

Residential Tenancies Amendment (Public Housing) Bill.

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RESIDENTIAL TENANCIES AMENDMENT (PUBLIC HOUSING) BILL

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister for Lands) [9.15 p.m.]: I move:

That this bill be now read a second time.

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

Leave granted.

There are currently 129,000 public housing tenancies in New South Wales. In all, this represents the provision of subsidised housing to around 269,000 people. In fact, one in four people in New South Wales who rent their homes live in housing provided by the Carr Government.

Public housing is a valuable community resource built up by successive governments on behalf of the people of New South Wales. Stable, affordable housing is a fundamental requirement for all members of our community. Without housing, it is impossible to hold down a job, stay healthy, get an education or maintain family and community relationships.

As a society, we value the principle that no-one should be shut out of life's opportunities by social disadvantage. We make provision for public housing because we value the principle that people should have a decent standard of living.

But public housing is a valuable community resource. So when people are provided with subsidised public housing, it carries with it an obligation to do the right thing by the community. At the most basic level, access to public housing carries an expectation that tenants will live in peace and harmony with their neighbours.

The Department of Housing works with other agencies such as police and mental health teams to resolve neighbourhood disputes among public housing tenants. The effectiveness of their efforts is greatly reduced by antisocial behaviour.

The sort of behaviour we are concerned about includes dumping of cars, petty vandalism, graffiti, noise nuisance, throwing of firecrackers, rocks on the roof, and abuse.

It also includes more serious criminal behaviour: assault and burglary.

Antisocial behaviour does not include people going about their legitimate business. A child playing in the street, or adults using power tools at the proper times is not of itself antisocial behaviour. The measures outlined in this bill are not aimed at curtailing people's daily activities. Nor are we intending to persecute people who are already vulnerable.

We recognise that public housing tenants are some of the most disadvantaged members of the community, otherwise they would not be in public housing.

However, there is a small number of individuals who, for various reasons, are unable to get along with their neighbours, and who are unwilling to accept responsibility for their behaviour and its impacts on the surrounding community.

Impacts like tenants feeling imprisoned in their own homes due to the behaviour of their neighbour; impacts like children being unable to concentrate on studying for their Higher School Certificate because their parents are at war with a neighbour; impacts like families needing to move away from the problem behaviour, resulting in social support networks being disrupted and kids having to change schools; impacts like an increased risk of crime, and an increased fear of becoming a victim of crime.

The cumulative effect of antisocial behaviour is that public housing becomes increasingly

stigmatised, which in turn leads to more requests for rehousing and rejection of housing offers made in affected areas.

Antisocial behaviour also means that the Department of Housing has to deal with the costs of vandalism and property damage, when it should be putting those resources into enhancing public housing. Antisocial behaviour also means frontline staff spend disproportionate amounts of time dealing with complaints about neighbours or arranging transfers for those people who can no longer continue to put up with the actions of their neighbours.

We all want neighbourhoods where people can socialise without causing trouble or intimidating the neighbours. We all want to live free from noise nuisance, vandalism, and petty crime. Above all, we want people who are doing it tough to be given as much support as they need to fully participate in their communities and give their kids the best possible start in life.

This bill supports these community ideals by introducing a number of measures to better address those factors that may undermine neighbourhood harmony and prevent our communities from reaching their full potential.

We are supporting tenants to change unacceptable behaviours. We are creating safer and more socially rewarding communities for the overwhelming majority of tenants who live harmoniously with their neighbours. And we are also ensuring that tenants are accountable for their behaviour.

The proposed amendments and other strategies that the Government will be putting in place represent a measured response; one that imposes some responsibility on tenants but provides support and assistance to tenants who lapse into antisocial patterns of behaviour.

Proposed new section 35A of the Residential Tenancies Act 1987 introduces acceptable behaviour agreements. These are written agreements between the department and the tenant in which the tenant, or another household member, agrees not to carry out a series of identifiable antisocial behaviours, specific to each set of circumstances.

Acceptable behaviour agreements will only be used where the history of the tenancy—or any prior public housing tenancy—points to a likelihood of continued antisocial behaviour. If the tenant does not alter their behaviour or refuses to sign an acceptable behaviour agreement, it may constitute grounds for the department to seek an order for termination of a tenancy agreement in the Consumer, Trader and Tenancy Tribunal.

The bill requires the department to notify tenants that a refusal to sign an agreement when requested or a serious or persistent breaching of a signed agreement may result in termination of their tenancy. Without such notification, an acceptable behaviour agreement has no effect. The power to evict based on a breach of an acceptable behaviour agreement as per the proposed new section 57A will be used sparingly and rests with the Consumer, Trader and Tenancy Tribunal.

The emphasis is not on evicting tenants but rather on trying to change unacceptable behaviour, and the department will make every effort to assist with behavioural change.

There will be some tenants who, due to mental illness, intellectual disability or other reasons, are unable to form an acceptable behaviour agreement. The Government does not intend to interfere with any of the important legal protections currently afforded these individuals. One reason for the success of acceptable behaviour contracts trialled in the United Kingdom is that a number of different agencies were involved in monitoring behaviour and providing support.

That is why we are introducing specialist response teams to support families whose members are engaging in antisocial behaviour, and to make sure behavioural change is achievable. The teams will be made up of representatives from Human Services and other relevant agencies working together at the local level to case manage identified families. A multi-agency approach is vital, as no one agency has the mandate or capacity to respond to the issues in problematic families, and a range of skills and roles are required to respond effectively.

The teams' primary objective will be to identify and implement appropriate measures to prevent the occurrence or recurrence of antisocial behaviour in public housing. Specialist response teams will ensure existing resources are better utilised. The roles and responsibilities of each agency would be clearly outlined under a multilateral memorandum of understanding [MOU] or protocol. The aim is to use the specialist knowledge and experience of relevant government agencies to support tenants who may engage in antisocial behaviour to change their behaviour and sustain their tenancies.

Specialist response teams represent an extension of this Government's recognition that antisocial behaviour may be symptomatic of broader issues of social and economic deprivation and a lack of access to support networks and life opportunities.

Specialist response teams represent another commitment by the New South Wales Government to address the problems that stem from social deprivation, a commitment that has included community regeneration strategies in public housing estates; intensive management programs on estates with severe social problems; urban design that reduces the risk of crime; and strategies to increase employment opportunities for tenants. Specialist response teams will help strengthen families, which means safer, stronger communities.

Proposed new section 14A will allow for the public housing renewable tenancies policy to be implemented under the Residential Tenancies Act. The policy was introduced in 2002 to enable tenants and the department to identify early any breaches which might otherwise lead to the termination of a tenancy agreement.

This bill strengthens the effectiveness of the policy by giving it a sound legislative base. Initially leases will be for one year, followed by two subsequent terms of three years each. Satisfactory tenants will be promoted to longer terms on the basis of their performance, while tenants causing problems will be demoted to shorter terms.

Should a tenant not have signed a new agreement when their renewable tenancy expires, the Department of Housing can nominate the term of the new lease.

The bill provides for public scrutiny of changes to government policy—section 14A (4) requires the Minister to gazette any such changes made in relation to public housing tenancy agreements. The Government cannot and will not continue to house perpetrators of antisocial behaviour.

We want to communicate to tenants and the broader community that public housing is not a lifetime proposition. If tenants do not do the right thing the term of their tenancy can be reduced to three years or one year.

Under proposed new section 64 (2A), antisocial tenants will be required to show why they should not be evicted if they seriously or persistently breach an acceptable behaviour agreement.

This reversal of the onus for antisocial tenants is necessary because there is a history of cases in which tenants have provided evidence against their antisocial neighbours, only to find themselves further victimised if the courts decide anything less than an eviction is warranted.

I stress that reversal of onus applies only before the tribunal where the tenant has seriously or persistently breached an acceptable behaviour agreement. It does not apply to other matters before the tribunal. Tenants' fears of retribution from antisocial neighbours are legitimate.

In one case the antisocial behaviour that complainants had to endure included assault, verbal abuse and threats, having their car sprayed with paint, and having hot water containing fat thrown onto them from an upper-storey window.

Tenants are understandably reluctant to get involved in giving evidence against their neighbours. Tenants living in public housing are very disadvantaged. They may be elderly or have a disability. With good reason, they fear retribution from their antisocial neighbours.

What we are proposing distances tenants from the firing line, and makes the department better able to respond to complaints about antisocial behaviour.

Despite the reversal of onus where breach of acceptable behaviour agreements is involved, the department must still follow legal procedures and gather evidence before seeking an order for termination in the Consumer, Trader and Tenancy Tribunal.

The department still has a responsibility to ensure that any decision to seek termination is just and fair. If, for example, it is alleged that a tenant has breached their acceptable behaviour agreement the circumstances of the breach must be clearly and unequivocally stated, and tenants must be given an opportunity to modify their behaviour before eviction.

Tenants retain access to existing appeals processes. They can apply to have their case reheard in the tribunal in the event that the tribunal's decision was not fair and equitable or was against the weight of evidence, or where there is new evidence. Tenants also have recourse to the Supreme

Court if they believe that the tribunal has made an error of law. Other proposed amendments will streamline application of the Residential Tenancies Act so that successive tenancy agreements between a tenant and the department, regardless of whether in the same or a different premise, will be taken to be a continuous tenancy.

The bill also protects front-line staff from harassment by tenants. Proposed section 68A allows for conduct by tenants that amounts to harassment, molestation, or intimidation of departmental staff to ground an application for termination of a tenancy agreement.

The tenants' behaviour must, however, be severe or persistently threatening, or intentional, before any action to evict can occur. This change will help the Government fulfil its occupational health and safety responsibilities to its front-line staff, for whom current protections from the effects of repeated antisocial behaviour are inadequate.

Client service staff have a vital role to play in helping tenants sustain their tenancies; they need to be adequately protected in the face of unreasonable behaviour.

The New South Wales Government wants to help our tenants understand the consequences of their behaviour, and provide them with every support to change it. That is what these amendments to the Residential Tenancies Act are all about.

It is about establishing a balance between the entitlement to secure housing and the need for tenants to be accountable for their behaviour within their communities. We want to drive home the message that living in public housing does not provide exemptions from the consequences of behaviour that would not be tolerated in the broader community.

Section 22 of the Residential Tenancies Act 1987 obliges the Department of Housing, as with all other landlords, to preserve the peace, comfort, and privacy of tenants.

This carries with it an obligation to deal with any behaviour that undermines their peace, comfort, and privacy. Due to the potentially serious impact that these changes will have on the lives of the few tenants who perpetrate antisocial behaviour, the Government is proposing that any decision resulting in the termination of a tenancy agreement will be made by very senior officers within the department, and the Minister will be informed.

In the event of a tenant actually being evicted, the department will continue to provide support. For example, the department may make RentStart available to give the tenant the best possible chance of securing private rental accommodation.

This suite of new initiatives will not require further expenditure. Rather, it will use existing resources more effectively and efficiently. We must remember that antisocial behaviour is perpetrated by a very small number of tenants. These measures have been developed in recognition that the behaviour of this small group has a disproportionate effect.

Input from stakeholders is vital, and the Department of Housing has commenced this process with peak bodies including Shelter, the National Council of Social Services, and the Tenants Union, all of which have recognised the need for some measures to reduce the impact of antisocial behaviour in public housing estates.

We will continue to seek input from these important stakeholders as we implement these measures.

If we are sincere about addressing some of the really serious problems on our estates, one strategy has to be to implement measures that will really work to reduce antisocial behaviour.

For the sake of the vast majority of tenants who live together without any neighbourly problems, we cannot afford to ignore the few whose behaviour can, at times, make others feel like virtual prisoners in their own homes.

The emphasis is not on evicting tenants. Rather, these measures are intended to support tenants to change unacceptable behaviour. I commend the bill to the House.

The Hon. JENNIFER GARDINER [9.17 p.m.]: In general terms the Residential Tenancies Amendment (Public Housing) Bill will amend the Residential Tenancies Act 1987 to allow for a graduated range of responses to ensure that public housing tenants meet their obligations under tenancy agreements and are accountable for their behaviour as well as the behaviour of others living in their property. The Opposition believes that this public housing bill is a step in the right

direction. Specifically, the bill makes five significant changes to the Residential Tenancies Act 1987.

The bill will give statutory recognition to the renewable tenancies policy that was introduced in 2002, and it will enable the Department of Housing to nominate a further fixed term of three or more years upon the expiration of the current fixed one-year tenancy agreement. The bill will also introduce acceptable behaviour agreements, which are written agreements between a tenant and the department in which the tenant agrees to cease engaging in specified antisocial behaviour. It will place the onus on tenants to demonstrate to the Consumer, Trader and Tenancy Tribunal, if they refuse to sign or breach an acceptable behaviour agreement, why their tenancy agreement should not be terminated. It will give the tribunal the power to consider the history of a tenant's tenancy agreements when considering an application for termination, and it will instil greater protection for Department of Housing staff who from time to time unfortunately may be subjected to sustained and threatening abuse.

The Opposition supports the bill because antisocial behaviour in public housing is a significant issue for law-abiding public housing tenants who are on the receiving end of abuse. Law-abiding tenants are deserving of some peace of mind and body. We believe there have to be some stronger sanctions against a minority of public housing tenants who destroy public property and the quality of life of other public housing tenants. We believe that public housing is not an automatic right, and antisocial behaviour agreements should provide appropriate sanctions. Tenants in private tenancy agreements should be evicted for antisocial behaviour, contrary to the terms of their lease, and the same situation should apply to public housing tenants.

I repeat that the Opposition supports the bill in general. However, it has some concerns. It is concerned that there is a reversal of the onus of proof in the case where a tenant refuses to sign or is in breach of an acceptable behaviour agreement, that is, an agreement where the tenant agrees to cease engaging in specified antisocial behaviour. In other words, the tenant has to provide proof as to why the tenancy should continue, rather than the Department of Housing provide proof as to why the tenancy should be terminated.

This is the opposite of normal tenancy arrangements, and that is a concern. An individual engaging in antisocial behaviour could punish other family members whose names appear on the lease by his or her behaviour or refusal to sign an acceptable behaviour agreement. In other words, one bad apple could have a terrible effect on the whole barrel—in this case, an entire family. The Opposition is also concerned that mentally ill and disabled people could be particularly disadvantaged by the termination of a tenancy agreement. However, the Opposition does not oppose the bill.

The Hon. PATRICIA FORSYTHE [9.20 p.m.]: As the Hon. Jennifer Gardiner said, the Opposition does not oppose the Residential Tenancies Amendment (Public Housing) Bill. Indeed, the Opposition went to the last State election with a policy that called for the eviction of unruly and antisocial public housing tenants. However, this legislation as it stands is a blunt instrument. In considering this legislation we must focus on the nature of today's public housing tenants. They are very different from the public housing tenants of the early post-war years—the old Housing Commission tenants. In those days tenants of Housing Commission properties were often described as "the working poor", and that is a far cry from the public housing tenants of today.

At least since the early 1990s, tenants of public housing have been typically overwhelmingly dependent upon welfare. The statistics that I looked at from that period—they are probably still relevant—revealed that about 94 per cent of people in Department of Housing properties were welfare dependent and more than 50 per cent received either the age pension or a disability pension. As we consider this legislation we should keep in mind that shift in the make-up of public housing tenants in recent decades—certainly since the early 1980s. In the post-Richmond era we know that many public housing tenants, as well as being welfare dependent, will suffer from a mental illness that they will occasionally be unable to manage. Some of those tenants whom we describe as engaging in antisocial behaviour may be unable to control that behaviour.

While we acknowledge that those who behave in an antisocial manner make life unbearable for many other tenants, we must examine this problem in the context of an entire policy. This bill is a blunt instrument that provides for tenancies to be terminated. That is fine if there are other appropriate placement opportunities for such people. People who are evicted from Department of Housing accommodation because of antisocial behaviour that is beyond their control could be helped by programs geared specifically to those with a mental illness. In recent times public housing has comprised predominantly tenants with profound and complex needs. A fair amount of research has been conducted to establish the sorts of people who become public housing tenants. People with profound and complex needs will have a limited capacity to find

accommodation alternatives to public housing.

Last month the Ombudsman released a special report entitled "Assisting Homeless People—The Need to Improve Their Access to Accommodation and Support Services". The report, which referred specifically to the Supported Accommodation Assistance Program, found there is a great capacity for people to be marginalised and to remain outside that program and others administered by the Department of Housing. Where do such people go if they are evicted? We must have some means of dealing with people who engage consciously and deliberately in behaviour that makes it very difficult for other tenants to live comfortably in their homes. What programs are in place to assist them? Are we saying that tenants should be thrown onto the street and left to fend for themselves? That may be fine for people who have the capacity—

Ms Sylvia Hale: You surely can't suggest that anyone should be homeless under any circumstances?

The Hon. PATRICIA FORSYTHE: That is exactly what I am not suggesting.

Ms Sylvia Hale: You said it might be fine.

The Hon. PATRICIA FORSYTHE: No, I did not say it was fine; Ms Sylvia Hale interrupted me in the middle of a sentence. If we put those two ideas together, our conclusion may be that it is fine—if that is what the Government is saying. But what is the Government doing to provide other options for people who would otherwise be left homeless? It might be fine for people who are in control of their behaviour and who behave in an antisocial manner simply because they wish to be unruly and have no consideration for those around them. However, as I said at the beginning of my speech, many public housing tenants are welfare dependent, have profound and complex needs, and may be unable to manage their behaviour. While doorknocking during the last election campaign I talked to tenants of a particular public housing complex in which there live several people with schizophrenia.

This bill is a blunt instrument; we must have alternative programs in place to deal with tenants with behavioural problems. The Government's proposal lacks any clear insight as to how it will support people with a mental illness, in particular. We should be able to evict people who engage in antisocial behaviour—the bill contains some definitions of such behaviour—and who basically make life miserable for their neighbours. But those who have behavioural issues that are beyond their capacity to manage and who have no other housing choices should not be evicted if they cannot be placed in suitable programs. This bill contains no whole-of-government approach to that problem. The Department of Housing is the asset manager—it is interested in bricks and mortar—but another department is responsible for addressing some extraordinarily complex social needs. That is the problem with our management of housing at present—it is not peculiar to this Government; it is a problem Australia wide.

The Opposition does not oppose the bill. There is place for legislation such as this within a framework of managing public housing in the interests of the many good and valued tenants—of whom I have met many—who want to get on with their lives, undisturbed by people who engage in antisocial behaviour. But in addition to this legislation we need a proper policy for managing tenants who might otherwise be evicted from public housing. That is what is missing from this bill and from the Government's approach to this issue.

Ms SYLVIA HALE [9.30 p.m.]: The Residential Tenancies Amendment (Public Housing) Bill is one of the most heinous pieces of legislation I have come across since being elected to this Parliament. There is no doubt that it will directly contribute to more people becoming homeless and living on the streets. It will result in some of the most vulnerable and needy people currently living in public housing—people with nowhere left to turn—being evicted and living on the streets. It will result in more people sleeping in Hyde Park, in Belmore Park, at Mrs Macquarie's chair, under the Woolloomooloo freeway bypass, at Circular Quay, at the Central railway overpass, around Taylor Square, in Green Park, Darlinghurst, at the Wayside Chapel, under the Kings Cross freeway underpass, in Rushcutters Bay Park, in Redfern Park, in Camperdown Memorial Park, behind the Newtown Neighbourhood Centre, behind Woolworth's in Cabramatta, and in bus and beach shelters from Byron Bay to Eden.

Possibly hundreds more people will be rendered homeless by the bill. The Government makes grand statements about how no-one should be locked out of life's opportunities by social disadvantage, but there are few social disadvantages more profound than homelessness. There is not one of us who is not appalled by the revelations of human rights abuses at Abu Ghraib prison in Iraq or at Guantánamo Bay in Cuba. The Federal Government's defence, in this case, is that it did not know what was happening and, had it known, it would have taken immediate steps

to make its objections known and to prevent the abuses recurring.

How then should we respond to a violation of human rights that has become an everyday occurrence in our society? Article 25 of the Universal Declaration of Human Rights explicitly states that every woman, man, and child is entitled to secure housing. Homelessness, and freedom from fear of being made homeless, are fundamental threats to living in dignity, to physical and mental health, and to overall quality of life.

The St Vincent de Paul Society estimates that more than 26,000 people are homeless in New South Wales, 36 per cent of whom are youths under the age of 24, and 10 per cent of whom are children under the age of 12. Yet the total amount of funds for housing in New South Wales, as a proportion of total revenue, has been falling for years. This year was no exception. The new budget announced only 220 extra public housing units for the coming year. Against a backdrop of 100,000 people on the waiting list, at this rate it will take 454 years to clear the backlog.

In the context of the ongoing violation of the human rights of so many of this State's citizens, a violation that takes place every night within 100 metres of this building, what has this Government done? As this bill makes only too clear, its response is to blame the victim, to further stigmatise public housing tenants and subject them to discriminatory, punitive legislation in an effort to deflect attention from its responsibility to provide adequate accommodation for those unable to afford it.

The problem that this legislation seeks to address is, after all, one largely of the Government's own making. The shortage of public housing is so great that it is now perceived as welfare housing, a residual form of housing for those with special needs—single mothers, poor families, people with complex needs—rather than as a tenure option in its own right. The result is often an entirely unsuitable mix of tenants—with discord, unhappiness and complaint the likely outcomes. When delivering the Minister's second reading speech in the lower House, Parliamentary Secretary Megarrity made various references to obligations, but always in the context of a tenant's obligation to the Department of Housing. What about the obligations the department has to its tenants? There was no mention in the second reading speech of them.

I remind the Premier, the Treasurer, and the Minister for Housing of their obligations to the people of New South Wales who pay taxes so that 26,000 people should not need to be homeless and living on the streets. The Greens do not dispute that there are serious and very real problems with anti-social behaviour on some public housing estates. Staff and other tenants should not be expected to live with physical and verbal threats or be forced to deal with disturbing behaviour on a daily basis. But I have spoken to a number of community development workers who work on these estates and they report a variety of contributing factors that cannot be overlooked. The vast majority of incidents relate to low-level vandalism perpetrated by bored kids, and/or everyday social tension related to a lack of respect and consequent frustration, which is exacerbated by poor maintenance of homes, inflexible and/or insensitive departmental policies, and a lack of respect shown by some departmental workers towards tenants.

Many excellent and highly professional people work for the Department of Housing, but insufficient funding and staffing levels, combined with inadequate staff training and support, has led to poor morale and at times standard service. Despite their being excellent officers, a culture exists within the department—and dare I say within this Government—that public housing tenants should somehow be grateful for the service they receive. This is the distasteful truth. A culture exists within this Government that public housing tenants should be grateful for what they get, and that accordingly they should behave in a manner subservient to the wishes of the Government. This is the sentiment that underpins this bill.

It is generally held that respect is a fundamental ingredient of harmonious social dynamics. Treat others with respect, dignity and trust, and you will generally be accorded equal respect. Respect is not something that can be demanded, and it certainly is not something that is achieved by forcing a person into a subservient contractual agreement that threatens them with homelessness if they do not comply.

Community workers that I have spoken to tell me that, although some public housing tenants report problems with anti-social neighbours, that is usually a matter of much lower priority than the substandard maintenance of their homes and problems of respect and communication with departmental staff. In many cases, anti-social behaviour could be eliminated simply by moving people to accommodation more appropriate to their needs. I have also spoken to staff working in front-line service delivery positions with people living with HIV-AIDS. Many people living with AIDS, not to mention thousands more living with other illnesses, live in public housing. Some patients have AIDS-related dementia or associated mental health issues. Some of these people

suffer serious discrimination that can, at times, lead to social tensions and behaviour problems.

Yet, in the vast majority of cases, the problem stems primarily from inappropriate housing placements. People are forced to live next to unsympathetic and sometimes aggressively hostile neighbours. Case workers I have spoken to report that in virtually all cases where the tenant is able to transfer to a location with sympathetic neighbours the tension and anti-social behaviour resolve themselves. Public housing communities do not differ from other communities with their tensions and disagreements, nor their amazing internal capacity and networks. It is this capacity that must be drawn on to fix social problems from within.

Public housing tenants are as keen as any other community to enter into honest and genuine dialogue and initiate problem-solving strategies that draw on strengths from within. Sadly, this Government has failed to recognise this. Instead, the bill underscores the negative. The Carr Government has given up on creative solutions and has instead created a big stick with which to threaten public housing tenants. In the process the Government has completely abdicated its social responsibility to provide housing. In the second reading speech the Parliamentary Secretary said;

The Government cannot, and will not, continue to house perpetrators of anti-social behaviour. I ask this House: If the Government will not house them, who will? We are talking about people who clearly have significant behavioural problems—people who are already some of the most marginalised and needy in our community, people who are already living in welfare housing, in public housing that this Government has so deprived of funds and permitted to deteriorate that only the most desperate are even eligible to apply. If the Government does not have a role in ensuring that these people have a roof over their head, who does?

As sure as eggs, the private sector will not be interested. There is not much profit for Meriton or Lend Lease to make from former public housing tenants. The Greens insist that access to basic housing is a fundamental human right. No person should be homeless because they are too poor, because they are disabled, or because they exhibit antisocial behaviour. Just as no-one should starve, so no-one should be homeless. That is why just and equitable societies have a social safety net. It is about looking after people who, for whatever reason, need extra help, people who, when help is provided, are able to manage on their own. But not in Bob Carr's New South Wales. Under this Government, they will be evicted and made homeless.

The Greens concede that some tenants in public housing with problematic behaviour might be difficult to manage. However, for many of them, public housing is the last resort. If the Government evicts them they will end up on the streets. The Greens have consulted widely on this bill, and not a single organisation we spoke to disagrees that this bill will result in more homeless people. One last option for some people evicted or unable to access public housing is residential parks. But even there the Government has turned its back on the most needy. Residential parks provide an important part of the affordable housing jigsaw. Yet the Government has failed to provide park residents with the protections they require to guarantee housing security.

Plunging housing affordability, a chronic shortage of public housing and a crisis in accessibility to low-cost housing have seen people turning to residential parks as the only accessible form of affordable, secure housing. For thousands of people in low-paid jobs, retirees and people living on welfare payments, parks are the only housing option available. Yet the Government has dragged its heels and failed to introduce legislation to stop the sell-off of parks. The result has been a steady decline in residential park housing stock. Across Sydney and up and down the New South Wales coast, parks are being sold to make way for high-end housing developments beyond the reach of most people. In the past three years New South Wales has lost more than 3,000 sites in residential parks. In the Bankstown area alone approximately 1,000 sites have been lost. Rather than being a part-solution to the lack of affordable rental accommodation, the closure of the parks and the disposition and displacement of park residents are contributing to the problem.

The Greens have grave concerns that this bill is motivated in part by ongoing funding problems within the Department of Housing. The Government has progressively run down public housing since it took office in 1995. This year's budget was no different, with funding for only 220 additional housing units. In the context of 100,000 people waiting for public housing, as I said, it will take 454 years to clear the backlog. In the context of a chronic shortage of public housing stock, this bill gives the Government an additional mechanism to evict tenants who fall behind in their rent or those who have complex needs that constitute a financial drain on other areas of the department's support services and resources. This bill gives the Department of Housing a mechanism to throw these tenants onto the streets.

The Government insists that this bill is not aimed at mental health patients, people with disabilities, or those who are unable, for any reason, to enter into behaviour agreements. This issue is dealt with at length in the second reading speech, in which the Parliamentary Secretary said the Government intends to establish "specialist response teams" to support people and help bring about behaviour change. Unfortunately, there is no mention of these support teams in the bill. Indeed, in the department's own information sheet to stakeholders dated 6 May 2004, they are described as "pilot" response teams. In the Minister's own press release announcing the bill he too mentioned "pilot" specialist response teams.

When key stakeholders such as the Tenants Union, Shelter New South Wales, and the Council of Social Service of New South Wales asked about the details of these teams they were told that the teams have yet to be fully developed. Worse yet, there is no budget allocation to develop and provide ongoing support for such teams. The Minister is playing with words. If the Government were serious about developing a system of specialist response teams to genuinely give people the support they need to comply with acceptable behaviour agreements, funding would be allocated in the budget. There would not be conflicting information about whether these teams are pilot schemes, and they would be provided for in the bill, not just mentioned in the second reading speech. The sad tragedy is that the Minister is playing with more than words; he is playing with people's lives.

I now turn briefly to the specific concerns that the Greens have with this bill. The acceptable behaviour agreements are vague. The bill provides almost no definition as to what constitutes antisocial behaviour, other than in new section 35A (6), which states:

... anti-social behaviour includes a reference to emission of excessive noise, littering, dumping of cars, vandalism and defacing of property.

We need to look at the second reading speech for more details, and we find that antisocial behaviour includes noise nuisance, throwing of firecrackers or rocks on the roof and verbal abuse. God help the Government if it tried to implement such a system in America, where throwing a stone on the roof is a stock standard Halloween trick. The definition of "acceptable behaviour" is totally unacceptable. What other citizens of New South Wales would be threatened with eviction from their homes for littering? To protect tenants from the constant threat of an acceptable behaviour agreement being slapped on a family, for any legitimate for a legitimate reason, the details of what constitutes "unacceptable behaviour" must be made explicit.

To protect tenants, particularly those suffering from an intellectual or psychiatric impairment, there must also be an explicit provision that any unacceptable behaviour must be intentional, and evidence must be produced to show that repeated requests to modify unruly behaviour have been deliberately ignored. The manner in which acceptable behaviour agreements are drawn up must be equally transparent. The tenants must be given sufficient notice in writing, and be given an opportunity within a formal process to gather evidence and present information that could have a bearing on the validity and nature of the agreement. Tenants should not be forced to sign an agreement imposed against their will, and into whose development they have had no input.

It would be a perfectly reasonable and rational response for the mother of an unruly adolescent to refuse to sign an agreement that ensured her family's eviction if she knew she was incapable of reining in the adolescent's behaviour. This experience of unruly adolescent behaviour is not limited to mothers and families living in public housing. Every night in this city there are mothers in Vacluse, or Mosman or West Pennant Hills who know full well that their teenagers are littering, dumping cars, creating noise or spraying a wall with graffiti, but those families do not have the threat of eviction and homelessness hanging over their heads. Only when a tenant intentionally and persistently refuses to enter into a process of negotiation towards an achievable working agreement should any form of disciplinary action be considered. In the first instance, this must not include the threat of eviction. Eviction should be considered only where serious and persistent breaches have occurred. It should be an avenue of last resort. This bill must not be a trigger to increase homelessness.

There should be an independent review and appeals process through which tenants who believe their circumstances have not been adequately taken into account, or whose circumstances have changed, can make their case. The acceptable behaviour agreement must relate directly to the specific unreasonable behaviour, and not be a device to impose indiscriminate and arbitrary requirements on some of the most vulnerable members of our community. Any breach and resultant disciplinary action must be reasonable and proportionate to the behaviour. It is clearly not reasonable to evict an entire family because a single teenager got drunk, left tinnies lying around or played loud music. Agreements, moreover, should expire within a reasonable period of time. This is the only way to ensure that behaviour agreements are not used in unreasonable,

discriminatory or intimidatory ways.

The bill gives sweeping new powers to the Department of Housing and the Consumer, Trader and Tenancy Tribunal to evict tenants. Despite protestations that this is not the Government's intent, the decision as to whether to bring a tenant before the tribunal is totally at the discretion of the department. The onus of proof is then on tenants to demonstrate that they have not signed an agreement or that they have not breached an agreement. Once a breach has been shown, the tribunal has no alternative but to issue an order. Under proposed section 62 (2A) the tribunal will be required to issue an order to terminate the tenancy and evict the tenant. Tenants have no right of appeal against the process. Despite claims by the Government that the department must still follow legal procedures and gather evidence before seeking an order, this requirement is simply not in the bill. The only evidentiary burden borne by the department is to demonstrate that the tenant either failed to sign an agreement or subsequently broke that agreement.

It is unconscionable to reverse the onus of proof in a context where the department has the resources of the State at its disposal and where the tenants, almost by definition, are severely or totally lacking in resources. The onus of proof should be on the department or, at the very least, shared between the tenant and the landlord. Finally, the tribunal must have discretion to refuse to issue a termination notice where to do so would be clearly unjust. The Government has argued, in its negotiations with stakeholders advocating for public housing tenants, that this bill provides safeguards to protect against unfair and unjust evictions. But these assurances by the Government are simply not reflected in the bill.

If the Government is so confident that mental health patients and other vulnerable tenants will not be evicted from their homes and thrown onto the streets, if whole families are not to be discriminated against on the basis of a single individual's behaviour, these protections must be in the bill, and not simply left to motherhood statements in the Minister's second reading speech. In Committee, the Greens will move amendments to address the plethora of inadequacies and deficiencies that I have mentioned. I trust that Opposition members, in view of the reservations they have expressed about the bill, will see fit to support those amendments.

Reverend the Hon. Dr GORDON MOYES [9.54 p.m.]: It is on behalf of the Christian Democrats that I speak to the Residential Tenancies Amendment (Public Housing) Bill. The object of the bill is to amend the Residential Tenancies Act 1987—the principal Act—to make provision for the following four matters: firstly, to enable the New South Wales Land and Housing Corporation to declare that a public housing tenancy agreement is subject to a specified fixed term; secondly, to enable the corporation to require a public housing tenant to give an undertaking not to engage in antisocial behaviour—contrary to what was said in this debate, particularly where this concerns destruction of property; thirdly, to provide for the termination of the tenant's public housing tenancy agreement if the tenant refused to enter into, or seriously or persistently breaches, an acceptable behaviour agreement; and, fourthly, to provide for the termination of a public housing tenancy agreement if the tenant severely or persistently threatens or abuses, or intimidates or harasses, any member of staff of the Department of Housing.

I would like to make the point that no-one who destroys the rights of other people to live as neighbours in public housing has a right to public housing. The Commonwealth-State housing agreements—which started in 1946 and 1948—were instituted in this country primarily to help house veterans returning from World War II, but over the years the typical tenants in public housing have changed quite dramatically, and by the 1990s well over 90 per cent of all tenants were people with welfare and dependency needs.

I want to talk for a moment about the fact that 129,000 people are already adequately housed in public housing in New South Wales. We have a 14-year waiting list for public housing. As other honourable members have said, in the 2004 budget provision was made for only 220 additional units. The bill is not aimed at housing all of the people in this State who cannot afford housing. It is aimed at people in public housing who are behaving badly. Behaving badly was defined by Ms Sylvia Hale. The bill enables the Land and Housing Corporation to request a public housing tenant to enter into an acceptable behaviour agreement, under which the tenant undertakes not to engage in specific antisocial behaviour.

According to the Minister's second reading speech, the Government does not intend to require tenants who are unable to form an acceptable behaviour agreement due to mental illness, intellectual disability or for some other reason, to enter into such an agreement. This totally contradicts much of what has been said by Ms Sylvia Hale. An undertaking not to engage in antisocial behaviour extends to behaviour of other lawful occupiers of the premises to which the applicable public housing tenancy agreement relates. The effect is that if a lawful occupier of the premises other than the tenant engages in antisocial behaviour that is specified in the agreement,

the tenant is taken to have engaged in that behaviour and breached the agreement.

I have been witness to circumstances in which whole groupings of families have taken over tenancy of public housing, which is quite contrary to the tenancy agreement, so that perhaps 20 or 30 persons live in a particular dwelling. I recall visiting some housing where doors had been ripped off to supply wood for fires that were part of some backyard celebration. The bill also provides that the corporation must give notice to the tenant of the consequences of refusing to enter into or breaching an acceptable behaviour agreement. That may include, as has been said by Ms Sylvia Hale, the termination of a lease.

Proposed new section 35A (6) provides that a reference to antisocial behaviour includes a reference to emissions of excessive noise, littering, dumping cars, vandalism and defacing property. Every charity is, and has been, involved with people in public housing who are troubled by their neighbours. We are constantly approached, and I would say I have been approached every week for 40 years. I have worked closely with the Department of Housing in Victoria and the Department of Housing in New South Wales, a department that is easy to attack because it makes a good target. However, I place on record my appreciation of senior departmental officials in Sydney with whom I have worked for the past 25 years for their responsible actions whenever we have referred persons with specific needs, some of whom I will mention in a moment. Although it has been said many times that the department will throw people out onto the streets and make them homeless victims, who fill up our parks, alleyways, back doors and so on, the Land and Housing Corporation will apply to the Consumer, Trader and Tenancy Tribunal for an order to terminate the agreement.

The Consumer, Trader and Tenancy Tribunal is responsible for terminating a tenancy, not the Department of Housing. The decision to terminate has been removed from the Department of Housing, which is at arms-length from the tribunal. I am sure that the tribunal will act to protect the rights of individual tenants. I will give some examples of tenants whose behaviour, in my experience, has been totally unacceptable wherever they might be. I remember when I was leader of this type of work I remember going to look at a group of units in the Dubbo region being offered to Wesley Mission to develop centres for the homeless and, in particular, children with special needs. The houses were of a good, substantial nature, but they had been so wrecked that I did not believe it would be profitable to have them repaired. All the doors had been kicked in, the walls were full of holes where people had kicked and punched them, and every pane of glass had been smashed. This damage was caused, not by external vandals and delinquents but by those who lived within the property.

I remember also being offered by the Department Housing a group of 12 units at Cartwright, just near Liverpool. The units had been the centre of considerable drug dealing; drug abusers and drug dealers had occupied them. Likewise, these buildings were in such a poor state of repair that I doubted it was worthwhile repairing them. But the department indicated that all necessary repairs would be completed. The drug dealers and drug abusers who had lived in those units were shifted to other sites, where, I have no doubt, their poor standards of behaviour continued. Consequently, the Wesley Mission took a lead tenancy over the 12 units and placed in those units at Cartwright 12 young people who were at risk of becoming homeless and dropping out of the education system. A caretaker and an educator, who helped each young person with his or her TAFE or high school studies, occupied one of the units. All units were done up to an excellent condition. I commend the department for entering into a relationship with a non-government organisation to help provide better housing for people who were at risk of becoming homeless.

Last week a tenant at Leichhardt appealed to me to stop her eviction. I felt compassion for her and, upon listening to her story at some length, I wrote to the Department of Housing offering to help. Because I had been in a similar situation so many times, I also visited the unit at Leichhardt, where I discovered that the person with whom I was dealing certainly had a mental condition. She was a hoarder. The entire unit was stacked literally tightly to the roof with hundreds of thousands of newspaper pages. One had to walk through a space of only a few centimetres between the stacks of newspapers. The bath could not be accessed because it had been filled with plastic bags and other pieces of rubbish picked up along the road. The kitchen was full of hubcaps and other things she had collected as she journeyed through Sydney's streets. There was imminent danger from all kinds of vermin and rodents and the threat of fire. Because the unit was part of a series of units this posed a significant threat to her immediate neighbours. I immediately contacted the department and offered, on behalf of Wesley Mission, to get a dump bin and organise a group of men to clean out the house, and then provide a social worker who would regularly visit to try to help this woman.

The Wesley Mission also offered access to a psychologist and a psychiatrist to help her with her problems, if she could be helped. I was surprised when the Department of Housing indicated that

would not be necessary because it had contract social workers who could provide her with ongoing support. Although we will continue to provide some support for the woman at Leichhardt, and although I doubt that any psychiatric treatment will cure her, the relationship with the Department of Housing and its response to my intervention on her behalf stands out in my mind as a good response from a public corporation. Wesley Mission currently oversees more than 300 public housing units, mainly in the inner-western suburbs of Sydney, for use by people who were formerly homeless and were living on the streets, in the Domain and other public places mentioned by a previous speaker. But in many instances those who were homeless and had lost contact with their families have been reunited with their family, they are now living in accommodation provided by the Department of Housing and they are employed.

Wesley Mission will provide oversight, and no further destruction of the property will occur. I have seen this for many years, and I appreciate the support of the Department of Housing in these matters. Some people say, and we have heard it said tonight, that we are violating their rights under the United Nations to have decent and proper accommodation, a right to housing. The United Nations agreement on housing and forced evictions indicates that the person should not be affected for reasons that are unreasonable. Nothing in the bill makes the reasons unreasonable. I note that the Legislation Review Committee stated quite strongly that the recommendations in the bill do not, in any way, destroy the fundamental right of a person to housing. We support the suggestion within the bill of multiagency specialist response teams. Although much has been said about multiagency response teams within government agencies, for many years the non-government sector has had a multiagency response team for people in real need.

There is intensive case management for people who are suffering from mental and other problems who are destroying the rights of people to live in good accommodation and to have a sound and enjoyable lifestyle. It is terrible for people to find their peace and security being wrecked by a neighbour who intimidates them, who frightens them, who stands over them and who does not allow them to have the confidence to go to the police or the department. We have to protect the rights of other people, not just the rights of those who would destroy the rights of other people. Most tenants and welfare-dependent people in public housing are very decent people who look after their property. As has been said earlier tonight, many of them are aged or frail. With a multiagency response, both government and non-government agencies, we could make a significant contribution to people who need all the support they can get for adequate housing. The only way to do that is to bring in an agreement to protect their rights from those who do not know how to behave.

Debate adjourned on motion by the Hon. Dr Arthur Chesterfield-Evans.

Subjects: [Public Housing](#); [Rental Accommodation](#).

Speakers: [Kelly, The Hon Tony](#); [Gardiner, The Hon Jenny](#); [Forsythe, The Hon Patricia](#); [Hale, Ms Sylvia](#); [Moyes, Reverend the Hon Dr Gordon](#).

Version: Corrected Copy NSW Legislative Council Hansard Article No.41 of 28/06/2004.

Speech Type: 2R; Bill; Debate; Motion.

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