive about how they apply this regime. I note that on 21 November last year Mr Mark Speakman, the member for Cronulla in the other place, when talking about a lack of confidence in the criminal justice system, said that from time to time there do need to be interventions by politicians and governments. However, he said:

That intervention ... should not take the form of fixed minimum sentences ... There is no evidence that mandatory sentencing reduces the incidence of crimes. In fact, it reduces the incentive to plead guilty and leads to arbitrary and capricious results. Judges can sometimes get it wrong, so robust and rigorous criticism is therefore always appropriate.

He did not say, as he could have, of course, that mechanisms of appeal more often than not correct when judges make a wrong decision. He also stated:

We as legislators also have a responsibility to defend the judiciary and the judicial system and to uphold the great goals of an independent judiciary and the rule of law.

As I have said in this place on a number of occasions, the importance of an independent judiciary to the protection of citizens and the maintenance of democracy cannot be overstated. It is an important bulwark and although this legislation does not go as far as foreshadowed in respect of eroding judicial discretion in sentencing, it nevertheless creates a beachhead in that regard and any further incursions into this field by this Parliament should be carefully thought about before being entered upon.

Labor came out with its own package in November and has been pushing hard for its acceptance by the Government. The Government, in the circumstances in which we find ourselves, has embraced elements of that but has not gone far enough in respect of the proper regulation of liquor in this State. The Government has brought forward a mixed package, including some elements we doubt will work. Labor has reservations about parts of the mandatory sentencing that we do not like. We are not going to play politics with this. We will not oppose this package. If the Government thinks the package will work, we will let it try it out. However, we reserve the right to be critical and to continue to make positive suggestions as to how this difficult area of social and public policy may be improved upon.

**The Hon. SHAOQUETT MOSELMANE** [3.01 p.m.]: I speak on the Liquor Amendment Bill 2014 and the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014. Like most people across the State, I am increasingly worried and appalled by the rise of violence on our streets. This culminated in news of the New Year's Eve attack which killed 18-year-old Daniel Christie, devastating his family, friends and the entire community. Over the Christmas and New Year period there were a number of serious alcohol-related assaults. For example, 23-year-old Michael McEwen was seriously assaulted and left fighting for his life while walking with friends in Bondi, days before Christmas. As the Hon. Adam Searle maintained, despite the tragedies, Barry O'Farrell failed to show leadership on this issue.

In the days following the Christie assault, the Premier's silence further fuelled a strong Labor, media and community campaign demanding action from the Government. After sustained pressure, the Premier finally caved in and announced that the Government would implement key parts of Labor's policy, as well as additional measures to address alcohol-related crime on our streets. Sadly, the deaths of these young men were not the result of an isolated attack. We are seeing this type of attack happen more frequently, particularly in the central business district and Kings Cross.

This violence is often called alcohol-fuelled violence, but that is only part of the story. It is true that alcohol plays a strong part, but as a number of police, researchers and social commentators have already pointed out, there is more to it than alcohol. Drugs—steroids and other recreational drugs—are dangerous on their own but when added to a cocktail with alcohol the result can be deadly. The vast majority of people who go out in our city are law-abiding citizens who want to have a good time socialising with families and friends. As a Parliament, we have a responsibility to get the balance right between protecting them and imposing a knee-jerk reaction upon them that will stop residents and tourists from enjoying our city. For many, the time for action came some time ago. I am pleased to see the Government is now taking steps to address this violence. I am also pleased to see the Government taking a number of recommendations from the Labor Party's Drink Smart Home Safe policy, which we launched last year.

The bill contains a number of initiatives to attempt to crack down on street violence. In a nutshell, the Government's proposals will introduce: an eight-year mandatory minimum sentence for those convicted under new one-punch laws where the offender is intoxicated by drugs and/or alcohol, plus

new mandatory minimum sentences for violence assaults when affected by alcohol; 1.30 a.m. lockouts and 3.00 a.m. last drinks across an expanded central business district precinct, including Kings Cross; 10.00 p.m. closing times for bottle shops, not only in pubs and places where alcohol is prevalent, but in stores such as Woolworths, Coles, Aldi and other stores that sell alcohol; increased maximum sentence for the illegal supply and possession of steroids to 25 years—up from two years; increased on-the-spot fines to \$1,100 for continued intoxicated and disorderly behaviour, disobeying a police move-on order—a more than 500 per cent increase in the current fine; a community awareness and media campaign to address this type of violence; free buses every 10 minutes from Kings Cross to the central business district to connect with Night Ride services; and a range of other initiatives to assist police with their job.

I support these actions and the cognate bills in principle. However, I have three main concerns with the package. They are general concerns about the effectiveness of mandatory minimum sentences, the limitations that the Government has put in place on who and what establishments these laws apply to and the lack of complementary services to support these new laws, such as better transport links. By far the most controversial aspect of this bill is the introduction of mandatory minimum sentences, especially in regard to the completely arbitrary nature in which they are being introduced. Like many other members across the New South Wales Parliament, I have been contacted by many people in the community—especially the legal community—about this issue. I know it is popular to immediately dismiss the views of lawyers as out of touch with the real world and out of touch with the community's expectations, but the reality is that the legal fraternity are the experts in this area and the sector of the community that will need to administer these laws, together with the police. At the very least we should listen constructively to what they have to say.

Although I support the aims and objectives of the bill, I do not support the means and the mandatory minimum sentence elements of the bill. My objections are two-fold. First, there is no evidence that mandatory minimum sentences ever have or ever will stop the crime to which they are targeted. This is an unfortunate truth. I can understand why people in the community like mandatory minimum sentences—they appeal to our sense of outrage and our desire for justice. However, the simple truth is that they do not work. The President of the New South Wales Bar Association, Phillip Boulton, SC, calls it a "one-size-fits-all" form of justice, with "no evidence to prove that mandatory sentences are effective". The proposed legislation will help lock up many perpetrators who may deserve their sentence, but it will not help resolve the problem of alcohol abuse, violence and crime. The former New South Wales Director of Public Prosecutions, Mr Nicholas Cowdery, said:

The idea that just increasing penalties for offences are somehow going to deter people from committing them is naive and not supported by research.

The NSW Law Society President, Ross Everett, has stated:

Evidence shows us that mandatory minimum sentencing has no deterrent effect on offending. US studies have shown us that the deterrence arises from fear of being caught, not from the length of the sentence.

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When thinking about this issue I came to the conclusion that mandatory minimum sentences would most likely not achieve what they set out to achieve for two reasons. The first is because we are talking about imposing those sentences on people who are intoxicated or affected by drugs when they commit the offence. When they make that decision they cannot foretell where the evening will lead

and the vast majority would not have in mind to kill someone with a single punch or, for that matter, a simple push—a simple assault may cause death and be captured under this legislation.

The simple truth is that people who are affected by drugs and alcohol are not making rational decisions. They are not thinking about the consequences of their actions so mandatory minimum sentences will not do anything to stop those people from landing a fatal blow. That will still happen and eight-year minimum sentences will not bring back the victims. That is not to say that perpetrators should not be punished; they should be but not by a policy of minimum mandatory sentences. Also, there is an element of chance associated with this. If one drunken or drug-fuelled punch lands one victim with lifelong disabilities and another punch renders another victim dead, the penalties will vary greatly in those circumstances. In my mind, both perpetrators sought to do exactly the same thing but their actions will attract different sentences.

The second reality is mandatory minimum sentences will strip away from the courts their sentencing powers and hamper prosecutors in their dealings with the perpetrators of these crimes. The experience of Australia and the United States of America is that mandatory minimum sentences mean one thing: virtually all people charged will plead not guilty. There is no mitigation allowed for cooperating with police or for being forthright about certain events. On the face of it this may seem like a small price to pay. However, let us consider for the moment the following scenario.

A young man is arrested under the new mandatory sentencing laws. He is affected by steroids and ice as well as alcohol. He knows that he will receive eight years minimum if convicted so he pleads not guilty to the charges and does not cooperate with police. He has information that would assist police to trace the dealers of the drugs and lead them to their supply chains. However, because of the mandatory minimum law there is no incentive to cooperate with police and the prosecutor cannot do anything to convince him to do so. Some in our community may think that is okay; the young man will get eight years. But how many other deaths could have been prevented by the courts and the prosecutors doing their jobs, as they are trained to do?

The New South Wales Bar Association, in its briefing on the legislation, has produced a number of other fact scenarios which, if the courts were hamstrung in this way, would result in unjust outcomes. I encourage all members to read this information and consider it before making up their minds about mandatory sentencing. The public expects that people will be appropriately punished when they do the wrong thing but for the good of our criminal justice system and ultimately the safety of our community it is important that judges have discretion when they do their job. When governments make decisions in the public interest they should do so by considering all the evidence and avoid making decisions based on populist sentiments. In this area all the evidence demonstrates that mandatory minimum sentencing does not work.

During its drug and alcohol inquiry General Purpose Standing Committee No. 2 received evidence from the Australasian Professional Society on Alcohol and Other Drugs that showed between 2007 and 2010 one in five people in Australia were drinking alcohol at levels that put them at risk of harm during their lifetime. A significant number of Australians are now affected by drugs and alcohol. The Australasian College for Emergency Medicine also made a submission. It stated:

Australia now ranks twelfth in the Organisation for Economic Cooperation and Development (OECD) countries for per capita alcohol consumption. The 2010 National Drug Strategy Household Survey found that 28.4% of people were drinking, at least once a month, at levels which put them at risk of accident or injury. The survey also found

illicit drug use had increased from 13.4% in 2007 to 14.7% in 2010. More than 3.7 million Australians aged 14 and over were also reported as at risk of an alcohol related disease or injury over their lifetime.

That demonstrates that a significant number of the Australian population is now using drugs and alcohol. As a result, this could have a significant impact on many people who might find themselves unfortunately captured by this legislation. I call on the Government to commit to investments in public education and awareness campaigns as well as industry regulations and harm minimisation in this area. The community needs to work together to help to prevent these events from occurring. Parents need to talk to their children about the effects of binge drinking and resorting to violence to solve problems. Teachers need to talk to students about their behaviour on the weekends. Our sports men and women, whom many young people look up to, have a role to play in talking about the perils of steroids and other drugs. Governments can only do so much; it is up to the community to come together to prevent these tragedies from happening in the first place rather than relying on courts to provide a deterrence in the form of sentencing.

Another concern with the laws is their arbitrary application. Small bars and hotels are exempt, as are certain parts of the central business district. The example that has often been used is the Establishment Hotel. This hotel in the central business district is often named as one of the most violent in the State, yet these laws exempting small bars and hotels mean the Establishment Hotel would be exempt from the 3.00 a.m. closing because it also operates as a hotel. What is good for the gander here is not good for the goose. They should all come under the one umbrella. Laws such as these only cause resentment. Alcohol is alcohol. In my mind there is no difference whether the alcohol is consumed from a small bar, a big bar, in a restaurant, in the home or on a park bench. Where a person consumes alcohol should make no difference if that person fatally punches someone, yet the O'Farrell Government is going to have an arbitrary two-tier system, which makes absolutely no sense. These laws should operate on an equal playing field and all providers of alcohol should be subject to the same restrictions.

My last objection to these laws is that they are not supported by other parts of government. The lockout time will be 3.00 a.m., which is the taxi changeover time. This will make it very difficult for people to access taxis as their transportation home. In developing the policy I urge the Government to look at this issue, if it has not already done so. In conclusion, it is clear that something needs to be done about the growing violence on our streets. The community expects this of its representatives and it is what we were elected to do as members of Parliament. Labor has put together a comprehensive plan to tackle the problem. The Government has cherry-picked from that plan and added populist measures such as mandatory minimum sentences, which the evidence shows will not solve the problem. Being popular is one thing; solving the problem is what we are here to do. I encourage the Government to look at the bill more closely, talk to the experts and put in place a series of measures that will help tackle this type of street violence from all angles.

**The Hon. ROBERT BORSAK** [3.18 p.m.]: I speak on the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. Today Parliament has been recalled so members can vote on legislation that may or may not do what the Premier hopes it will. We all hope it does. However, what we will vote on today will not be what the Premier first said he was going to enact into law about two weeks ago. That debate will now be held off until Parliament resumes next month. Given the urgency of this matter I find it disappointing that members were not afforded the courtesy of seeing the legislation prior to today.

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In fact, the only information the Shooters and Fishers Party has been able to ascertain is through the

media. It is hardly the way to handle such important legislation.

The Government needed to act on the increase in one-punch incidents in and around Sydney and the Shooters and Fishers Party supports any moves that will address the problem. But it is disappointing that the Premier took so long to address it and did so only after a long campaign by media outlets such as the *Daily Telegraph* and *2GB*. I hope that this bill solves the problem and does not lead to prolonged litigation and heartache for families caught up in such cases. The Premier has reacted in this fashion for various reasons. There is also a longstanding need to crack down on gun crime in this State, but so far the Premier has sat on his hands and done nothing.

The Shooters and Fishers Party has campaigned on that issue for over 20 years but the Premier, who now sees the merits in mandatory sentences for the offence of punching people, has refused point-blank to accept legislation proposed by the Shooters and Fishers Party concerning mandatory sentences for offenders who use a firearm in the commission of an offence. Sensible legislation should not be knocked back simply because it is proposed by the Shooters and Fishers Party. It is obvious that the Premier does not like the Shooters and Fishers Party or its presence in this place, but that is democracy at work.

**Dr John Kaye:** I cannot imagine why that would be, Robert.

**The Hon. ROBERT BORSAK:** I said him, not you. We all need to rise above petty politics when the issue involves lives and the interests of this State. In fact, the Shooters and Fishers Party does not care if the Premier pinches our suggestion to impose an extra sentence on criminals who are convicted for using firearms in the commission of an offence and calls it Liberal legislation, just so long as he does it. The Shooters and Fishers Party urges the Premier to send a strong message by getting tough on gun crime and not just talking about it. The excuse that the Government will not enact legislation that imposes mandatory sentences no longer holds water. There is a lot of disquiet among the public about the lack of political leadership from the Premier, particularly when it has been reported that Cabinet considered this issue last year but did nothing. Since last year how many people have been killed, hurt or injured?

I hope that the bill before the House today and the bill to be introduced when Parliament resumes next month are not kneejerk reactions to media campaigns, such as occurred with the infamous ammo bill. What a joke that was. The bill must provide for the imposition of adequate sentences on people who recklessly or intentionally destroy other people's lives. At the same time, the bill must recognise that New South Wales does not want to become a nanny State and Parliament should not legislate to destroy legitimate business operations. I commend the bills to the House.

**Dr JOHN KAYE** [3.21 p.m.]: I will address the Liquor Amendment Bill 2014 on behalf of The Greens. My colleague Mr David Shoebridge will lead on the cognate bill, the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014. The two bills have a common theme: first, there is a lack of evidence to justify the legislative measures proposed; secondly, the measures are deeply punitive; and, thirdly, the measures will have perverse outcomes. Both of the bills contain a set of measures that fail to stack up against the evidence or to respect the rights of individuals. The bills have been rushed through due to kneejerk politics and will inevitably result in outcomes that are unintended and dangerous.

I have no doubt that the remarks to be made by Mr David Shoebridge in relation to the Crimes and

Other Legislation Amendment (Assault and Intoxication) Bill 2014 will be remarks with which I will want to be associated. The Greens cannot support the Liquor Amendment Bill 2014. Some of the measures in this legislation and the O'Farrell Government's package announced in January this year make sense. However, the overwhelming majority of the measures will not work, they will have perverse outcomes that impact on innocent people and they will act as a distraction from the real issues, such as, confronting the demons of our society and the core reason behind the inappropriate and dangerous use of alcohol.

The core of the Liquor Amendment Bill rests on the imposition of lockouts and last drinks in the expanded central business district area and any other area that the regulations subsequently specify. The underlying ideology of the bill is that it worked in Newcastle, therefore it will work in Sydney. There are major problems with that assumption. First, did the introduction of lockouts and last drinks reduce violence in Newcastle?

**Reverend the Hon. Fred Nile:** Yes.

**Dr JOHN KAYE:** Reverend the Hon. Fred Nile says, "Yes". There is counter evidence to show that there were greater reductions in violence in equivalent jurisdictions around New South Wales that did not have lockouts or last drinks restrictions. If it worked in Newcastle, will it work in Sydney?

**Reverend the Hon. Fred Nile:** Yes.

**Dr JOHN KAYE:** Reverend the Hon. Fred Nile again says, "Yes". A study by the Queensland University of Technology compared 3.00 a.m. lockouts which were introduced on the Gold Coast and in Brisbane city and Fortitude Valley in 2004. The study reveals that the lockouts worked to some extent on the Gold Coast but they did not work in Brisbane or the Fortitude Valley. We cannot take a process that worked in one area, impose it on another area and assume it will work. If it did work in Newcastle—and that is a big if—the question remains whether it will work in Sydney. When a boundary is drawn around an area and 3.00 a.m. last drinks restrictions are imposed in that area, there is good reason to believe that there will be a large flux of people across the border of that area into licensed venues in surrounding suburbs, such as, Newtown, Balmain, Bondi Junction, Surry Hills and Chippendale.

**Mr David Shoebridge:** And Pyrmont.

**Dr JOHN KAYE:** And in the 24-hour licenced venues in Pyrmont.

**Mr David Shoebridge:** It is 504 steps away.

**Dr JOHN KAYE:** My colleague reminds me it is 504 steps. The last thing the public wants is a 3.00 a.m. shock wave of people under the influence of alcohol travelling from one venue to another. The evidence shows that violence occurs during movement between venues. Given the lack of evidence to support such restrictions in Sydney and the likely perverse outcomes, is it justified to impose such restrictions on the lifestyle choices of people who like to have a drink and be entertained at 3.00 a.m., 4.00 a.m. or 5.00 a.m.?

**Reverend the Hon. Fred Nile:** Yes.

**Dr JOHN KAYE:** Reverend the Hon. Fred Nile says, "Yes". In some cases the evidence supports the imposition of restrictions on lifestyle choices. Smoking is one such choice. Previously 50 per cent of our population smoked and governments imposed restrictions on that lifestyle choice to make it harder for people to smoke. That was a hard but sensible decision. The evidence showed that smoking killed 50 per cent of smokers and there were good public and individual health reasons to stop smoking. In relation to this bill, there is no evidence that would give members any confidence that people will be safer. The bill imposes a collective punishment upon responsible venue attendees who wish to be entertained at times when almost every member of this Chamber wants to be in bed, which is our lifestyle choice.

This bill will impose restrictions on their lifestyle choices without adequate evidence. It is bad public policy to extrapolate and impose without good reason. Some aspects of these bills are sensible, such as banning takeaway liquor sales after 10.00 p.m. That ban may have a small impact, as most purchases of alcohol for preloading occur before 10.00 p.m. Coles and Woolworths will encourage a ban on takeaway liquor sales after 10.00 p.m. because most of their outlets are closed at that time and the ban will shift business into their hours of operation. The suspension of online training courses for the responsible service of alcohol is a sensible provision. In theory, periodic and risk-based licencing is a good provision. However, if risk-based licence fee collection is based on the Victorian formula, where the maximum fees are only tens of thousands of dollars, large venues will find it irrelevant and it will provide no incentive to improve venue behaviour.

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Small venues will have a larger impost. A \$30,000 imposition on the Ivy would be covered by about 10 minutes' turnover during peak service and as such would not be an incentive.

When the Premier announced this package he referred to periodic licensing. That is totally misleading; there is nothing periodic about these licences. Periodic licensing would mean that licences would be reviewed each time they were due for renewal. There will be no review, the community will have no opportunity to comment about a venue that is causing problems and there will be no ability to withdraw a licence as a result of a review. Licences will be renewed automatically and a fee will be set periodically, and, as such, the legislation fails.

If the O'Farrell Government had the courage to go to the heart of the problem and to take on the powerful alcohol industry it would have addressed the dangerous promotion of alcohol. This Government has failed to do that for three years. I refer to deep discounting, two-for-one offers and shopper docket. This issue has been debated, but when the Office of Liquor, Gaming and Racing had the opportunity to produce guidelines that would stop the damage done to our culture by those promotions and by the get-rich-quick attitude of the alcohol industry, it fell over at the post. It let the Liquor Stores Association, Coles and Woolworths write their own liquor promotion guidelines.

We are now being subjected to mixed messages from the O'Farrell Government. It says that it will conduct a public awareness campaign—and that is terrific—but it will be fighting uphill against the messages on shopper docket. One cannot buy anything at Coles and Woolworths and not receive a docket offering a dramatic discount on alcohol. That is legal under this Government. The O'Farrell Government says it is fine to promote the consumption of alcohol—even for children to see two-for-one deals—but it now intends to tell people that they should not engage in dangerous drinking. The capacity of the Government's community awareness program to go anywhere near implementing the changes that are needed will be comprehensively undermined by the messages it has allowed the alcohol industry to send.

This legislation is a victory for policy on the run and for kneejerk legislation. It does not go to the heart of the matter, it does not take on the big liquor chains, and it does not annoy the Liquor Stores Association, Coles and Woolworths. Instead, it victimises young people who simply want to get a drink late at night. It is a victory for bad policy and it will deliver bad outcomes. Of course, we all want parents to have confidence that their son or daughter will return home unhurt after a night out in the city, and some people might think that this package will deliver that. It will not; it is a nasty con job because it makes people think that mandatory sentencing, lockouts and last drinks regulations will make our children safer. It will not; in fact, in many cases it will have a perverse outcome.

The mixed track record of restricting venue hours should be examined carefully. Much has been made of the Newcastle solution, which appears to have delivered a 30 per cent reduction in crime in the evening between September 2008 and September 2013. As the Government Whip often says, "Correlation is not causation." At the same time that Newcastle experienced a 30 per cent reduction in crime Penrith experienced a 56.2 per cent reduction, Wollongong experienced a 31 per cent reduction, Sutherland experienced a 38 per cent reduction and Gosford experienced a 29 per cent reduction. None of those areas had lockouts, early closing, last drinks limits or any of the other Newcastle measures, but they also experienced reductions in the rate of crime. If the Newcastle experiment were subjected to a genuine set of controls it could not be said to be successful.

As I said, the results from the Fortitude Valley and Brisbane city trials were mixed. In some instances crime increased between 3.00 a.m. and 6.00 a.m.—after the lockout—by 33.8 per cent and the time that crimes were committed shifted from before 3.00 a.m. to after 3.00 a.m. At the same time, the results were good on the Gold Coast. The three-month last drinks trial conducted in Melbourne in 2008 produced very mixed results. There was a 23.9 per cent reduction in total reported assaults across the city, but there were increases in assaults between midnight and 2.00 a.m. and substantial increases between 2.00 a.m. and 4.00 a.m. Those figures clearly demonstrate that whatever proposition is put about the effectiveness or otherwise of alcohol licensing measures someone will produce contradictory statistics. In effect, we are conducting an experiment and there is no reason to believe that it will work.

The Greens are concerned about displacement. That is the real elephant in the room. Patrons will make an exodus across the border of the expanded central business district at 3.00 a.m. and Surry Hills, Balmain, Chippendale and Bondi Junction will be invaded. The Greens have been contacted by publicans and licensees in Balmain who are concerned about what will happen at 3.00 a.m. with the influx of intoxicated people from the city. The O'Farrell Government says that that can be addressed by using the regulation-making powers to expand the borders. That is true, but we will have a slow-moving wave of 3.00 a.m. violence across Sydney over the next 20 years. That is another demonstration of this Government's failure to address the real issues. I note that my local member, the member for Coogee, is in the President's gallery. He should be concerned about how this legislation will impact on Bondi Junction and Coogee Beach at 3.00 a.m. I am sure he will be hearing from local residents as crime statistics in those areas increase.

There are real doubts that this legislation will work. Given that, what are we imposing on young people? This legislation is nothing more than collective punishment made worse by the disproportionate impact it will have on low-income young people. Young people with large incomes or with wealthy parents will be able to go to expensive wine bars and those who do not will be forced out of the precinct because they will not be able to go into a venue. This legislation is unfair and will

disproportionately impact on low-income young people.

I share the concerns that have been raised about the impact that this legislation will have on the live music industry. Late-night performances will be driven out of the central business district and some very important venues. We know that good quality live music contributes to a reduction in violence. The mayor of Balmain has been a keen supporter of live music, but the Labor Party will support measures that will undermine its future.

As I said, this legislation does not impose real solutions such as enforcing responsible service of alcohol regulations. Some people say that they do not work. How would they know? Answers to questions on notice indicate that in 2011-12 the Alcohol and Licensing Enforcement Command—the NSW Police Force branch responsible for the enforcement of alcohol licensing legislation—had a total budget for this important preventative work of \$2.5 million while the cost of providing government services to deal with the impact of alcohol consumption is about \$1 billion. Less than 0.25 per cent of the total budget to deal with the impact of alcohol consumption in New South Wales is allocated to preventative measures. That is the heart of the problem. This is all about punitive measures and does nothing to implement preventative measures.

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We believe there should be enforcement of responsible service of alcohol by rangers employed by the Office of Liquor, Gaming and Racing or councils but paid for by money collected from venues. I have spoken before in this Chamber about regulating alcohol promotions and discounting. This Government is refusing to address the issue of density of outlets and venues in areas where violence is a particular issue. We know from research done by people like Sandra Jones of the University of Wollongong, and the University of Western Australia, that density is a key driver of violent outcomes. Yet nothing in this package addresses that. The O'Farrell Government says it wants to run an education program. Yet six months earlier it got rid of the drug and alcohol unit within the Department of Education and Communities. What a mixed message that is. On the one hand, no drug and alcohol unit, no experts within the Department of Education and Communities to guide alcohol awareness and alcohol training within schools, yet suddenly the Government says we need a community-wide program.

We also need to make periodic licensing effective. If periodic licensing is really going to work, it needs a set point, a maximum amount that really makes publicans stand up and take notice. We need not just piddling amounts of \$30,000 or \$40,000 but amounts that are set as a percentage of take of turnover. The Greens will move an amendment setting that at about 5 per cent of turnover, with those venues that do the right thing having significant reductions. We also believe that periodic licensing should be an opportunity to genuinely have a look at licences and allow the community to comment on licences that cause problems. We will be moving a number of amendments to fix some of the problems with this bill, and we will be voting against this legislation because we believe it is the wrong legislation.

We believe there are solutions, and those solutions need to be tailored to each individual community. We believe in empowering local communities to democratically determine what is best for them, not having Ministers and director-generals imposing those solutions on them. We believe in addressing the real causes of alcohol-related violence and going to the heart of the cultural issues that are driving the problems in New South Wales. We believe that there are real ways that this could have been done if the O'Farrell Government had not been spooked by the media and panicked by the alcohol industry into solutions which minimise the damage on the alcohol industry and maximise the damage

on young people and on people seeking a late-night drink in Sydney. The Greens do not support this legislation.

**Reverend the Hon. FRED NILE** [3.42 p.m.]: On behalf of the Christian Democratic Party, I am pleased to support the two bills before the House, the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. The Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 amends a number of Acts to create a new offence of assault causing death, an aggravated version of the new offence, and provides police with powers to conduct alcohol and drug testing in relation to the new aggravated offence. It also increases the penalties that apply to illegal possession and supply of steroids, increases fine amounts for certain public order offences, removes voluntary intoxication as a mitigating factor on sentence, as well as making other amendments.

The Liquor Amendment Bill 2014 introduces a statutory framework allowing the Government to respond to significant alcohol-related issues and/or other concerns about high levels of alcohol-related violence and antisocial behaviour in a particular precinct. It will establish the new Sydney central business district entertainment precinct. It provides for a 1.30 a.m. lockout and 3.00 a.m. cease liquor service restrictions. It will also impose a licensing freeze on the Sydney central business district entertainment precinct, provide temporary and long-term banning orders, prohibit takeaway liquor sales after 10.00 p.m., introduce a period licensing scheme, suspend approvals to deliver online responsible service of alcohol training, and other measures.

As members would anticipate, the Christian Democratic Party strongly supports these bills. We have always raised in this House concerns about the harmful influences of alcohol in our society. That is why I introduced a bill to prohibit alcohol advertising, a bill to increase the age of alcohol consumption from 18 to 21 years, and a bill requiring labels be placed on alcohol containers warning of the dangers of alcohol consumption. I have also supported other suggestions about prohibiting the supply of alcohol in Parliament, as this is a workplace and we should be consistent in having prohibitions that affect government employees, such as police and others. Our party has always been consistent in its concerns about the harmful influence of alcohol. That is why the Christian Democratic Party does not serve alcohol at any of its dinners or functions. Also, I have tried to be consistent in my own life in not consuming alcohol at all. When the Premier announced the legislation I issued a media release stating that the Christian Democratic Party supports the Premier's new alcohol-fuelled coward punch crimes and other matters. I said in that media release:

The people of NSW, particularly in Sydney, have been crying out for action by the O'Farrell Government and I am pleased their cries have been heard at last, especially the parents who have lost their beloved teenage sons.

I went on to say:

Urgent action was needed to counteract the increase in alcohol-fuelled "coward punch" crimes. Hopefully the new 8-year mandatory minimum sentences for those convicted under the new one punch laws, where the offender is intoxicated by drugs and or alcohol, plus new mandatory minimum sentences for violent assaults when intoxicated by drugs and/or alcohol, will act as a strong deterrent.

I did raise the question as to whether the use of alcohol or drugs should be a factor in the new mandatory minimum sentences; in other words, what happens to a person who is not affected by alcohol or drugs but throws one coward punch and kills someone? I think that violent person should be subject to the same eight-year mandatory minimum sentence. I hope that will be the fact in due course. I note the Premier's announcement that the Government is now dealing with only part of the

proposed set of legislative measures to tackle alcohol-fuelled violence, but that this sitting of the Parliament would deal with the creation of an eight-year mandatory minimum sentence for assault causing death where alcohol or drugs is involved.

The Premier has announced that the broader parts of the planned legislation, including a regime of mandatory sentences, starting at two years jail for violence linked to alcohol or drugs, have been delayed until this House resumes early in March. Whether those delays have been brought about by concerns expressed by judges, lawyers and community caseworkers has not been made clear, but it appears the Government is reviewing some of its proposed legislation, as it has already done with the amendment to the legislation that we are now dealing with in this House.

The Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 creates a separate offence for one-punch assaults where an assault by intentionally hitting a person causes death. Under this offence, a person will be criminally responsible for the offence even if the person does not intend or foresee the death of the other person and even if the death was not reasonably foreseeable. The new one-punch offence of assault causing death will carry a maximum penalty of 20 years imprisonment and an aggravated version if committed when intoxicated with a maximum penalty of 25 years. The aggravated offence will carry a mandatory minimum sentence of eight years imprisonment.

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The Greens and some Opposition members are still concerned about the introduction of mandatory sentencing. It is also an issue for the legal profession, the Law Society of New South Wales and the New South Wales Bar Association. In the past, changes have been made in the area of mandatory sentencing. In the late 1990s mandatory sentencing was introduced in Western Australia for convictions for repeat home burglary offences Australia and also for property offences in the Northern Territory and in recent years other States, including Queensland and Victoria, have introduced mandatory sentencing laws for other types of offences. The introduction of such legislation is not a huge hurdle, as some members have indicated.

It is also clear that mandatory sentencing laws are not a completely new concept in New South Wales or Australian criminal law. The abolition of the death penalty during the twentieth century resulted in almost all States and Territories adopting a mandatory sentence of life imprisonment for murder. In 1982 this mandatory provision was relaxed in New South Wales and a number of other States have followed. Mandatory life imprisonment remains the penalty for murder in Queensland, South Australia and the Northern Territory. We therefore should acknowledge the need for a minimum mandatory sentencing provision in this legislation before the House.

The bill also will empower police to test for alcohol and drugs, allowing a police officer to require a person to undertake certain testing when that person has been arrested for the new aggravated offence. The powers include requiring a person to undertake a breath test and a breath analysis or to provide a blood or urine sample. My concern is whether the Government has provided for the necessary equipment to carry out testing for drugs. We have provision for alcohol testing in this State but the number of drug testing vans is microscopic. I do not know how the Government intends to carry out the testing without adequate funding from the Police budget to dramatically increase the number of vans for drug testing. The testing must be carried out by professional staff with the proper equipment because it is more difficult to test for and detect drugs than it is for alcohol. I fully support the provision because I believe that many of the accidents that occur on the roads are caused by a combination of alcohol and drugs. In some cases random breath testing for alcohol—which I also fully support—does not pick up the presence of drugs that a person may have consumed.

The legislation also will prevent self-induced intoxication being taken into account as a mitigating factor in sentencing. I am pleased that the bill will include steroids in the list of prohibited drugs and make it an offence to traffic and possess them. It is clear that the violence is often stimulated by the consumption of steroids, not just alcohol. There is a big market for steroids, particularly for males who believe that steroids will help them develop muscles or improve their physique. They do not realise the impact of steroids on their mental state, which can lead to bouts of rage and violence.

The bill also will increase fines for alcohol-related offences. The Christian Democratic Party fully supports those increases. The maximum penalty for the offence of continuing intoxicated and disorderly behaviour will be increased from six penalty units to 15 penalty units, or a fine of \$1,650. The bill will also increase the fine amount on criminal infringement notices for offensive conduct from \$200 to \$500 and for offensive language from \$150 to \$500. As I travel around the State and speak to people one issue raised is the amount of offensive conduct, particularly offensive language, occurring on the streets. Many young people, male and female, seem to be unaware that their language can be offensive in a public place. The crackdown on offensive conduct will need to be backed up with education programs, and I am pleased that the Government has announced a public awareness campaign, which I fully support. I have always campaigned for education and law enforcement to go hand in hand.

Over the years we have seen the success of the random alcohol breath testing program and how it has changed the drink-driving culture in this State. Some members have said that this legislation will make no difference. I believe it can, but it needs to be supported by education programs. We have seen a dramatic change in the culture of drink-driving due to random alcohol breath testing. We have also seen changes in the use of cigarettes and tobacco products following a ban on advertising, which I helped to bring about; a ban on smoking in public places, which, again, I helped to promote; a ban on smoking in cars, which was amended to a ban on smoking in cars where children are present; and a ban on the public display of cigarette products, especially in supermarkets where screens are now placed in front of tobacco products. All of those bans have had a dramatic impact on the culture of cigarette consumption. In the 1940s and 1950s, 80 to 90 per cent of the population consumed cigarettes and tobacco. Every male thought it was normal to smoke, sometimes from quite a young age. Now the percentage of the population in this State that consumes cigarettes and tobacco is hovering around 14 per cent. Legislation combined with education has had a dramatic effect in that regard and members should not be pessimistic about the effect of the legislation before the House.

The Liquor Amendment Bill 2014 will introduce the same 1.30 a.m. lockouts and 3.00 a.m. cease service of alcohol provisions as apply in Newcastle. Hotels, general bars, clubs, nightclubs, et cetera, within the new Sydney CBD Entertainment precinct will have to abide by those provisions. Those venues will not be allowed to admit patrons after 1.30 a.m. and the service of alcohol must cease at 3.00 a.m. I and the Christian Democratic Party believe that these provisions are not strict enough. The Government thinks it is biting the bullet but I believe that a relaxation in the hours of operation of hotels and clubs has brought about the problem we now face. I was one of the people who organised a referendum opposing late-night hotel operations during the Wran years. We won the referendum opposing the closure of hotels at a later hour but the Wran Labor Government ignored the referendum and allowed closing time for hotels at 10.00 p.m. rather than 6.00 p.m. The late-night closing time is related to the social problems we now see. Further studies should be undertaken of closing times for bars and clubs with the possibility of gradually winding them back.

The Sydney CBD Entertainment precinct liquor licensing freeze is a good provision because the availability of alcohol causes the problems. When the availability of alcohol is restricted, the level of consumption is reduced. It is important to note also that the Sydney CBD Entertainment precinct has expanded and everyone involved with these new laws should check the new plan of the entertainment precinct, which is included in the Liquor Amendment Bill 2014. I fully support the temporary and long-term banning orders in the bill, including a ban on takeaway liquor sales and a ban on the sale of alcohol after 10.00 p.m.

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Online training courses for the responsible service of alcohol need to be carefully examined. Recently, a 14-year-old was issued with a certificate having completed an internet training program. Such programs seem to me to be a waste of time. Training and testing must be conducted properly to ensure a full knowledge of the responsibilities involved in the service of alcohol. The legislation before the House was brought about as a result of the recent shocking attacks and deaths of teenagers in Sydney. Like other members, I express my sincere condolences to parents whose children went out for a good night and, following an assault, faced death, spending days unconscious in hospital, or were fatally injured by a king hit or what I call a coward's punch.

I congratulate Sydney barrister Alexander Street, SC, who assisted the parents of Thomas Kelly, a victim of violence, to put proposals to the State Government to increase the penalties imposed on offenders who commit a crime while affected by alcohol or drugs. It is a good example of the action of citizens to influence government policies. I also remember the death of teenager Daniel Christie who became Australia's fifteenth fatality in the past six years from a king-hit punch. Daniel was taken off life support last Saturday week after being assaulted on New Year's Eve in Kings Cross. The Christian Democratic Party expresses its condolences to Daniel's family. In both those cases a blow led to a fractured skull when the back of the victim's head hit the pavement. I am pleased to support the legislation before the House.

**Dr MEHREEN FARUQI** [4.02 p.m.]: I speak on the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. Managing alcohol-related issues in our society demands that we, as a Parliament, devise strategies that are well thought through and that are effective in ameliorating the problems we face. Alcohol-related violence, be it in the home or on the streets, is a very serious issue. Our responses as lawmakers cannot be kneejerk reactions or headline-grabbing policies. Rather, we have to demonstrate leadership by working with our communities and using the research and evidence available to determine what will and will not work in the future.

In my training as an engineer I learnt much about problem solving and the different ways of framing issues, analysing them through various perspectives and using authoritative evidence to justify options and to then implement and monitor them for effectiveness. I know that responses to complex issues, which have a broad and deep impact on our communities such as the one under consideration today, need to be developed through similar robust decision-making processes that take into account the actual consequences of implementation, are designed to take account of future impacts and scenarios, and are effective and just. I also speak as a mother of two young adults. My heart goes out to families who have needlessly lost loved ones to violence. We need policy responses that act as deterrents to prevent tragic incidents in the future. Unfortunately, the O'Farrell Government seems to have succumbed to creating a policy response on the run.

The Premier's plan to combat alcohol-related issues does not address the root causes. My colleague

from The Greens Dr John Kaye has very insightfully expressed why that is the case. The Greens believe that the objectives of any response should be to promote evidence—based, socially equitable solutions that reduce the harm caused by alcohol and other drugs while not restricting the ability of responsible users to engage in entertainment at times appropriate to lifestyle choices. The O'Farrell Government's package does not pass those tests, and I will be joining my colleagues from The Greens to vote against this legislation. For example, lockouts and last drinks will see masses of people move into neighbouring areas such as Balmain, Newtown and Surry Hills. This will also affect low-income young people disproportionately. People who cannot afford the higher cost of alcohol at small bars are the ones who will be left without access to venues.

While the O'Farrell Government has been hastily drafting punitive, expensive, unjust and ineffective laws to manage alcohol-related issues, it has completely overlooked or ignored measures that will actually work. We have evidence from across the world that the provision of convenient and frequent late-night transport is a key factor in preventing violence and injury, as well as providing people enjoying the night-life a safe passage home. Not having viable transport options also leads people to use unsafe forms of transport such as lifts from strangers, driving under the influence of alcohol or walking through unfamiliar places.

Cities around the world, such as New York, Chicago and Copenhagen, have recognised that and implemented 24-hour train and bus services on weekends. The O'Farrell Government's shuttle bus service from Kings Cross to the central business district is not satisfactory. It does not go to the heart of the problem and it is not being used much at the moment. There are good reasons for this: once people get into the central business district there are few viable options for them to get home. I have heard stories from so many friends who have been trapped in the city all night because public transport stops at 1.00 a.m. and does not start again till 5.00 a.m.

The NightRide buses to Penrith, Cronulla and Richmond run only every hour. If one bus is full, people could be left stranded for two hours. That is why The Greens and the community are pushing for 24-hour public transport on the weekends. We have the rail and bus infrastructure to be able to do this. This is a practical measure that can be implemented quickly and will have an immediate positive effect, and it will be much cheaper than the \$2 billion cost of locking up people. All we need is the political will to make it happen. Many in the community are speaking up against these laws and opposition is growing.

Just today we heard news that key organisations, venues and stakeholders involved in Sydney's great live music scene have formed a community group to defend their industry and their jobs. The Sydney Late Night Culture Alliance includes iconic venues such as Goodgod and the Oxford Art Factory, and the fantastic independent radio station FBi is pushing, like The Greens, for better public transport options and against punitive lockouts. It is becoming clearer that the community is unhappy with the measures. Hundreds have signed up already to The Greens "Don't leave us stranded" campaign and the petition for 24-hour public transport services in Sydney on weekends. We will keep pushing for these practical changes to improve safety and late-night entertainment for our global city.

I also join my colleagues from The Greens in firmly opposing mandatory minimum sentencing. I do so out of a firm belief in evidence-based policy and as an advocate for informed and rigorous decision-making. I am not a criminal lawyer and I do not pretend to have a sophisticated, nuanced understanding of the criminal law in all its complexities and all the countless factors, risks and assessments that go into a judgement or a sentence. That is why I have taken advice from people

who do know the law, such as the New South Wales Bar Association, the former Director of Public Prosecutions, other lawyers and, of course, my colleague Mr David Shoebridge who has unanimously opposed mandatory minimum sentencing based on years of collective evidence that clearly demonstrates the unjust and ineffective nature of such a punitive measure.

I understand that we, as lawmakers in this Parliament, have an obligation to each other and to the people of New South Wales to implement laws based on the grounds of the evidence before us and on our understanding of what we believe will or will not work.

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This understanding ought to be based on a sound analysis and awareness of legislative history and a commitment to public good. It is my grave fear that this amendment has been introduced on no such grounds and that once these draconian laws pass this Chamber they will not achieve a positive outcome.

The evidence before this Parliament, which is available and accessible to every member of this House, shows that mandatory sentences do not deter serious crime. Instead, mandatory sentences imprison those who would be better served by rehabilitation. Judges know that these people do not belong in prison but they must be sent there because of the reactive, headline-grabbing approach of this Government. The same problem occurs with those who, on the facts, are deserving of short sentences but end up incarcerated for many years. Mandatory sentences disproportionately affect the disadvantaged, marginalised and the oppressed. Mandatory sentences fill jails and have devastating consequences for civil society. These sentences are fundamentally unjust.

This Parliament and parliaments around this country and the world have toyed with the idea of mandatory sentencing, egged on by the loud voices of those with little or no appreciation of the complexity of criminal sentencing. In almost every situation, mandatory sentencing regimes have eventually been repealed, wound back, erased and banished to history as a complete failure and as an instrument of injustice and oppression. Yet history—as it will do and as it does in this Parliament today—inevitably repeats itself.

I finish by reiterating that before I entered Parliament mid last year I was, and I still am, an engineer. Throughout my civil engineering career I worked with local councils, academic bodies, community organisations and innumerable clients to negotiate solutions to problems based on the reliable evidence provided to me. I saw that as my duty as an engineer and as a professional. I see my duty to this Parliament as no different: to look at the evidence, to assess the true benefit to the people of New South Wales, and to act accordingly. In light of this, The Greens will vote against mandatory sentencing today as a sound rejection of this ill-advised and ill-considered legislation. It is indeed a tragedy that The Greens will be the only party to do so.

**The Hon. PENNY SHARPE** [4.11 p.m.]: I speak on the Liquor Amendment Bill 2014 and the associated cognate bill, the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014. The objectives of the bill are in two parts: one, mandatory minimum sentencing for a range of offences, to which I will come later; and, two, the provisions of the Liquor Amendment Bill 2014, which contain a range of measures colloquially known as lockouts and early closing times, together with other proposed measures. The objectives of the bill are:

- (a) to enable the regulations to declare areas to be prescribed precincts and to impose regulatory conditions on licensed premises within those precincts, and

(b) to declare such an area in the Sydney CBD (to be called the Sydney CBD Entertainment precinct) and to impose such conditions on certain licensed premises in it.

Those conditions are the lockouts and closing times. Further, the objectives of the bill are:

(c) to extend the current freeze on the grant of hotel, club and certain other licences in respect of premises in the Kings Cross precinct and the Oxford Street-Darlinghurst precinct to the Sydney CBD Entertainment precinct and to make the freeze in the Kings Cross precinct, Oxford Street-Darlinghurst precinct and Sydney CBD Entertainment precinct extend to 2 years after the date of assent to the proposed Act, and

(d) to enable periodic licence fees to be levied for licences under the Principal Act, and

(e) to preclude bottle shops and other take-away of alcohol for consumption venues from trading anywhere in New South Wales after 10 pm, and

(f) to suspend the operation of the Responsible Service of Alcohol online training course trial.

These bills are before the House today for a range of reasons. In recent times, there have been some tragic and public instances—

**DEPUTY-PRESIDENT (The Hon. Trevor Khan):** Order! As the door to the Chamber is open, I ask that the volume of conversation be kept to a minimum.

**The Hon. PENNY SHARPE:** The reason we are debating this matter today is because of a confluence of events. Alcohol abuse is a significant issue across New South Wales and, in fact, Australia. We have had held alcohol summits and inquiries on this issue. The reason we are here today is to deal with one aspect: the issue of street-related violence occurring in our entertainment precincts across the central business district, which is predominantly caused as a result of intoxication by alcohol. The reason we are here today is because there have been a number of tragic cases that have shocked the community. Any parent or person who knows a young person is concerned about their safety and wants those young people to be able to go out, to enjoy themselves and to come home safely. We are here also because there has been an ongoing campaign by front-line workers who have blown the whistle on what they see every weekend. Throughout the city doctors in emergency departments, nurses, ambulance officers and police officers have called time and have asked us to look seriously at what is happening and to make a change. I agree with them that we need to call time on this issue and see what we can do.

I also note that there has been a sustained and supported press campaign in the mainstream media about this issue. The bill has been rushed through and has not had an adequate amount of scrutiny. The big question is: Will it make a difference? I note that the bill contains a three-year review. I believe that is essential. We are taking dramatic and significant steps, as has been acknowledged by many stakeholders in this debate. The measures in this bill require significant monitoring and review to see whether they have the effect that we hope, that is, to stop people from committing acts of violence and to prevent people from becoming victims of such violence.

Labor's response to this issue is our policy which we issued last year. I do not intend to canvass it, as it has been well canvassed already in the debate. We supported a range of measures, many of which are contained in the bill today. It is important to note that the bill is a step forward, given that the

Government originally was reluctant to adopt these measures. The Government has come to the party and decided to introduce some of those measures.

I want to make two points about the measures proposed in the bill. An important point raised by previous speakers is that the suite of measures before us today will not cost the Government much money. In my view, the Government should be investing in other areas but it has failed to deliver. Getting people home safely is an issue in every community across New South Wales and public transport in the central business district precinct is a huge issue. On a Friday and Saturday night between 5,000 and 10,000 people are in Kings Cross. With the introduction of lockouts and the closing of venues at 3.30 a.m. all those people will be out on the streets. Simply having a few free buses to transport people is not going to cut it. The best and most effective way to disperse thousands of people is to put them on a train. I am pleased that Labor has continued to support such measures but I am disappointed that the Government has refused to come to the party.

While I am talking about transport and the measures that may or may not be in this bill, I want to point out the big miss by the Government in relation to this legislation. Every day we see buses driving along Pitt Street and George Street and about half of them have giant signs on them advertising alcohol. The Government has been talking tough about tackling alcohol-related violence and dealing with alcohol abuse but it is happy to take the money received for the advertising of alcohol on government-funded buses. The message of the advertisements can hardly be clearer. For example, a giant bottle of vodka with the words, "Arrive boldly". If that is not an ad for preloading, I do not know what is.

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The Government has been prepared to take the money. The Minister for Transport has said she is not going to do anything about it but the Government has then put in all these measures to show that it is being tough. It is not costing the Government a lot because it is very happy to take the money.

People are aware that Labor will not oppose the legislation but I place on record some concerns about mandatory minimum sentencing. There is no evidence that mandatory minimum sentencing will have an impact on alcohol-related violence. I am not convinced that people who are intoxicated and who are willing and able to throw a punch at somebody will be thinking about the consequences before they do so. Again I make the point that prevention is far better than trying to clean up the mess after the event. I am not certain that mandatory minimum sentencing will make a difference. I am concerned that mandatory minimum sentencing will lead to unjust outcomes. As we stand here today we cannot predict or understand the events that surround every single punch that is thrown in New South Wales. To pretend otherwise is wrong. But that is what we are going to do today. I remain very concerned and will watch very closely to see what impact mandatory sentencing has on alcohol-fuelled violence.

Another issue I want to raise with respect to mandatory minimum sentencing is the setting up of hierarchies of similar crimes that then dictate different outcomes. Today we are dealing predominantly with alcohol-fuelled street violence but I do not believe that the one woman or child a week who is murdered by the partner is any less of an issue than the one we are dealing with here. The problem with mandatory sentencing is one ends up having to pick and choose between what is right and what is wrong, what is more important and what penalties need to be greater rather than less. To me that is a very challenging issue. It does not mean that we should have mandatory sentencing for every offence. It actually takes me in the other direction and is a big red flag for me in relation to mandatory sentencing.

As I said, the solution to tackling alcohol-related violence requires a much more complex response. It is one that will cost money and will involve education—not just public relations campaigns saying something is being done about it. I have seen the Government advertisements in the media over the past week. That is not an education campaign; it is just saying, "Hey, look, we are doing something that we failed to do and that we resisted for the last 12 months." That is not an education campaign. I agree with Dr John Kaye's comments about the defunding of the drug and alcohol unit in schools. That was simply ridiculous. It has been demonstrated through various reviews to be one of the more effective drug and alcohol units in Australia for prevention. Long-term surveys show that drug and alcohol use is actually on the decline among young people in New South Wales yet we have decided to knock that on the head. I reiterate that prevention measures also include better transport options. We also need to examine the unintended consequences of what we are putting in place today. I am glad there is a review and I will monitor that closely.

These bills have been rushed through without sufficient scrutiny. The Opposition received the bills at 9.50 this morning and there is a risk of unintended consequences. What is the impact on people who live on the borders of this operational zone? There are many venues and places around here. Are people simply going to walk across the road and are we going to see creeping problems with that? There has not been time for consultation or discussion. We will have to monitor that very closely. Has there been proper analysis of the thousands of people who work in the hospitality and entertainment industries who support a vibrant night life and what will be the impact of these changes on those people?

The legislation will have no impact on those establishments that do not open until the wee hours of the morning but it is a significant change and those who work or who are out and about at night have not been given the opportunity to provide any input on these proposed laws. That is not a good way to move forward with the laws of our State. I refer also to the impact on the vulnerable. I am worried about those who live on the street, Indigenous people, and particularly about changes to the Summary Offences Act. Fines will increase for offensive conduct, offensive language and continuation of intoxication and disorderly behaviour. They will increase from \$200 to \$500 for offensive conduct, from \$150 to \$500 for offensive language and from \$200 to \$1,100 for the last offence. It is easy to write a law to increase the penalty but if people cannot afford to pay these fines, they are on a slippery slope and some will end up in jail. Being jailed for using offensive language is not desirable. History shows that we got rid of some of these offences because of the disproportionate impact it had on some members of the community. It did not work.

I state in conclusion that Labor will not oppose the legislation. Labor will support many of the measures wholeheartedly and, reluctantly, will not oppose some of the measures. However, there needs to be more consultation, good implementation and strong monitoring, and in three years time we need to look at whether this legislation fulfils its intentions rather than having unintended consequences and not achieving what we want to see, which is safer streets for everyone.

**Mr DAVID SHOEBRIDGE** [4.26 p.m.]: I speak to the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. At the outset I commend and endorse the words of my colleague Dr John Kaye on the Liquor Amendment Bill 2014 and the words of my colleague Dr Mehreen Faruqi on both bills. I will endeavour not to repeat their well-made points. I will keep my focus on the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill. This is the bill that expands the regime of mandatory sentencing here in New South

Wales. It also puts in place effectively a strict liability offence for these one-punch laws.

Mandatory sentencing and the concept of strict liability, regardless of the intention—one is found guilty of a criminal offence—ought to have no place in a criminal justice system that gives meaning to the word "justice". The substance of this bill is to insert a new section 25A into the Crimes Act for the offence of assault causing death. The key elements of that offence are, first, if a person intentionally assaults another person with their body or an object; second, the assault is not authorised or excused by law; and third, the assault causes the death of the other person.

Intent is irrelevant, reasonable foreseeability is irrelevant and for the basic offence intoxication is irrelevant; it is strict liability and the maximum sentence is 20 years. Section 25A (2) relates to an aggravated offence that applies only to those persons over 18 who are intoxicated when committing the offence. Intoxication is defined by reference to part 11A of the Crimes Act. That effectively says that intoxication means intoxication because of the influence of alcohol, a drug or any other substance, so it is an entirely circular definition that is found within the Crimes Act. If a person is intoxicated, he or she is intoxicated by reason of taking a drug or alcohol. There is a deeming provision that provides that if there is a certificate stating that the blood alcohol reading is greater than 0.15, that person is deemed to be intoxicated, but otherwise it falls back upon the rather circular definition that you are intoxicated if you are intoxicated.

The penalty for committing that offence while intoxicated is a new mandatory minimum of eight years. As I said before, the definition of causation is where the person is killed as a result of injuries received either directly from the assault or from hitting the ground or some object as a consequence of the assault. Intention, reasonable foreseeability, the most wildly unlikely set of scenarios that arise from an initial striking, if it results in death, even without any intention at all or any reasonable foreseeability, will ground the offence. If someone does it while intoxicated, he or she will receive eight years in jail, regardless of the circumstances and the justice.

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It is an extraordinary expansion of mandatory sentencing in this State. The bill creates the power for a police officer to require a breath test and the provision of a urine or blood sample following the arrest of an offender for the aggravated charge of assault causing death. In circumstances where the victim has not died but there is a concern that the victim may die and there is sufficient basis for charging an offender with assault or similar offence the police may require a blood test. The failure to provide a blood test or urine analysis carries a two year criminal penalty. I imagine that will be an area of significant legal exploration when these bills find their way on to the statute books. The bill specifically excludes self-induced intoxication as a point of mitigation. That has already been excluded by Court of Appeal judgements, but the Government wants to make a point and explicitly exclude it by statute.

There are provisions in the bill that provide substantially greater penalties for possession or dealing of steroids, effectively classing steroids as narcotic drugs. Last, this bill brings in substantially increased penalties for offensive conduct, offensive language in a public place or for failure to comply with a move-on direction by a member of the NSW Police Force. There has been widespread, almost unanimous, condemnation by the legal fraternity across the State of the mandatory sentencing provisions in the bill. Legal organisations in New South Wales such as the Bar Association, Law Society, Australian Lawyers for Human Rights and other civil liberty groups have unanimously condemned this legislation and have done so based on solid and responsible grounds. The primary reason is that mandatory sentencing does not work to deter or reduce crime. It has not worked in New South Wales, the Northern Territory, Western Australia or the United States to reduce crime. It does

not deter crime.

The United States has had a two-plus decade experiment with mandatory sentencing and its federal prisons are filled to overflowing with persons convicted under draconian mandatory sentencing laws. Classes of offences for which mandatory sentences apply continue to have steady rates of offending. Last year the Obama administration saw the light and began to wind back mandatory sentencing provisions realising it is a comprehensive policy failure that is costing billions of dollars, destroying lives, producing unjust outcomes and not deterring crime. When they applied mandatory sentencing in the Northern Territory offending rates for the classes of offences where it applied increased. The jails filled and new jails had to be built. In the Northern Territory the jails were predominantly filled with Aboriginal offenders while in the United States federal prisons are predominantly filled with citizens who are black or Hispanic.

When Western Australia rolled out mandatory sentencing the prison population exploded with a vast increase in primarily Aboriginal persons being incarcerated under mandatory sentencing laws. Western Australia maintains mandatory sentencing laws. There is not one jurisdiction where mandatory sentencing laws have led to a reduction in crime. As lawmakers parliamentarians have an obligation to respond to the state of alcohol-related violence highlighted in New South Wales, and particularly in Sydney and Kings Cross, where families have had their sons killed as a result of alcohol-related violence. Each week the tragedy of women who are killed or injured by their partners as a result of alcohol-related violence continues. Parliament has a responsibility to enact laws that go further than dealing with the wreckage through increased penalties that do not deter offending; it has a far more important and serious obligation as lawmakers to pass laws that will prevent the offence in the first place. Mandatory sentencing does not do that.

The most cursory examination of the circumstances makes it apparent mandatory sentencing does not work for crimes of violence or where the assailant is intoxicated. A person who is intoxicated and angry with another person is hardly going to think the process through and say, "Well, I was going to punch this person but I have heard the New South Wales Government has increased the sentences for this so on mature reflection, despite being angry and intoxicated on the streets of Kings Cross, I will not engage in violence because I might face an eight-year or four-year sentence instead of a two-year sentence." Study after study has proved that is not the thinking engaged in by offenders and it has proved that mandatory sentencing does not deter persons from committing crimes.

A study by the Bureau of Crime Statistics and Research indicates that a likelihood of apprehension, charge and conviction does deter crime but increasing sentences does not and never has deterred criminal offences. These bills will not make the State any safer. They will not deter offenders from committing crimes and sadly they will not prevent alcohol-fuelled violence on the streets. With the exception of one or two individual outliers the legal profession and civil liberty groups in the State are unanimously against these laws and they have endorsed that view in written submissions. In a communication to all members of this Parliament the NSW Council for Civil Liberties Inc. stated on 28 January:

Our fundamental objection to mandatory minimum sentencing is that it inevitably leads to injustice in individual cases by preventing the court from taking into account all relevant circumstances surrounding the offence, the offender and the victim. There will be significant numbers of unjust and anomalous sentencing outcomes.

Further:

The court system will come under considerable additional strain as it can be expected that persons charged with any of these offences will avoid guilty pleas in the face of mandatory minimum sentences. The policy of promoting early guilty pleas through discounts on sentences will be seriously compromised. More offences will go on election to the District Court and more will result in defended trials, entailing more time and effort for prosecutors and defence lawyers and longer delays for police and victims to have their cases resolved.

It will not deter offending. It will increase the costs in the legal system and it will lead to the families of victims being dragged through ever longer criminal proceedings.

In their communication of 24 January Australian Lawyers for Human Rights indicated their opposition to mandatory minimum sentences. The Law Society's Criminal Law and Juvenile Justice Committees met after the Government's announcement on 21 January. They state:

It is an established principal that the sentencing of offenders should take place on an individual basis. Mandatory minimum sentencing is a one size fits all form of justice which excludes the discretion of judges. The [Premier's] media release refers to "serious assaults where drugs and alcohol are involved" and a table of offences is also provided. This will create an inflexible penalty structure which excludes the operation of judicial discretion. Mandatory minimum sentencing will prevent the court from being able to give proper consideration to the objective and subjective circumstances of each case which can result in injustice.

Reiterating the concerns of the Council for Civil Liberties they state:

It is the Committees' view that from the offender's perspective, there is little to lose in requiring the prosecution to prove its case. As a result, more offenders may elect to have their matters heard at trial. Victims will therefore be referred to give evidence and relive their experience. As a result of more matters going to trial, and in the knowledge that mandatory minimum sentencing can lead to injustice, the Committees anticipate that there may be reluctance by jurors to convict in some cases.

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None of these consequences appears to have been considered by the Government before it introduced these bills. Indeed, none of these serious consequences could have been considered by the bulk of members who were confronted with this legislation when it came hot off the photocopier at 9.45 a.m. today. We have had mock scrutiny of these bills over the past six hours. There is a pretence that elected representatives have individually scrutinised and considered these bills, but that has not happened.

A small group of the leaders of the major parties in the lower House decided that these laws should be supported because it would play out badly in the media if they were not. They then told the other members of the lower House—apart from a Greens member and two Independents—that they should support the bills regardless of what they thought of them and regardless of the fact that they had not read them. These bills have been subjected to pretend scrutiny in the other place. It has been a travesty of democracy and it demonstrates that this is a pretend democratic process. The legislation has not been considered by members who are notionally elected to represent the interests of their electorate. What they think about the bills is irrelevant; they simply rubber stamped them while they were still warm from the photocopier at 9.45 this morning. That is not democracy; it is a joke, and it is now happening with majority support in this place.

Former Director of Public Prosecutions Nicholas Cowdery stated in a keynote presentation to the Law Institute of Victoria Criminal Law Conference in July 2011:

Mandatory sentencing is antithetical to justice. Why, then, do we see politicians returning like dogs to lick at it and why should we need to be discussing it at all today?

He then went into great detail about the history of mandatory sentencing in this State and across Australia. He included the following quote from former Chief Justice Spigelman:

Specifically, the requirements of justice, in the sense of just deserts, and of mercy, often conflict. Yet we live in a society which values both justice and mercy.

Of course, mandatory minimum sentences provide no scope for mercy—it is irrelevant. Even if a judge wanted to be merciful to an offender because the offence was committed after gross provocation or the person had suffered enormous, overwhelming tragedy before committing an ill-considered act with no intent and no foreseeability that someone would die as a result, he could not do so. The overwhelming tragedy, the gross provocation, the lack of intent and foreseeability is irrelevant if the assailant is intoxicated. Such an assailant will serve a minimum of eight years in jail.

There has been some discussion about the minimum sentence imposed by this legislation. In fact, the last minute amendment pushed through by the Attorney General will not ensure an eight-year minimum sentence. The legislation now provides for a minimum eight-year non-parole period. Given the requirement that the standard non-parole period be at least three-quarters of the sentence, the minimum sentence will be 12 years. I do not think that anyone considered that when the legislation was rushed through the other place. The mandatory minimum non-parole period will be eight years, but that means a mandatory minimum sentence of 12 years' imprisonment. We had seconds of notice about that amendment and it was not even considered by Cabinet, which is another example of the pretend scrutiny that occurs in this place.

New South Wales tried mandatory minimum sentences in 1883. After a red-hot media campaign undertaken by the *Sydney Morning Herald* and other media organisations in the late 1870s and early 1880s the government of the day rolled out mandatory minimum sentences. Nicholas Cowdery addressed that in his presentation to the Law Institute of Victoria and quoted the 27 September 1883 editorial in the *Sydney Morning Herald*, which stated:

We have the fact before us that in a case where a light penalty would have satisfied the claims of justice, the judge was prevented from doing what he believed to be right, and was compelled to pass a sentence which he believed to be excessive, and therefore unjust, because the rigidity of the law left him no discretion.

Mandatory minimum sentences were repealed after a counter campaign a little more than 12 months after they were introduced.

Of course, this Government will not be satisfied with this first bite at mandatory minimum sentences. We know that the right wing elements in the Cabinet—one of whom is sitting at the table—rolled the Attorney General and forced the Premier to make a statement about introducing an array of other mandatory minimum sentences for assaulting police and assault occasioning actual bodily harm. If any such offence is committed while the perpetrators are intoxicated the Government plans to send them to jail for a minimum of two years unless they have committed the offence in company, in which case the minimum sentence will be three years in prison. The Shooters and Fishers Party has said that it wants more mandatory minimum sentences. Given that, in a matter of weeks we will be considering yet more bad legislation imposing mandatory minimum sentences and more unjust

criminal legislation. If that happens, our prison population will swell. We have an obligation to ensure that there are no more tragedies in New South Wales and to create a fair criminal justice system. These bills will not achieve that.

**The Hon. LYNDA VOLTZ** [4.46 p.m.]: I support the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. Members have criticised the Government for rushing the debate on these bills. I believe that it should have happened sooner. The Government needed to act and it has acted.

The measures in this legislation addressing liquor availability are welcome and important. Most of us can remember when liquor outlets were closed on Sundays, bottle shops closed early, pubs closed at midnight and venues like the Sundowner Hotel at Punchbowl had a 12.30 a.m. lockout and 3.00 a.m. closing. Since I was a teenager there has been a dramatic increase in alcohol availability across the State, and that is not a good thing. Live music venues, dancing and entertainment have disappeared and venues are now almost exclusively devoted to the consumption of alcohol. When I left the Army I had a part-time job at the Courthouse Hotel on Oxford Street. I am sure the Minister for Police and Emergency Services knows it.

**The Hon. Dr Peter Phelps:** He may have visited you there.

**The Hon. LYNDA VOLTZ:** I was behind the bar working. It had a 24 hour licence and it was scary at 4.00 a.m. even for a tough character like me. It was always a joy to clean the bathrooms at 6.00 a.m. after the Taxi Club closed. The Millers Hotel at Sefton was one of the best venues in Western Sydney because it hosted live music provided by groups like the Divinyls, INXS and Skyhooks. People were not standing around drinking like they do now.

The current alcohol culture is not traditional in this country and it must change. The NSW Police Association has presented evidence to parliamentary committees that 75 per cent of Sydney's nightlife economy is generated by entertainment and food and only 25 per cent is generated by the consumption of alcohol, which attracts the majority of police resources. These bills are a sensible first step, but we must also address assaults and where they are happening. I do not think the Sydney central business district is the only problem. We are aware of problems in Coogee, Bondi and Cronulla; in fact, in many of the beachside suburbs. Parramatta was a problem but the situation has changed in recent years and I urge members to visit the area to see the changes.

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I want to address some issues raised by other members, in particular the issue of transport. When I was posted to Singleton with the military police there was one disco in the town of Singleton and no public transport. There were about 2,000 young, fit infantry soldiers, 800 miners and 20 local boys and 20 local women. I might say there were a few fights. Most of the fights involved young soldiers who were walking home alone late at night and being picked off by local boys or miners who were hanging around—or vice versa. I will not say that some local army boys were not misbehaving. Our simple solution for that was to get the transport corps to put a bus on when the disco shut. That wiped out overnight the problem we had, mainly of soldiers going home alone at night. Transport is an important solution to any of these problems—getting people off the street and back to their houses. We do not want people who are a bit drunk wandering round the streets at 4 or 5 o'clock in the morning.

The reality is that many of the assaults we are discussing are not happening because people are

wandering about at those times in the morning; they are happening because people are going out and looking for a fight. Frankly, if they do not like the sentences that are being imposed, they should not think it is all right to walk around the city punching people. This comes back to a change in culture. When I was young you did not go and bulk yourself up at the gym, you did not take steroids, and you did not need to have a beautiful body image. This was just as much an issue for boys as it was for girls. You went to rugby training, swimming or for a jog. The only gyms that existed were boxing gyms. But there has been a proliferation of the gym culture and sports such as mixed martial arts. Many of the offenders involved in mixed martial arts, an issue that we need to look at, think it is all right to promote an image of themselves as being violent by going out and hitting people. It is not acceptable, and they should be punished with the full weight of the law.

Police and ambulance drivers must be sick to death of turning up to assist people only to have these antisocial idiots, rather than abide by the instructions given to them to stop fighting or to move on or to get into the ambulance, attack police and ambulance officers, or even fire brigade personnel, when they turn up at the scene of incidents. There are other issues that are not within the powers of the State Government but come within the province of the Federal Government. One of those is the advertising of alcohol in sport. As with tobacco advertising, I think there is no reason to continue to sustain the idea that it is acceptable advertising to have our cricket team covered with VB signs while participating in a five-day test match over the summer period, when every kid in Australia is watching them. That is not Cricket Australia's fault; it is the responsibility of the Federal Government to deal with alcohol advertising in sport. I cannot think of a sport that does not have alcohol advertising. Tobacco advertising in sport worked because people were watching those sports. I admit when I have watched cricket I wanted some Kentucky Fried chicken and a VB; that is the reality. We need to change that culture by similar legislation.

**The Hon. Michael Gallacher:** Your body is a temple, Lynda—but a temple for what?

**The Hon. LYNDA VOLTZ:** A temple of Kentucky Fried. Everybody has spoken about the way this legislation will be used in the city to deal with people who are walking round the streets. But this legislation is not restricted to those on the streets who consume alcohol. There are significant issues of domestic violence. Quite often women and family members are the victims of domestic violence caused by those who are completely intoxicated. We should send a strong message to those people, who think they can walk into their own homes and assault family members, that that is not acceptable. While this legislation is targeted at those who assault people on the street, it will also be used to deal with those who think they can walk into their own homes and assault family members.

While these bills deal with a crisis in the city, we need to look at a crisis across the State. It would be remiss of me not to mention the high incidence of sexual offences across New South Wales, in areas such as the Walcha and Bourke local government areas. Whereas the State average is 149 incidents of sexual assault per 100,000 of population, in those areas it is about 760 and 780 victims per 100,000 of population. We should be using our Bureau of Crime Statistics and Research statistics more effectively and start dealing with areas where offences are more prevalent.

Like my colleagues, I too have issues with whether mandatory sentencing works or does not work. Reverend the Hon. Fred Nile raised the issue of burglary in Western Australia. Burglary statistics in New South Wales dropped significantly—but not because of mandatory sentencing. Statistics improved because people were economically better off. Good work was done by the agencies in reducing the heroin supply, but if you make people's lives better that is when you see the big impact

on crime statistics. Although we need to look at sentencing and a whole range of other measures, we need to look at how we can make people's lives better—their jobs, their lifestyle and whether they have access to education and better living—because that is where you get the best impact on crime statistics. But I certainly support the measures put forward by the Government in this bill.

**The Hon. JAN BARHAM** [4.56 p.m.]: I speak in this debate in particular to address the Liquor Amendment Bill 2014. I am pleased to have the opportunity to discuss the importance of acting on alcohol-related violence in our communities. It is long overdue. This is an issue that requires a considered approach to reduce the harms caused across the State, addressing the management of liquor outlets, the excessive consumption of alcohol and its impact on people's behaviour, as well as the response in terms of treatment, education and other services. It is unfortunate that the bills before us take a narrow focus and include some unreasonable measures such as mandatory minimum sentences. It is also disappointing that the Liquor Amendment Bill provides only limited measures, mostly focused in one part of Sydney rather than dealing with the challenges faced across New South Wales. That has been a concern for many years. In 2003 the New South Wales Government gave an election commitment to hold a summit on alcohol abuse. This commitment was a response to increasing community concern about the incidence of alcohol-related violence. The alcohol summit's work was extensive and its report included 318 recommendations. The Government's response to the report from that summit specified a long-term goal of:

Changing the way the community uses and thinks about alcohol—to achieve a downward trend in irresponsible drinking behaviour, alcohol related incidents of violence, injury and disease and an upward trend in research activities and accessibility of treatment and other programs

It is clear that that goal was not achieved. Last year the Foundation for Alcohol Research and Education delivered in Parliament House a report titled "10 years on: An analysis of the progress made in preventing alcohol-related harms since the 2003 New South Wales Summit on Alcohol Abuse". Of the 318 recommendations, 195 related to primary and secondary prevention and 107 of those identified at least one specific prevention strategy. The Foundation for Alcohol Research Education report revealed that, 10 years after the summit:

The recommendations arising from the Summit and actions following the Summit have had little impact in achieving the long term goal from the Summit of a downward trend in irresponsible drinking behaviour, alcohol related incidents of violence, injury and disease. This is evidenced by the significant and concerning increases in alcohol-attributable hospitalisations, all reported results and treatment episodes where alcohol is the principal drug of concern.

Recent work has also highlighted that while the impact of alcohol-related harm remains high, we have incomplete knowledge of just how severe its effects are. The New South Wales Auditor-General's 2013 report on "Counting the Cost of Alcohol Abuse" estimated that the total cost of alcohol abuse in New South Wales, including social costs, is "around \$3.87 billion per annum, or about \$1,565 from each household".

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But the Auditor-General called on the Government to estimate and report these costs, emphasising that:

The community also has a right to know this information so it can inform public debate on alcohol abuse and the best ways to combat it.

Delivering evidence on the impact of alcohol across our State and the importance of identifying meaningful solutions too often has fallen to non-government organisations. In November 2012 the Foundation for Alcohol Research and Education [FARE] partnered with the National Drug and Alcohol Research Centre to deliver the "Alcohol Action in Rural Communities" research report. The report, which was launched here in Parliament, was a result of the largest and most thorough randomised controlled trial of community action ever undertaken to reduce risky alcohol consumption and alcohol-related harm. It involved a major investment of \$2.4 million and showed the benefits of implementing community action, revealing that for every \$1 invested, between \$1.37 and \$1.75 of benefits were returned to the community.

Studies such as that do not capture some of the other costs to society. How do we put a price on a life and on the consequences for families and communities whose lives are so terribly affected by the tragic crimes that can be associated with excessive alcohol consumption? In my community of Byron Bay people have concerns about the loss of public safety and the impact on the reputation of the town, which has become known as a hotspot for alcohol-related crime, sexual assaults and antisocial behaviour. That is in the context of a town that relies on tourism as its major economic driver. But many within the community question the costs of tourism based on irresponsible alcohol consumption which impacts on the way of life for the residents and our local health, police and community services.

In the past year I had the honour of being a committee member of three inquiries that have considered alcohol and its impacts on our communities. The first inquiry was a drug and alcohol treatment inquiry which heard from a broad cross-section of the community about the impacts of drug and alcohol abuse. Despite the inquiry's focus on issues relating to treatment for opioid dependence, many submissions stated that by far the overriding substance abuse problem in New South Wales is with alcohol. It is important to note that the committee heard overwhelming evidence that there is not enough focus on or funding of treatment options for those seeking support. I look forward to the Government's response to the inquiry's recommendations, including recommendation 2 which called on the Government to review the 2003 alcohol summit outcomes and to provide an update and response to its recommendations.

The second inquiry was the Standing Committee on Social Issues inquiry into strategies to reduce alcohol abuse among young people in New South Wales, which was tabled in the Chamber today. This issue is one that I am only too familiar with in my community of Byron shire. The community and the council have tried to address the behaviour, causes and outcomes of binge drinking with several campaigns over a decade. In 2005 a youth-based program called "Your Night, Your Life" was funded by Byron Shire Council through the Attorney General's Crime Prevention Strategy program. More recently a campaign titled "Cringe the Binge" was developed by young people with the support of the Byron Youth Service. In October 2013 this campaign received the Australian Marketing Institute's National Excellence Award for Marketing on a Shoestring Budget. It is an excellent example of a community-focused campaign that involves young people in designing the educational material about a range of alcohol-related issues, including violence and sexual assault, sexually transmitted infections, mental health and brain development.

The third inquiry that confronted the impacts of alcohol was by General Purpose Standing Committee No. 3 into the impact of tourism on local communities. The committee heard from a number of communities about the impact of alcohol issues associated with tourism. Again, my community of

Byron shire has highlighted the effects of alcohol-related harm, with both the council and residents, including the community group "Last Drinks at 12", raising concerns about the impacts of alcohol-related violence. The Local Government Association and Manly Council also raised concerns about the impact and costs of alcohol on local communities.

These recent, and in some cases ongoing, inquiries have been presented with extensive evidence about the impacts of alcohol throughout New South Wales communities, so it is no surprise that I have a real concern and interest in seeing this issue dealt with thoroughly. I also have personal experience of working for decades within my community. Twenty years ago I witnessed a New Years Eve in Byron Bay that resulted in international headlines of "Riots in seaside community". It was an alcohol-fuelled nightmare for the small community, which produced injuries, impacts for the hospital and infrastructure damage to the town and which resulted in a downturn for the town by way of a reduction in visitors.

In the years that followed I was involved in the New Year's Eve Safety Committee that undertook the management of the New Year event to try to ensure a safe environment. When I was elected to council in 1999 I also sought to deliver policies and strategies to address the impact of alcohol-fuelled violence and negative social impacts. We held forums, established a Community Drug Action Team that delivered alcohol testing at festivals, and through the council's social committee we developed a Safe Community Plan. All of these efforts were positive, except they highlighted that what we as a council and community were unable to address was the significant impact of the increasing popularity of the town as a tourism destination and the increasing number of venues that took advantage of old approvals that did not restrict their hours of operation. We saw an increase in the hours of operation and the expansion of the town as a late-night alcohol venue, attracting more visitors who came for the night life. The result was more violent attacks, more sexual assaults and increased antisocial behaviour. The licensees had their right to operate under their licences and there was little the community could do to restrict them in their operations. We saw Byron Bay become a hotspot for alcohol-related violence and crime-related incidents.

At the same time that my community was dealing with the impacts of alcohol, in 2007 the focus fell on Newcastle following a complaint lodged by the NSW Police Force with the Liquor Administration Board about four licensed premises. The ABC's reporting on the Newcastle situation and a high level of community dissatisfaction resulted in the Director of the Office of Liquor and Gaming and the NSW Police Force adding a further 11 licensed premises to the complaint. On 21 March 2008 the Liquor Administration Board released its decision on the complaints and imposed significant restrictions on 14 of the 15 premises. These involved lockouts for all 14 hotels, bringing forward the closing times to 3.00 a.m. for hotels that were previously trading to 5.00 a.m. and to 2.30 a.m. for other premises that had licences to trade to 3.00 a.m. Other restrictions were imposed, including the production of plans of management, the independent auditing of compliance with the plans, the supervision of the responsible service of alcohol and no sale of shots from 10.00 p.m.

The evaluation by the Bureau of Crime Statistics and Research of the Newcastle trial indicated that the set of measures that were implemented had a positive effect, with a 29 per cent reduction in assaults after dark. The experience of the Newcastle trial highlights that in addressing the problem of alcohol-related violence and harm there needs to be a suite of measures that are carefully implemented and evaluated. As the Foundation for Alcohol Research and Education identified in its report 10 years after the alcohol summit:

The NSW Government must ensure that future alcohol policy is evidence based in order to prevent further increases in harms. However to introduce evidence based policy the Government must first acknowledge the need to address the supply of alcohol. This will require the Government to "reframe" the alcohol policy debate in New South Wales from one with a focus on the problem of a few to one that focuses on the need for population-based interventions. It also requires the Government to place a greater emphasis on consultation with public health experts and the community ahead of the alcohol industry.

Another outcome of the concerns of health and policing professionals as well as the general community was the establishment of the Last Drinks campaign. This alliance involved the New South Wales Police Association and doctors, nurses and paramedics coming together with a platform that, following the success of the Newcastle trial, called for broader application of the principles that delivered that outcome. This alliance brought home to many in the community the impacts of the out-of-control situation that was taking over many local communities. Those workers on whom we all rely to care for us were being placed at risk and there was a duty of care on Government to act to protect those workers from the risks they faced in performing their jobs as well as protecting society as a whole.

I knew about this situation only too well from my local contact with police and health professionals. The stress, fatigue and injuries that these professionals were experiencing with this increasing problem were worrying. This was in addition to the fear and concern about the impact of the violence on the broader community. In 2009 the Office of Liquor, Gaming and Racing released community profiles for each local government area. The reporting, based on Bureau of Crime Statistics and Research statistics for the 2007 period, identified Byron Bay as having more than double the State's average of alcohol-related assaults. Drink-driving offences were four times the State average. In rural and regional areas there is a major concern over the lack of transport, and the incidence of death caused by alcohol-fuelled accidents should not be overlooked in the current analysis of and focus on violent incidents.

In April 2010, after the damning report on those crime statistics and the launch of the Last Drinks campaign, I proposed that Byron Shire Council submit a request to the Byron Liquor Accord for a trial of the Last Drinks initiatives.

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I was not surprised to gain the unanimous support of the council for this proposal. The community concern was high and the councillors understood the impacts on safety, wellbeing and livelihood, not just of the local residents but also on our major industry, tourism. The shock was at the licensees' refusal to consider a trial. This highlighted that local government and communities are unable to act on these issues. That is why strong leadership from the State Government is needed. Unfortunately it appears this legislation does not take into account the broad statewide issues surrounding the problem we are facing and the need to develop a package of measures that address the full range of underlying issues and needs within communities across the State.

The current legislation lacks responses and outcomes for identified hotspots such as Byron Bay and Manly. I note the report on Thursday 24 January when the Premier stated that lockouts could be introduced to more areas in Sydney. But Premier, what about the rest of the State? On Saturday a headline stated, "Mayors put hands up for Premier Barry O'Farrell's drinking laws." In that story, the Byron Greens Mayor Simon Richardson, Parramatta Liberal Mayor John Chedid and Wollongong's independent Mayor Gordon Bradbery all weighed into the debate about the need for action in their areas. The Australian Medical Association of New South Wales was reported as identifying Bondi,

Coogee and Liverpool as suburbs where the laws should also apply.

Mr Geoff Provest, member for Tweed, raised cross-border issues and those are relevant concerns, not only for the Tweed but also for Byron Bay where we know that large numbers of problem drinkers are not locals or visitors in the tourism sense, but are people who only have to travel for 40 minutes or an hour from interstate to Byron Bay for a night out on the town. I also know that my local member, the Hon. Don Page, is well aware of the importance of this issue facing our region, as he has attended forums that I have attended and has been engaged with the community on this issue for many years.

I say to the Premier, government members and other members of this place that we are here to serve the people of New South Wales, and this issue is not just about Sydney's central business district and the inner suburbs. Last week the *Northern Star* noted that since November 2011 there have been six "king-hit" assaults on the Northern Rivers, which have resulted in three deaths. We need to consider the evidence across the State and listen to communities that have been requesting support for many years for action to address this plague on their communities. I acknowledge the concerns of those who object to the narrow focus of the proposal on Sydney central business district and Kings Cross and the impact this could have in displacing the problem to other areas. This is a genuine issue and deserves a broad approach.

I also note that one of the issues in the 2003 Alcohol Summit that was not implemented was the requirement for mandatory membership by licensees of a liquor accord. This recommendation has also been put forward in the report of the Standing Committee on Social Issues on strategies to address alcohol abuse among young people. What makes this recommendation relevant is that compulsory membership means that all licensees become part of the solution, not just part of the problem. It delivers an annual funding model so that mitigations such as transport options are able to be delivered, research can be supported and education programs developed that are specific to the locality. This issue must be about local responsibility, local engagement and local outcomes.

More than 10 years after the Alcohol Summit, it is disappointing that our political response to alcohol is still so piecemeal and inadequate in addressing the broad issues that have existed in our society and culture across generations. I welcome the fact that we are debating these important issues. I hope we will move forward towards an approach that is comprehensive and effective, but the legislation before us does not provide this.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.13 p.m.], in reply: I thank members for their contributions to the debate, particularly those members who spoke in favour of the bills as opposed to those who intend to vote for it but spoke against the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014. I have made that distinction which I am sure The Greens are equally concerned about. A number of shadow Ministers spoke vehemently against the legislation and spent the overwhelming majority of their time condemning this legislation, which their speeches will show, particularly the Hon. Shaoquett Moselmane who is a lawyer.

**Reverend the Hon. Fred Nile:** Shame.

**The Hon. MICHAEL GALLACHER:** It is a shame because in their communities they will suggest that

they voted in favour of the legislation but from their speeches it is clear that they did not agree with it. The Deputy Leader of the Opposition said that he is not playing politics with this legislation but that is exactly what Opposition members, bar one, have done. I take this opportunity to congratulate the Hon. Lynda Voltz on her contribution. The Hon. Lynda Voltz mentioned mandatory sentencing but 95 per cent of her contribution provided a realistic assessment of the problems that affect every community. The Hon. Lynda Voltz is the first Opposition or crossbench member in this debate, except for those in the Legislative Assembly, to positively mention the impact of this legislation on domestic violence.

Mr David Shoebridge said this legislation will not stop offenders but it will stop them re-offending. Wives who have put up with domestic violence in our State for so long will not have to put up with it any longer. The Hon. Lynda Voltz made that observation. She also spoke about the nightclub scene in the 1970s and the 1980s, for example, Selina's Nightclub at Coogee and the former Bondi Life Saver, which were packed to the rafters by patrons to listen to headline bands such as Skyhooks, Dragon and Cold Chisel who later had worldwide careers. Patrons went to the club to listen to the music and they could not get a drink because the club was so packed. The bands no longer exist so when I hear the bleating from The Greens that somehow this legislation will destroy the music industry I point out that the live music industry is dead. The 1970s and the 1980s show how prolific the music industry was right across the pub scene when the venues were packed to the rafters by patrons who wanted to listen to the music and were not there for the grog; that is the reality. The Hon. Lynda Voltz and the shadow Minister mentioned public transport. The Tourism Transport Forum, hardly what one would call an organisation stacked by the Liberal Party or The Nationals, said:

The reforms announced today by Premier Barry O'Farrell seek to balance improving safety with ensuring that Sydney remains an attractive destination for visitors from around the world. Sydney has an international reputation as a friendly, safe and welcoming city and these measures will ensure the city retains a positive image at the same time as ensuring that visitors' needs can be still catered for.

Despite all the doomsayers from those opposite that this is the end of the world as we know it, people involved in the industry are speaking up and saying that enough is enough. The Hon Jan Barham referred to Byron Bay as she has for many years and I encourage her to read the Liquor Amendment Bill 2014, which provides that the very things she mentioned will apply to Byron Bay. She also referred to her support for Last Drinks. Last Drinks supports lockouts and closing times yet her colleague Dr John Kaye condemns the move on lockouts and closing times. Last Drinks is made up of health professionals, nurses, doctors, ambulance officers and police. In relation to this legislation Last Drinks has said:

It is fantastic that the Premier has listened to the concerns of the community and emergency service workers and introduced a suite of measures that will help curb alcohol-fuelled violence.

The Police Association said:

These raft of measures are exactly what the city of Sydney needs. Every weekend we are forced to pick up the pieces, phone parents and even deal with becoming the victims of violence and abuse ourselves. Now we see the Government taking real action in dealing with alcohol-related violence. The suite of measures is a win for the community and for all the police officers who protect our community.

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What did the Australian Medical Association [AMA] have to say? It said:

The 1.30 a.m. lock-outs and the 3.00 a.m. last drinks for licenced venues in the Sydney Central Business District are a very welcome move from the Government. The Government should also be commended for the freeze on

licences for new pubs and clubs in the Sydney Central Business District. These laws provide some good, preventative measures to reduce alcohol-fuelled violence.

It was only weeks ago that The Greens were accusing both major political parties of being in the hip pockets of the Australian Medical Association. Time and again we got it. The Greens love to accuse us of being in the hip pockets of the Australian Medical Association. However, today Dr John Kaye was the first to say that they have been talking to the beer barons of Balmain, who were concerned about what was going to happen there. Of course, Dr Mehreen Faruqi spoke about Balmain. I can see it now, all of those merry people up at Kings Cross at 3.00 a.m. saying, "My goodness, they have locked the streets of Kings Cross and Darlinghurst out to us, let us all walk to Balmain." That is what The Greens want us to believe—a mass exodus of people. By the time they get to Balmain, if they are walking, they will all be sober. But the burghers and beer barons of Balmain are being protected by The Greens, who would lead everyone in Balmain to believe that there will be a sea of humanity leaving Kings Cross at 3.00 a.m. and walking across the Anzac Bridge, heading towards Balmain. The position that some have taken in relation to this issue is farcical.

I think the Hon. Lynda Voltz got it right again. What were her opening words in this debate? Finally, somebody in the Opposition is prepared to tell the truth. She said, "It could not come sooner." These reforms could not come sooner. Of course, Dr McDonald, who was acting Leader of the Opposition whilst Mr Robertson was away over Christmas, and Linda Burney talked about recalling the Parliament. They said, "We need to recall the Parliament now, to bring it back now." But what did the Hon. Penny Sharpe say in her contribution? She said, "This is being rushed through the Parliament." Of course, we heard accusations from those opposite that they had not had a chance to look at the bill. But it did not stop too many of them spending their entire 20 minutes of allotted speaking time going through, in great detail, the impact of the bill. It would appear that all of them did, in fact, have an opportunity to read the bill in some detail and to even prepare the proposed amendments to the bill that will be shortly be debated.

It is the height of hypocrisy for The Greens, but those who have been exposed the most are the Opposition members because they want to have their cake and eat it. They want to stand up in this House—except for one member—one after the other, condemning the legislation and then they want to vote for it. Those opposite think the public will not see that fraudulent behaviour. Everyone can see the politics of the Opposition members by what they are about to do. Members can be assured that every member of the Government will be making it painfully obvious to the entire community of New South Wales that when it comes to alcohol-fuelled violence and measures to address it the Opposition is prepared to say one thing but to do another. I commend the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014 and the Liquor Amendment Bill 2014 to the House.

**Question—That these bills be now read a second time—put.**

**The House divided.**

**Ayes, 25**

Mr Ajaka Mr Blair Mr Borsak	Mr Gallacher Mr Khan Mr Lynn	Mr Searle Mr Secord Mr Veitch
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Mr Brown Mr Clarke Ms Cotsis Ms Cusack Mr Donnelly Mr Foley	Mr Mason-Cox Mrs Mitchell Mr Moselmane Reverend Nile Mrs Pavey Mr Primrose	Ms Voltz Mr Whan  <i>Tellers,</i> Mr MacDonald Dr Phelps
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**Noes, 5**

	Ms Barham Mr Buckingham Dr Kaye <i>Tellers,</i> Dr Faruqi Mr Shoebridge	
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**Question resolved in the affirmative.**

**Motion agreed to.**

**Bills read a second time.**

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**In Committee**

**TEMPORARY CHAIR (The Hon. Sarah Mitchell):** The Committee will deal first with the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014.

**Clauses 1 and 2 agreed to.**

**Schedules 1 to 4 agreed to.**

**Mr DAVID SHOEBRIDGE** [5.35 p.m.]: On behalf of The Greens I speak against the adoption of schedule 5 by the Committee. Schedule 5 has been inserted to substantially increase the penalties for a number of offences under the Summary Offences Act 1988. In particular, they increase the penalty notices for offensive conduct in a public place. The penalty will rise from \$150 to \$500. The penalty for offensive language in a public place is proposed to rise from \$200 to \$500.

**TEMPORARY CHAIR (The Hon. Sarah Mitchell):** Order! I am having difficulty hearing Mr David Shoebridge. I ask members to keep their conversations to a minimum.

**Mr DAVID SHOEBRIDGE:** The penalty for failure of an intoxicated person to comply with a move-on order by police is proposed to increase from \$200 to \$1,100. People served with a notice for offensive conduct or offensive language in a public place will now be hit with a \$500 fine and if they fail to comply with a move-on notice they will be hit with a \$1,100 fine. These offences have a disproportionately large impact on a number of already vulnerable members of our community. We know from previous studies that offensive conduct, offensive language and these kinds of failure to move-on directions are penalties most often brought against people who most often come into contact with the police. In New South Wales that will be Aboriginal people, mentally ill people, homeless people and young people.

Many of those people have far less financial means than the average person in New South Wales.

The increase in fines to \$500 for offensive conduct or offensive language will mean that many of them will be unable to pay the fine. They will then have their fairly limited wages either garnisheed or if they are utterly unable to meet the fine their drivers licence will be cancelled and they will suffer a cascading impact on their lives. There has been no outcry anywhere in the State about an increase in swearing or offensive conduct per se in the public streets of New South Wales. There have been no highlighted instances of people failing to comply with move-on orders. However, the Government has simply used the cover of alcohol-related violence to substantially increase penalties for these modest public order offences. Given that they will have such a disproportionate impact—and we know this—on Aboriginal citizens, on the mentally ill, on the homeless and on young people, there is no justification at all for the Chamber to support the Government's agenda to so significantly increase those penalties.

The Government has not explained, either in the other place or in its contributions in this place, how it is that increasing those penalties will make New South Wales a better place. It will make New South Wales a more unfair place. It will impact on those people most in need of consideration and concern by the Parliament. It will not deter offending; we know that penalties do not deter offending. It will have a harsh and unjust impact.

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I call upon all members in this House to look at this issue as a standalone issue. The Greens are opposed to these bills in their entirety, but there is a chance for members to look at this particular provision. The Minister was correct in his second reading speech to say that there were crocodile tears from the Opposition concerning how awful mandatory sentencing is and that the bill is unfair, yet the Opposition will vote for the great bulk of this bill. The Opposition should support The Greens proposal to vote against schedule 5 and speak against this particular unfair impost. I ask members of the cross bench to consider this as a standalone issue and look at the merits, the absence of argument in support and the unfair impact upon already vulnerable citizens in this State. The Greens proposal will knock a small amount of fairness into this bill.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [5.40 p.m.]: The Opposition will support The Greens proposal to vote against schedule 5. It is the only Greens proposal the Opposition will be supporting. The reasons for that support were outlined in my contribution to the second reading debate. The Opposition is concerned about the disproportionate impact that increased fines will have on already vulnerable and disadvantaged persons in our society, such as young people, Aboriginal people and people living with mental illnesses who will be at the receiving end of these increased fines. The Opposition is concerned about that. It does not see any justification for it and none has been outlined by the Minister in this Chamber or the Government in the other place as to the rationale in favour of massively increasing those fines. The Opposition does not see any argument in favour of it.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.41 p.m.]: There is a very good way for people to avoid the penalties as spelt out in relation to these criminal infringement notices: Do not commit the crime. If a police officer gives you a lawful direction to go home and you stand there and argue with him or her about it you will end up with a \$1,100 fine. The bill is drafted in a common sense way. If people take the lawful direction and go home when a police officer directs them to and does not stand and argue with them and disobey the lawful direction there will be no penalty. We had this debate when the Government included these provisions in relation to intoxication in the criminal infringement

notices. The same claims were made by The Greens and the Opposition that criminal infringement notices would be used against disadvantaged communities. There is not been one skerrick of evidence to support that point of view.

The Greens continue to refuse to give credit to Police Force training and the measures in place to ensure that the police are aware of Aboriginal persons and the limitations in the criminal infringement notices in that regard. The Greens will not give the Police Force credit for that training and those measures because it does not fit into the story line perpetrating the myth as they move around the inner western suburbs of Sydney that the police are abusing their powers. Despite the contribution by Mr David Shoebridge there is no evidence of widespread abuse of power by the NSW Police Force. The State Debt Recovery Office has strong measures in place to ensure alternative pathways for those people suffering financial hardship in relation to paying their fines. I again make the point that there is a good way to avoid the fine: Do not break the law in the first place.

**Reverend the Hon. FRED NILE** [5.43 p.m.]: During the second reading debate I focused on this particular section of the Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014, page 11, schedule 5. I complimented the Government on the fine increases, which bring fines into line with cost of living increases in our society. It is not extravagant. I think it is important. I was surprised that Mr David Shoebridge has not heard any complaints from the public about the increase in offensive language. I am hearing it all the time from my constituents. I suggest the member visit shopping centres and talk to families there about some of the language that young people are using in public. Previously it may have been used privately but now they are shouting it out in the streets and shopping centres. The Christian Democratic Party does not support The Greens proposal to vote against schedule 5. The words should be retained in the legislation. The Government must educate the community as to the meaning and application of these laws so that young people understand these provisions and will not get into trouble.

**Mr DAVID SHOEBRIDGE** [5.44 p.m.]: The Minister states that there is no evidence to support the proposal to vote against schedule 5. All the evidence about the gross rate of over representation of Aboriginal persons in our criminal justice system confirms the concerns of The Greens. The figures in the 2013 budget estimates show from a population base of 2½ per cent Aboriginal juveniles make up 50 per cent of those people detained in New South Wales jails. The tasering statistics released by the Ombudsman showed that young Aboriginal men are 100 times more likely to be tasered than the average citizen in New South Wales. Once police draw a taser Aboriginal people are more likely to have the taser fired and used on them than non-Aboriginal people in New South Wales. From a population base of 2½ per cent Aboriginal citizens make up 26 per cent of the jail population across Australia. That array of statistics is a small bite of the gross over representation of Aboriginal citizens in our criminal justice system.

The prosecution of these offences will be disproportionately brought against Aboriginal citizens because it occurs in every aspect of the criminal justice system. This is an arbitrary increase in fines that is effectively mandatory minimum fines for offensive conduct, offensive language and failure to comply with a move on direction. The Minister asks, "Where is the evidence?" I cannot believe that the Minister for Police does not know the basic fact of over representation of Aboriginal citizens in the criminal justice system. The fact that the Minister baldly makes those statements is an indictment on him and the information he is receiving from his department.

**TEMPORARY CHAIR (The Hon. Sarah Mitchell)**: I clarify for members that the question before the

Committee is that schedule 5 as read stand the schedule of the bill, to which The Greens have indicated that they will be voting "No".

**Question—That schedule 5 stand as part of the bill—put and resolved in the affirmative.**

**Schedule 5 agreed to.**

**Schedule 6 agreed to.**

**Title agreed to.**

**TEMPORARY CHAIR (The Hon. Sarah Mitchell):** The Committee will now deal with the Liquor Amendment Bill 2014.

**Clauses 1 and 2 agreed to.**

**Dr JOHN KAYE [5.48 p.m.]:** I move The Greens amendment No. 1 on sheet C2014-002D:

No. 1 Page 6, schedule 1 [18], proposed section 58A. Insert after line 21:

(5) A periodic licence fee for a licence payable on a due date in accordance with the regulations made under this section must be an amount that is 5 per cent of the amount received in respect of liquor sold or supplied on the licensed premises concerned during the period to which the fee payable relates unless the application of the matters referred to in subsection (3) would reduce the fee below that amount.

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I draw the attention of the House to proposed section 48, which creates risk-based licensing. Although it is referred to as "periodic licensing", it is periodic licence fees that are set on the basis of risk. If it were periodic licensing there would be a review of the licence periodically with some threat that it could be repealed. This legislation provides for periodic licence fees set on the basis of a number of factors outlined in proposed section 58A, which refers to the factors that may mitigate against a full licence fee. We will not know the details until we see the regulations, but it appears that a licence would be established and venues would be accessed according to their location, trading hours, patron capacity, offences committed in relation in the licensed premises, compliance with the requirements of the Act or other Acts, and the number of packaged liquor licences held by the same person.

If risk-based licensing is to be something other than a revenue collecting measure—that is, if it is designed to create incentives to licence holders to amend their behaviour—it should have real teeth. However, it will have no impact whatsoever on a bar like the Ivy if the fee is \$30,000 because that could be covered by about 30 minutes of turnover. The intention of this amendment is to set the maximum licence fee at 5 per cent of the turnover during the previous licence period and to allow that to be adjusted downwards by various other factors. For a large venue located in a dangerous area in which many offences have been committed at or in relation to the licensed premises and where the licensee has not complied with the requirements of the principal Act, the full licence fee would be imposed at 5 per cent of turnover. That would be a real incentive to licensees avail themselves of proposed subsection (3) to reduce the number of offences committed and to improve their compliance. The objective of this amendment is to increase the pressure on licensees to comply with the legislation by providing real financial incentives to behave themselves.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the

Hunter, and Vice-President of the Executive Council) [5.52 p.m.]: The High Court dealt with this issue conclusively in *Ha and another vs New South Wales and others* and *Walter Hammond and Associates vs the State of New South Wales*. The Greens amendment would effectively impose a 5 per cent tax based on sales, and I am advised that that would be unconstitutional. A change of this nature applied solely on basis of volume and with no regard to regulatory impacts is categorised as an excise or the appearance of such. Australian States are constitutionally barred from imposing an excise because the Commonwealth covers the field.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [5.53 p.m.]: As much as it might be interesting to return to collecting excise, that activity is not available to the State the New South Wales. That is one of the reasons the Opposition does not support this amendment. The Labor Party supports risk-based licence fees; in fact, it is an important plank of its Drink Smart Home Safe policy that was launched last November. Risk-based licence fees have been adopted in many jurisdictions in response to the harm linked to the increased availability of alcohol. They act as a motivational tool whereby licensees are encouraged with lower licence fees to reduce trading hours, to adopt more responsible business models and to take proactive measures to reduce alcohol-related violence in and around their venues. Additional revenues generated by risk-based licensing fees are intended to be spent on measures designed to tackle alcohol-related harm such as more police officers, more public transport, closed-circuit television coverage in alcohol violence hotspots, and educational campaigns.

However, to be successful any risk-based licensing fee system must be carefully constructed after extensive consultation with the community and industry not only to ensure that the right licence fees are struck—I have no idea whether 5 per cent is too high or too low—but also to ensure that it is technically competent and does not fall foul of the obvious flaw in this proposal in that it is an unconstitutional revenue measure. While the Opposition supports risk-based licensing fees, this is not the right model. It needs to be properly and carefully considered.

**Question—That The Greens amendment No. 1 [C2014-002D] be agreed to—put and resolved in the negative.**

**The Greens amendment No. 1 [C2014-002D] negatived.**

**Dr JOHN KAYE** [5.54 p.m.], by leave: I move The Greens amendments Nos 2 and 3 on sheet C2014-002D in globo:

No. 2 Page 14, schedule 1. Insert after line 37:

**[29] Section 135A**

Insert after section 135:

**135A Additional parties to accord**

(1) The Director-General must, by notice in writing given to all licensees in the area to which a local liquor accord applies who are not parties to the accord, direct the licensee to become a party to the accord.

(2) The Commissioner of Police and Director-General are to vary the accord by including the names of any licensee who becomes a party to the accord in accordance with such a direction.

No. 3 Page 14, schedule 1. Insert after line 37:

**[30] Section 136 Requirement to contribute to costs of implementing local liquor accord**

Insert after section 136 (1):

(1A) Without limiting subsection (1), any such direction must require part or all of any such contribution to be made to any local council that is a party to the local liquor accord concerned or that is the council for a local government area which comprises (in whole or in part) the area to which the accord applies.

I suspect that amendment No. 2 is constitutional. It makes membership of liquor accords compulsory for all licensed venues and licensed liquor outlets within an accord area. The director general must give notice in writing to all licensees in an area that they are required to join the liquor accord. This is in line with recommendation 8.24 of the 2003 NSW Summit on Alcohol Abuse, which states:

Accords should be mandatory and enforceable, with a statewide regime of liquor accords underpinned by legislation which highlights their role in decreasing alcohol-related crime and anti social behaviour

That call was reiterated in the report of the Standing Committee on Social Issues entitled "Strategies to reduce alcohol abuse among young people in New South Wales", which was tabled in this Chamber this morning. Recommendation No. 5 states:

That the NSW Government require all liquor licensees within an area covered by a local liquor accord to be a member of that accord.

This amendment removes the perverse incentive that exists whereby good venues join the accord and do the right thing but those that do not do the right thing do not join and avoid the associated costs and constraints. The Standing Committee on Social Issues and the 2003 NSW Summit on Alcohol Abuse agree that accord membership should be compulsory.

Amendment No. 3 ties the revenue generated by the accord to local councils to be spent in whole or in part on reducing the impacts of liquor consumption and sales in the area and also reducing the damage done by those sales. Taken together, these amendments implement the views of a broad range of people that we should have compulsory liquor accords and that the fees collected under section 136 should be available to local councils to address the issues associated with alcohol-related antisocial behaviour and the adverse impact of alcohol sales. I commend the amendments to the House.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [5.58 p.m.]: The Opposition does not support these amendments. We support the notion of local liquor accords. However, it is their essentially voluntary nature that makes them so important and effective because people make a real commitment. It is regrettable when local businesses fail to join accords, but mandating membership in

the way proposed in these amendments would be ineffective in an operational sense. For those reasons the Opposition does not support the amendments.

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**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.59 p.m.]: The Greens amendment No. 2 advocates for mandatory participation in local liquor accords. As The Greens may be aware, mandatory participation in liquor accords was a recommendation made by the Social Issues Committee following its inquiry into alcohol abuse. That recommendation, along with the others made by the committee, is currently being considered by the Government. With regard to The Greens amendment No. 3, this power already exists in the Liquor Act, allowing the Director General of NSW Trade and Investment to direct any licensee to contribute to the costs of promoting or giving effect to the accord, and the intervention of local government is not required. For those reasons, the Government will not be supporting these two amendments.

**The Hon. JAN BARHAM** [6.00 p.m.]: I speak in support of The Greens the amendments Nos 2 and 3. I can speak about the experience of trying to get outcomes for a local community that has an ongoing expansion of alcohol outlets. We saw that particularly under the previous Government and the 2008 Liquor Act amendments that allowed a tripling of liquor licences in my local area. Why is it that these licensees were profiting and prospering from the attraction and location of Byron Bay when no funds were being returned to the community to fund education and support measures to help young people deal with the negative impacts of alcohol abuse?

Public transport, as I and other members have mentioned, is one area where there is a direct link between the use of funds raised and the ensuring of good outcomes. This can be through the process of a liquor accord, where everyone comes together and puts together a management plan and determines what outcomes work well for a particular locality and how money can be well spent. I note that under the previous Government funds were made available through the Department of Transport to support late-night buses. Over the past decade or so I have attended three launches of a late-night bus to support people get home after a night out, with funding provided by government and councils with very modest contributions from the licensees. But when funding from government agencies was no longer available, everything else fell away; licensees were unable to make the very modest contributions that they had been making.

The amendments propose a means by which not only will people be buying into an issue affecting their local area and considering what can be done to improve outcomes for the community, but there will also be a source of funding that can be well applied to mitigation measures. As with the alcohol summit 2003 and the current Social Issues Committee recommendation, I think it is important to see these proposals as a positive step forward.

**The Hon. JEREMY BUCKINGHAM** [6.03 p.m.]: I make a brief contribution in support of Dr John Kaye's sensible amendments. In Orange a few years ago the level of alcohol-related violence was utterly intolerable; a number of violent incidents and antisocial behaviour became associated with major events, such as the races and other travelling events coming through town. It was really out of control. Some of the hotels in Orange were among the most violent places in New South Wales.

**The Hon. Dr Peter Phelps**: Is that why you moved out of Orange?

**The Hon. JEREMY BUCKINGHAM**: They occurred when I was not in attendance. People were very

well behaved while I was there. These were very serious incidents, some resulting in deaths. In one tragic incident a young man who was completely and utterly intoxicated walked in front of a truck. There was a complete failure of the responsibilities of the licensee to keep serving that young man alcohol because it ended up with the young man losing his life. Orange City Council moved to bring in a voluntary liquor accord. Where licensees signed up to that voluntary liquor accord it worked very well.

Three hotels in particular that signed up to accords dealt with issues such as closing times, the use of plastic cups, engagement of more security and provision of buses to take patrons home. That worked very well. But because one licensee would not participate that undermined, and I believe continues to undermine, public safety. So mandatory liquor accords are much better; they get everyone, especially in regional centres, participating and making them accountable and responsible for the safety of people and dealing with alcohol-related violence and antisocial behaviour. The mandatory element is good because it ensures that one licensee cannot undermine the good work of those who are endeavouring to reduce this antisocial, alcohol-related behaviour.

**Question—That The Greens amendments Nos 2 and 3 [C2014-002D] be agreed to—put and resolved in the negative.**

**The Greens amendments Nos 2 and 3 [C2014-002D] negatived.**

**Dr JOHN KAYE** [6.06 p.m.]: I move The Greens amendment No. 4 on sheet 2014-002D:

No. 4 Page 14, schedule 1. Insert after line 43:

**[32] Section 155**

Insert after section 154:

**155 Regional alcohol management plans**

- (1) A local council that is not within the metropolitan area of the Sydney region may prepare a draft alcohol management plan that aims to minimise or prevent alcohol-related violence or anti-social behaviour, or other alcohol related harm, in its area and submit it to the Director-General for approval.
- (2) Before submitting a draft plan for approval, the council must give public notice of the draft plan and exhibit it (together with such other information as is appropriate or necessary to enable the draft plan and its implications to be understood) at the places, on the dates and during the times set out in the notice.
- (3) The Director-General must not approve a draft plan unless satisfied that the public has been given the opportunity and been encouraged to participate in its development and that there is public support (including that of young people living in the area of the council) for its implementation.
- (4) An alcohol management plan for a local government area may:

(a) contain recommendations with respect to the grant of licences and authorisations with respect to premises within the area to which the plan relates and the conditions imposed on such licences and authorisations (including the number (if any) and class of licences that may be granted and conditions relating to the sale of alcohol and trading hours of licensed premises) and the contribution to be made to the council under section 136, and

(b) include measures to be taken by the council with respect to the following:

(i) transport measures that assist in the reduction of street violence,

(ii) community education, drug and alcohol counselling and plans for mental health services that would, in the opinion of the council, assist in reducing the incidence of alcohol-related violence,

(iii) the collection and the assessment of the effectiveness of the measures set out in the plan in reducing alcohol-related violence,

(iv) an indicative annual budget for the measures.

(5) The Authority or Director-General must not authorise the sale, supply or consumption of liquor on any licensed premises contrary to any recommendation under subsection (4) (a) and must take any recommendation under that subsection into account in making any decision concerning the grant of any licence or authorisation for the sale or supply of liquor under this Act or the conditions to which such a licence or authorisation is subject.

This amendment will insert into the Act a new section 155, "Regional alcohol management plans". The way the bill works is that proposed division 4 of part 6 creates the right under proposed section 116(c) for the regulations to declare land to be described as a prescribed precinct. Section 116(i) allows the regulations to impose specific licence conditions to premises in a prescribed precinct. So the bill creates a mechanism for the Minister to step in and say, "Here is a prescribed precinct, and here are the conditions we are going to impose on licences." It is very top-down. The question is: What are the triggers? There is no indication in the legislation as to what the triggers are for the Minister to do that. There is no indication of what involvement the local community will have. We see that as a totally sub-optimal solution to solving some of the regional alcohol problems.

There are areas such as Byron Bay which, I think it is fair to say, have had a 10-year debate on how to cope with antisocial behaviour. The former mayor of Byron Bay, Jan Barham, a former colleague, Ian Cohen, the current mayor of Byron Bay, Cr Simon Richardson, and a number of other leading community members have been active in debating what sorts of solutions will work for Byron Bay. Of course, being Byron Bay, at times those debates become heated and quite spirited. But one can see emerging in Byron Bay a suite of measures that may help to resolve the issue. These are not the sorts of things that a Minister can impose. These are issues on which there should be full consultation with the community. To that end we propose a new mechanism for achieving alcohol management in specific areas: regional alcohol management plans.

Our proposed regional alcohol management plans, we believe, are only relevant to communities that operate outside of Sydney. They would not work in Sydney, where the contiguity between one council area and another would make it very difficult to solve issues on a council by council basis. But in areas outside of Sydney, where councils tend to have greater integrity on the control over a

community, we believe these sorts of plans would work. The mechanism we are proposing is that a draft plan be developed by the council and then put to the community for involvement, participation and consultation. Most importantly, a plan will only work where the community has true buy-in; where they have been totally involved in the development of the plan. The plan is then submitted to the director general. The director general has to be satisfied that the public has been given an opportunity and has been encouraged to participate in the development of the plan, and that there is public support, including amongst young people living in the area of the council, for its implementation.

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We envisage that alcohol management plans for a local government area may contain a range of measures including licence authorisations, hours of operation, hours for the sale of alcohol and other such matters. But we do not believe that is enough. Those measures have to be accompanied by a range of other measures that include transport. My colleague Dr Mehreen Faruqi spoke in great detail about the need for transport-based solutions to reduce street violence, community education, drug and alcohol counselling and plans for mental health services that would, in the opinion of the council, assist in reducing the incidence of alcohol-related violence.

We believe in prevention before cure. We believe that there is a real role for counselling and for mental health services to intervene before we get to the stage of needing the criminal justice system and even the licensing system. There should also be plans for the collection and assessment of the effectiveness of measures. One of the aspects of the Premier's announcement that I comprehensively support is the need for an evidence base—the collecting of data and evidence to try to assess the effectiveness of this legislation. There should also be an indicative annual budget. The proposed section gives the authority or the director general the ability to authorise a plan, but it must not authorise the sale, supply or consumption of liquor on any licensed premises contrary to recommendations within the plan. Our proposed subsection (5) gives teeth to the plan.

We believe this is a way of getting the community to buy into the issues of managing alcohol. We believe it is a way in which we can get the community to be part of the solution and we can have plans that have the support of the community and that are very much more likely to work than those which are imposed by the Minister from the top. We do not think one solution fits all communities. Different communities have different problems, different communities have different demographics and different communities have different aspirations. Every community knows itself better than this Parliament will know it and better than the Minister or the authority will know it. It is time to unleash communities and allow them to make their own decisions. I commend the amendment to the Committee.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [6.12 p.m.]: The Opposition does not support the amendment. We believe that the better solution generally to alcohol management is the establishment of a new independent regulator committed to minimising alcohol-related harm generally. I note the good intentions behind this proposal but I am not sure that involving local politicians on councils in the minutiae of licensing details and licensing regimes is a good idea. It is a proposal fraught with difficulty and I would be very sceptical about it. I am wholly unconvinced it is a good idea.

However, as I indicated in my contribution to the second reading debate, I am personally sympathetic to the idea of local councils having wider powers at the planning stage of whether or not to approve liquor outlets. As a councillor and as a mayor of the city of the Blue Mountains my council had to wrestle with this very difficult issue and I would certainly welcome exploring the planning regime and

giving councils greater powers at the development approval stage. However, given the very short period of time to consider this amendment I do not think it is a good idea on its face; I would take a fair bit of convincing. We simply do not have the time now, so we will not be supporting the amendment.

**The Hon. MICHAEL GALLACHER** (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [6.13 p.m.]: The Government will not be supporting this amendment. It is not required and precincts can be prescribed at any time by regulation.

**The Hon. JEREMY BUCKINGHAM** [6.13 p.m.]: I support Dr Kaye's excellent amendment. As Dr John Kaye has said, one size does not fit all and we should empower local communities to be involved and have ownership of regional alcohol management plans through this amendment. The Hon. Adam Searle said local councils should not have a role. My experience on Orange City Council is that as soon as these problems arise the first people that the community turns to is the mayor, the general manager and other councillors because they see it; we see vandalism in the street. In Orange every year we had \$50,000 worth of damage to street signs because of drunks walking home, pulling the street signs out and throwing them into the bushes. It was absolute mayhem and a big problem. People were saying, "What happened to Beer Road?" The street sign for Beer Road in Orange disappeared every weekend. Nearly everyone in Orange had a Beer Road sign. I never had a Beer Road sign.

Some communities only have one pub. In Eugowra the Fat Lamb has closed so there is only one pub there now, but in other places such as Forbes there seem to be 300 pubs. There need to be regional solutions and communities need to be empowered to implement transport measures to try to reduce violence, to implement the community education provisions of this amendment, and to collect and assess the effectiveness of these measures and to set it out in a plan. It is a reasonable thing to do. We tried in Orange to do it and it had some success but, as I said previously, it was undermined by the fact that they were not mandatory liquor accords. However, to some extent a local solution did work. The council was very active and it did some things that I supported and some things that I did not—it introduced closed-circuit television but it also implemented an education plan—and through the mayor and others it exerted a lot of pressure. Councils should play a role by helping to create these regional alcohol management plans in consultation with the community. I think this is an excellent amendment and I support it wholeheartedly.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [6.16 p.m.]: I would just like to correct the contribution made by the Hon. Jeremy Buckingham. I do think there need to be greater roles for local communities and councils at the approval stage of liquor outlets, but I think that involving local councils and local elected politicians in the minutiae of licensing regimes is a corruption risk. We will not be supporting this proposal for that reason.

**The Hon. JAN BARHAM** [6.17 p.m.]: I speak in support of this amendment. Some of the points made have been valuable input. As the Hon. Adam Searle has said, councils should be involved in the approval of new developments, but what about areas where there are existing approvals that were given back in the 1980s when there were no hours of operation? In my area old venues have been bought, resold and expanded, and are constantly operating to an expansive level on old approvals. There is no need for more approvals and many of the operators there do not want more approvals. They are the ones complaining about a Dan Murphys coming in or new operators because they have

a very nice stronghold on the current situation and the community has no say on what goes on. That is why a management plan is of value.

The community cannot be separated from this problem; the community bears the impact of it. Members of the community are the ones who fear going into their town at night or who reconsider going out to dinner because they do not want to be in town after 10 o'clock at night and experience the violence that other people have experienced. It happens in many areas. I know from my experience of being on the Sea Change Taskforce that it is not just limited to New South Wales; other coastal tourism communities are facing similar circumstances. I note that the Minister for Police said that the object of the bill is to enable the regulations to declare areas to be prescribed precincts and to impose regulatory conditions on licensed premises within those precincts.

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I appreciate those words in the bill but I seek clarification. We do not know who can make an application to have those areas declared as prescribed precincts. How will the process be rolled out to bring about a response to major community outrage about the problems associated with alcohol abuse? My community and the regions believe that this legislation is all about Sydney, but the issue is not confined to Sydney. Small communities do not have sufficient resources. They cannot wait for hours for officers to arrive to contain a riot. Local residents may be denied access to health services because the hospital is full following a fight in the street.

The media coverage has been all about Sydney. The Hon. Jeremy Buckingham, Dr John Kaye, who is the portfolio spokesperson and who has moved this amendment, and I have raised the concerns of people across the State. They have a right to have their issues addressed. Our constituents want to have a say about the businesses in their towns and their responsibility to their community. They do not want businesses to take the profits and relinquish their responsibilities. This legislation should address the right of communities to ensure they are safe through the provision of alcohol management plans, and council has a strong involvement in that regard. There are so many aspects where council has a role to play. My council voted unanimously for a liquor accord trial. A last drinks program was cancelled, following no response to letters to government. We need oversight of communities so that they can make application and be heard and respected, as they carry the weight of the outcomes.

The plans of management in Newcastle are a good example of restrictions put in place by the Licensing Court. The involvement of the community and councils is important. I thoroughly support the amendment and ask the Government to approach those hotspot communities that have been identified by the Bureau of Crime and Statistics and Research. Those communities should be advised that they have the right to make an application and such applications should be taken seriously by the Government.

**Dr JOHN KAYE** [6.22 p.m.]: The attitude disclosed in the contributions of both the Government and the Opposition is alarming in relation to addressing the issues of alcohol-related violence. The Deputy Leader of the Opposition fixated on the issue of local councillors being involved in minutia without recognising that this is about community buy-ins. This is about communities having a say about their own future and empowering communities. The Greens amendment has been drafted to put the public in the box seat. The director general cannot approve the plan unless he is satisfied the public has been given the opportunity and has been encouraged to participate in the development and that there is public support, including from young people in the area, for its implementation.

This amendment is not about a few councillors pursuing their own personal interests. It is about community involvement in mapping out their future and how they will deal with the problems of alcohol-related violence. It is crucial that we do not fall back into the old thinking that the best people to make these decisions are bureaucrats within the Office of Liquor, Gaming and Racing. That is not the right place to make these decisions. These decisions have to be born and developed in the community. In the absence of any undertaking or explanation from the Government about how the process under the prescribed precincts declaration will operate and without any undertaking that there will be community input, it is essential that we go ahead with an amendment that empowers the community. I commend the amendment to the Committee.

Question—That The Greens amendment No. 4 [C2014-002D] be agreed to—put and resolved in the negative.

#### **The Greens amendment No. 4 [C2014-002D] negatived.**

#### **Schedule 1 agreed to.**

**Dr JOHN KAYE** [6.25 p.m.]: I move The Greens amendment No. 5 on sheet C2014-002D:

No. 5 Page 23, schedule 2 [17], line 28. Omit "That". Insert instead "Barangaroo (within the meaning of the Barangaroo Delivery Authority Act 2009) and that".

This amendment will include the Barangaroo precinct as defined in the Barangaroo Delivery Act within what is called the Sydney CBD Entertainment precinct, which is commonly referred to as the expanded central business district precinct. The map on page 24 of the bill clearly shows an anomaly. The anomaly is that the Barangaroo precinct, which is not yet developed, has been given a get-out-of-jail-free card. It will work for Mr Packer if he obtains his licence for the new casino and for the developers of Barangaroo to push up the value of their property, but it will not work for Sydney. The boundaries need to have the maximum amount of integrity. But the excision—which is the entire length of Hickson Road to the west to the harbour and it is hard to ascertain the exact boundary at the southern extremity—is completely irrational. It makes no sense other than to deliver gifts to the Crown casino and the developers of Barangaroo. There should be integrity of the boundary. Therefore, The Greens propose that we include all that section. I commend the amendment to the Committee.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [6.26 p.m.]: The Opposition does not support The Greens amendment No. 5. Dr John Kaye correctly pointed out that the Barangaroo site is a development site, that is, a hole in the ground where work is going on. Regulating it in this way at this time is nonsensical. The Opposition is unpersuaded by the proposition in this amendment. There are already satisfactory regulatory mechanisms in the bill to extend the precinct to cover the area if the need arises.

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for the Illawarra) [6.27 p.m.]: The Government opposes The Greens amendment No. 5. In addition to the matters raised by the Opposition, the Barangaroo site will be dealt with in the same way as The Star casino, that is, subject to strict controls under the Casino Control Act. Further, there are no venues at that site and, therefore, no regulatory supervision is required.

**Mr DAVID SHOEBRIDGE** [6.27 p.m.]: It is clear that the way to get a break from this Government on

its alcohol-related violence package is to be a very senior mate. Clearly, Mr Packer did not want the site at Barangaroo to be covered by these laws. It probably involved only one phone call or maybe this Government is so covered by Mr Packer that a phone call was not required and it just excluded his site at the outset. The Opposition says that it does not make sense because the site has no venue at the moment. We know a casino, hotels and venues are being built as we speak. We are not talking about the far distant future; they are being built now. The Government has not excluded any other building site in Sydney, but it has excluded Barangaroo.

What is special about Barangaroo is a very senior mate. It is just business as usual in New South Wales. Senior mates get exemptions and the casino is carved out of these changes. The Government has made a hollow statement that the Casino Control Act manages them but it has not once explained in any way how that Act will or will have ever worked to deal with alcohol-related violence.

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**The Hon. LUKE FOLEY:** What a low-rent stunt from the masters of low-rent stunts, the Rhiannonite wing of The Greens party of New South Wales. They want to invoke Barangaroo, Packer and casinos because, consistent with their entire approach to politics, they have a list of goodies and a list of baddies. If they were fair dinkum about the integrity of the boundaries, as Dr John Kaye suggested, they would not simply add Barangaroo. They would add Darling Harbour—all of Darling Harbour, not just The Star and a future gaming venue—Surry Hills, Broadway and other parts of the city.

There is logic to the boundaries of the precinct contained in the bill which is based on violent assaults and where they occur—the George Street precinct and Kings Cross. In the future, this Parliament may have to expand that boundary. I have a real concern that at 3.00 a.m. people will wander from Kings Cross to Surry Hills or from George Street to Broadway or Darling Harbour and keep drinking. That is a very real problem we can all foresee. If the police told us that was the case, I think the Government and Opposition and all responsible parties would favourably view a suggestion, based on the evidence, to extend the precinct to the whole city. But to simply single out two venues and invoke the words "casino", "Packer" and "gaming" is just undergraduate sloganeering from the masters of undergraduate sloganeering, the New South Wales Greens. Once again, one sees that they are not serious in their approach to politics.

**Dr JOHN KAYE** [6.31 p.m.]: I thank the Leader of the Opposition. If I have achieved anything today, I have got the Leader of the Opposition to engage in this debate. Working backwards, I will start with the Leader of the Opposition and his contribution. He says that we mentioned Barangaroo, but why not Darling Harbour or Surry Hills? I invite the Leader of the Opposition to look at the map. It is clear that the one standout excision from the map is Barangaroo.

**The Hon. Trevor Khan:** No, it's not.

**Dr JOHN KAYE:** I do not know how the member opposite reads it but when I see that an area that is contiguous with the rest of the central business district is suddenly outside the map, where the line of the map runs down Hickson Road in order to avoid Barangaroo, it is a clearly a deliberate excision. The member says this is about casinos. The Greens did not mention casinos; it was the Hon. Luke Foley and the Hon. John Ajaka who brought up casinos. They let the cat out of the bag. This is about protecting their mates. Suddenly, when we introduce an amendment that is vaguely related to the casino, out come the big guns of the Labor Party. They are worried because somebody is going after Packer.

When one looks at the map, there are good reasons for the amendment. The Deputy Leader of the Opposition says we can regulate the area after there is violence in the precinct. There is something deeply wrong with measures that are supposed to be preventative but are not to be implemented until after it is too late. Mr David Shoebridge makes a valid point that the Barangaroo precinct is being developed as we speak, presumably now as a liquor intensive precinct because they have a get-out-of-jail-free card. The developers can up the value because they will be able to have late-night venues. That area will become the late-night venue for Sydney and there will be a flux of people coming across Hickson Road from the northern central business district and out from Kings Cross into the Barangaroo precinct, adding value to the developer and adding value to Mr Packer's development.

It is irrational to exclude that one section of the central business district. The sole section of the central business district that is excluded is the Barangaroo precinct. Just because it has not been developed does not mean it should not be included. Specifically because it has not been developed it should be included. The developers then would know that they will be under the same restrictions as the rest of the central business district and will not become the booze capital of the central business district.

It is extraordinary to hear the outcry when one goes anywhere near the subject of the casino. Suddenly there is a tirade of abuse. The Leader of the Opposition is a maestro of abuse; I congratulate him on the eloquence of his abuse. Suddenly we are the maestros of undergraduate sloganeering, just because we dare to mention the casino. Because we dare to mention Barangaroo, we are suddenly sloganeers.

I want to make it clear that any person looking at this map, other than those with a specific agenda, would say: Why has that section that runs along Hickson Road, the Barangaroo development area, been excluded? They would then say: If it has been excluded, surely the developers in that area will be developing specifically to be alcohol venue intensive. Is that what we want? Do we want to shift all the problems that existed in the central business district to Barangaroo?

Members can scream, yell and abuse all they like about the casino and whether or not The Greens are undergraduates, but the reality is that if our amendment is negated that area will become the booze precinct for Sydney. It will fatten the profits of the developers but it will do nothing to address the problems of Sydney.

**The Hon. ROBERT BROWN** [6.36 p.m.]: I have listened to the debate in my office and in the Chamber; it has been an outstanding debate. The regional green Greens put forward some excellent arguments in relation to regional New South Wales but they were blown out of the water by Dr John Kaye's Freudian slip when he talked about how regional councils can better "control" their communities. This amendment is an example of the manner in which The Greens view casinos. This is how The Greens view casinos—and I am making it difficult for Hansard because the record is written not visual—one-eyed.

**The Hon. JEREMY BUCKINGHAM** [6.38 p.m.]: The Hon. Robert Brown is wrong in his contribution. If he had listened clearly to my contribution, I said that the process and outcomes of the voluntary liquor accords in Orange were undermined because one person was exempt. It must be all in. That was the point I made. One publican, one licensee, would not participate in the liquor accord, would not agree to the staggered closing times, would not—

**The Hon. Trevor Khan:** Point of order: The member is not speaking to the amendment but rather to a previous event. He should either speak to the amendment or sit down.

**The Hon. JEREMY BUCKINGHAM:** To the point of order: I had only just begun my contribution. It may be a little complex.

**TEMPORARY CHAIR (The Hon. Sarah Mitchell):** Order! I uphold the point of order. The rules for speaking in debates at the Committee stage are strict. The member should speak to The Greens amendment No. 5.

**The Hon. JEREMY BUCKINGHAM:** Clearly, the excision of the Barangaroo site is a microcosm of what happened in Orange. If one site is excised it becomes a magnet for antisocial behaviour.

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The Leader of the Opposition might not get down to Melbourne very often but he should have a look at the Crown Casino in Melbourne, a massive casino in the heart of the city. That casino has huge problems with antisocial behaviour and alcohol consumption. That is exactly what we will see at Barangaroo. Because it is exempt, it will deliver a massive incentive to the developers to make the service of alcohol intensive. It might make them very profitable but invariably it will become a magnet for antisocial behaviour. It will transfer the problems in Kings Cross to Barangaroo in the same way that problems were transferred from the Hotel Canobolas in Orange to the Hotel Orange. It is a similar example and if the Government were serious it would apply the same rules to Barangaroo and its billionaire mates that will apply to the rest of the city.

**Mr DAVID SHOEBRIDGE** [6.40 p.m.]: If one wants to see an example of where a casino attached to the central business district becomes the late-night drinking venue and late-night alcohol venue, one only needs to go to Melbourne and see the Crown Casino. It really is the late-night drinking venue in Melbourne. It sucks in thousands of people in venues that never close and constantly serve alcohol. That is the concern about excising this from Barangaroo. The Hon. Robert Brown accused The Greens of being one-eyed about casinos. I am very happy to place on the record that I am one-eyed about casinos. They are bad for families and they are bad for communities. People's entire family homes and mortgages are lost in casinos. They are a destructive influence in society. I am one-eyed about them. I think they are a bad institution in a city.

What will make this worse is not only will the casino be a great, big, grand protected Packer enterprise it will also suck in patrons because it is the big late-night venue in Sydney. I find it remarkable that we have had an array of debates in this Chamber just today on cancelling corruptly obtained coal licences, on the awful effects of alcohol-fuelled violence and on the impacts of mandatory sentencing and whether it is harsh or unjust and the only thing that the Leader of the Opposition speaks about is in defence of Jamie Packer and casinos. It shows exactly where he is in politics.

**Question—That The Greens amendment No. 5 [C2014-002D] be agreed to—put.**

**The Committee divided.**

**Ayes, 5**

	Ms Barham Mr Buckingham Dr Faruqi	
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	Tellers, Dr Kaye Mr Shoebridge	
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**Noes, 26**

Mr Ajaka Mr Borsak Mr Brown Mr Clarke Ms Cotsis Ms Cusack Mr Donnelly Mr Foley Mr Gay	Mr Harwin Mr Khan Mr Lynn Mr MacDonald Mr Mason-Cox Mr Moselmane Reverend Nile Mrs Pavey Mr Primrose	Mr Searle Mr Secord Ms Sharpe Mr Veitch Ms Voltz Mr Whan Tellers, Mr Blair Dr Phelps
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**Question resolved in the negative.**

**The Greens amendment No. 5 [C2014-002D] negatived.**

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**Dr JOHN KAYE** [6.50 p.m.]: I move The Greens amendment No. 6 on sheet C2014-002D:

No. 6 Page 23, schedule 2 [17], line 30. Insert "and the premises defined as a casino for the time being under section 19 of the Casino Control Act 1992" after "Racing,".

I suspect that the many abusive contributions made in respect of the last amendment can be applied to this amendment mutatis mutandis. The reality of the arrangements for the expanded central business district precinct is that at 3.00 a.m. a large number of people will flow across the border to the nearest alcohol venue open at that time, one of the largest of which is The Star casino. This amendment includes The Star in the legislation to ensure that it does not experience a sudden influx of patrons at 3.00 a.m. If there is any benefit to be gained by imposing a 3.00 a.m. last drinks regime there is little point in diluting it by providing another location at which people can drink such as The Star. I do not know whether members have been to the casino late in the evening, and it has been a while since I have been there. However, the last time—

**The Hon. Duncan Gay:** That is not right; it is on the way to North Korea.

**Dr JOHN KAYE:** I will acknowledge that interjection because it will go on my list of stupid things said recently by the Deputy Leader of the Government. The last time I was there it was after an event elsewhere and even at 11.30 p.m. it was extremely unsavoury. There were many yobbos and a great deal of alcohol was being consumed. That would be amplified if it became a venue of choice for people leaving the Sydney precinct at 3.00 a.m. This amendment is designed to close that loophole by including the largest venue on the border of the expanded precinct in the legislation. I commend the amendment to the Committee.

**The Hon. ADAM SEARLE** (Deputy Leader of the Opposition) [6.53 p.m.]: The Opposition does not support this amendment. The Independent Liquor and Gaming Authority already regulates the casino and has various functions in relation to it. Having multiple regulatory regimes for the casino is undesirable. In any case, Dr Kaye has not made out his argument.

**The Hon. JOHN AJAKA** (Minister for Ageing, Minister for Disability Services, and Minister for the

Illawarra) [6.54 p.m.]: The Government opposes the amendment and agrees with the Opposition. The Star is clearly subject to strict controls under the Casino Control Act.

**Question—That The Greens amendment No. 6 [C2014-002D] be agreed to—put and negatived.**

**The Greens amendment No. 6 [C2014-002D] negatived.**

**Schedule 2 agreed to.**

**Schedule 3 agreed to.**

**Title agreed to.**

**Bills reported from Committee without amendment.**

**Adoption of Report**

**Motion by the Hon. John Ajaka agreed to:**

That the report be adopted.

**Report adopted.**

**Third Reading**

**Motion by the Hon. John Ajaka agreed to:**

That these bills be now read a third time.

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