

LEGISLATIVE COUNCIL

Tuesday, 8 November 2016

The PRESIDENT (The Hon. Donald Thomas Harwin) took the chair at 14:30.

The PRESIDENT read the prayers and acknowledged the Gadigal clan of the Eora nation and its elders and thanked them for their custodianship of this land.

Bills

CHILD PROTECTION (WORKING WITH CHILDREN) AND OTHER CHILD PROTECTION LEGISLATION AMENDMENT BILL 2016

HOUSING LEGISLATION AMENDMENT BILL 2016

JUSTICE PORTFOLIO LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2016

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL (NO 2) 2016

WASTE AVOIDANCE AND RESOURCE RECOVERY AMENDMENT (CONTAINER DEPOSIT SCHEME) BILL 2016

Assent

The PRESIDENT: I report receipt of messages from the Governor notifying His Excellency's assent to the abovementioned bills.

Governor

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report receipt of the following message from the Honourable Thomas Frederick Bathurst, the Lieutenant-Governor of the State of New South Wales:

GOVERNMENT HOUSE
SYDNEY

T Bathurst
LIEUTENANT-GOVERNOR

The Honourable Thomas Frederick Bathurst, AC, Lieutenant-Governor of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, His Excellency General the Hon. David Hurley, AC, DSC (Ret'd), being absent from the State, he has assumed the administration of the Government of the State.
Saturday, 5 November 2016

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report receipt of the following message from His Excellency the Governor:

GOVERNMENT HOUSE
SYDNEY

David Hurley
GOVERNOR

General David Hurley, AC, DSC (Ret'd), Governor of New South Wales, has the honour to inform the Legislative Council that he has re-assumed the administration of the Government of the State.
Saturday, 5 November 2016

Commemorations

CENTENARY OF FIRST WORLD WAR

The PRESIDENT (14:33): The failure of the first conscription referendum on 28 October 1916 served to remind Australian military planners of the fact that there were no longer inexhaustible supplies of recruits to be thrown into the maw of the trenches. While the overall battle of the Somme dragged on to its mournful conclusion, smaller battles continued to rage. One such battle was the Battle of Flers, in which a largely Australian-led attack on German positions started with small barrages on 1 November and a full-scale attack on 5 November. The 1st Brigade advanced against trenches north of Gueudecourt, and the 7th Brigade against a complex of trenches known as "the maze". Both attacks managed to capture some of their objectives but were eventually forced to

withdraw. Another attack was launched against "the maze" on the morning of 17 November. It also succeeded in capturing a portion of the German trenches, but a surprise attack two days later returned this to the enemy.

The ground across which they advanced had been deluged with rain and the attacks were made in atrocious conditions. Charles Bean, the official war historian, called the attack at Flers "the most difficult in which the AIF was ever engaged", and it achieved nothing. The attacking waves of troops were sucked down by the cloying mud and thus, unable to keep up with their creeping artillery barrage, became easy targets for German machine-gunners and riflemen. In these days of drone warfare it is easy to lose sight of the nature of direct hand-to-hand combat or of the horror of fighting both man and nature at the same time. It reminds us of the exceptional qualities of those who did so 100 years ago. Lest we forget.

Documents

OMBUDSMAN

Reports

The PRESIDENT: In accordance with the Ombudsman Act 1974, I table the annual report of the NSW Ombudsman for the year ended 30 June 2016, including an erratum, received out of session and authorised to be made public on 27 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

POLICE INTEGRITY COMMISSION

Reports

The PRESIDENT: In accordance with the Police Integrity Commission Act 1996, I table the annual report of the Police Integrity Commission for the year ended 30 June 2016, received out of session and authorised to be made public on 27 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: In accordance with the Independent Commission Against Corruption Act 1988, I table the annual report of the Independent Commission Against Corruption for the year ended 30 June 2016, received out of session and authorised to be made public on 27 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

CHILDREN'S GUARDIAN

Reports

The PRESIDENT: In accordance with the Children and Young Persons (Care and Protection Act 1998), I table the annual report of the Children's Guardian for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

INFORMATION AND PRIVACY COMMISSION

Reports

The PRESIDENT: In accordance with the Government Information (Information Commissioner) Act 2009, Privacy and Personal Information Protection Act 1998 and the Annual Reports (Departments) Act 1985,

I table the annual report of the Information and Privacy Commission for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

PRIVACY COMMISSIONER

Reports

The PRESIDENT: In accordance with the Privacy and Personal Information Protection Act 1998, I table the annual report of the Privacy Commissioner for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

ADVOCATE FOR CHILDREN AND YOUNG PEOPLE

Reports

The PRESIDENT: In accordance with the Advocate for Children and Young People Act 2014, I table the annual report of the Advocate for Children and Young People for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

INSPECTOR OF THE NEW SOUTH WALES CRIME COMMISSION

Reports

The PRESIDENT: In accordance with the Crime Commission Act 2012, I table the annual report of the Inspector of the New South Wales Crime Commission for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

INSPECTOR OF THE POLICE INTEGRITY COMMISSION

Reports

The PRESIDENT: In accordance with the Police Integrity Commission Act 1996, I table the annual report of the Inspector of the Police Integrity Commission for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: In accordance with the Independent Commission Against Corruption Act 1988, I table the annual report of the Inspector of the Independent Commission Against Corruption for the year ended 30 June 2016, received out of session and authorised to be made public on 28 October 2016.

The Hon. DUNCAN GAY: I move:

That the report be printed.

Motion agreed to.

Motions

GUN CONTROL LAWS

Mr DAVID SHOEBRIDGE (14:38): I move:

That this House:

- (a) commends the important work of the 1996 Howard and Fischer Federal Government in achieving national gun control laws that are the envy of the world;
- (b) calls on all governments, State and Federal, to maintain our national and State gun control laws; and
- (c) states its clear expectation that State and Federal police and Justice Ministers, as well as parliamentary leaders, will stand up for community safety and oppose any changes that would weaken Australia's gun control laws.

Motion agreed to.

Committees

LEGISLATION REVIEW COMMITTEE

Reports

The Hon. GREG PEARCE: I table the report of the Legislation Review Committee entitled "Legislation Review Digest No. 28/56", dated 8 November 2016. I move:

That the report be printed.

Motion agreed to.

AUDITOR-GENERAL

Reports

The CLERK: In accordance with the Public Finance and Audit Act 1983, I announce receipt of the following reports of the Auditor-General:

- (1) Performance Audit Report entitled "Government Advertising 2015-2016: Department of Premier and Cabinet", dated October 2016, received out of session and authorised to be printed on 27 October 2016.
- (2) Performance Audit Report entitled "Implementation of the NSW Government's program evaluation initiative: NSW Treasury, Department of Premier and Cabinet, Department of Industry, Skills and Regional Development, Department of Justice and Department of Planning and Environment", dated November 2016, received out of session and authorised to be printed on 3 November 2016.

Documents

INSPECTOR OF CUSTODIAL SERVICES

Reports

The CLERK: In accordance with the Inspector of Custodial Services Act 2012, I announce receipt of the annual report of the Inspector of Custodial Services for the year ended 30 June 2016, received out of session and authorised to be printed on 28 October 2016.

Committees

GENERAL PURPOSE STANDING COMMITTEE NO. 5

Report: Wambelong Fire Inquiry Evidence

The CLERK: According to standing order, I announce receipt of report No. 43 of General Purpose Standing Committee No. 5, entitled "Wambelong Fire Inquiry Evidence", dated October 2016, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions on notice. Under the standing order, the report has been authorised to be printed.

The Hon. ROBERT BROWN: I move:

That the House take note of the report.

Debate adjourned.

*Documents***TABLING OF PAPERS**

The Hon. NIALL BLAIR: In accordance with the Carers Recognition Act 2010, I table the report of the statutory review of the Carers Recognition Act 2010, dated November 2016.

I move:

That the report be printed.

Motion agreed to.

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. NIALL BLAIR: According to Standing Order 59, I table a list of papers tabled since 11 October 2016 and not ordered to be printed.

*Committees***COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION****Report: Review of the Independent Commission Against Corruption: Consideration of the Inspector's Reports**

The CLERK: According to the Independent Commission Against Corruption Act 1988, I announce receipt of report No. 2/56 of the Committee on the Independent Commission Against Corruption entitled "Review of the Independent Commission Against Corruption: Consideration of the Inspector's reports", dated October 2016, received out of session and authorised to be printed on 27 October 2016.

Reverend the Hon. FRED NILE: I move:

That the House take note of the report.

Debate adjourned.

*Petitions***ABORTION LAW REFORM**

Petition requesting that the Legislative Council defend the fundamental right of children to be born by voting against the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016, received from **Reverend the Hon. Fred Nile**.

*Irregular Petitions***HUMAN ORGAN TRAFFICKING**

Leave granted for the suspension of standing orders to allow Mr David Shoebridge to present an irregular petition.

Petition requesting that the Government outlaw human organ trafficking and harvesting, make it illegal for people in New South Wales to receive illegally trafficked and harvested organs, and urge the Federal Government to make changes to laws regarding overseas organ trafficking and harvesting, received from **Mr David Shoebridge**.

*Visitors***VISITORS**

The PRESIDENT: I welcome to the public gallery students and staff from schools in the Riverstone electorate, guests of the member for Riverstone, Mr Conolly. Those schools include: Windham College, Quakers Hill High School, Riverstone High School, Glenwood High School, St Mark's Catholic College, Norwest Christian College, Australian Christian College and The Ponds High School. Welcome to the Legislative Council this afternoon. I hope you enjoy your visit to Parliament House and find it a worthwhile experience.

The PRESIDENT: Order! I call the Hon. Dr Peter Phelps to order for the first time.

*Business of the House***POSTPONEMENT OF BUSINESS**

Ms JAN BARHAM: I move:

That Business of the House Notice of Motion No. 1 be postponed until Tuesday 15 November 2016.

Motion agreed to.

Mr DAVID SHOEBRIDGE: I move:

That Business of the House Notice of Motion No. 2 be postponed until Wednesday 16 November 2016.

Motion agreed to.

The Hon. ADAM SEARLE: I move:

That Business of the House Notice of Motion No. 3 be postponed until Tuesday 15 November 2016.

Motion agreed to.

Mr DAVID SHOEBRIDGE: I move:

That Business of the House Notices of Motions Nos 4 and 5 be postponed until Tuesday 15 November 2016.

Motion agreed to.

The Hon. DUNCAN GAY: I move:

That Government Business Orders of the Day Nos 1 and 3 be postponed until a later hour of the sitting.

Motion agreed to.*Committees***STANDING COMMITTEE ON STATE DEVELOPMENT****Membership**

The PRESIDENT: I inform the House that on 4 November 2016 the Clerk received from the Leader of the Opposition the following change in membership of the committee:

The Hon. John Graham in place of the Hon. Ernest Wong.

GENERAL PURPOSE STANDING COMMITTEE NO. 2**Membership**

The PRESIDENT: I inform the House that on 4 November 2016 the Clerk received from the Leader of the Opposition the following change in membership of the committee:

The Hon. John Graham in place of the Hon. Daniel Mookhey.

*Bills***LAW ENFORCEMENT CONDUCT COMMISSION BILL 2016****In Committee**

The CHAIR: There being no objection, the Committee will deal with the bill as a whole. I have five sets of amendments, the first being Opposition amendments appearing on sheet C2016-080B and the second being Christian Democratic Party amendments appearing on sheet C2016-074G. I also have three sets of The Greens amendments appearing on sheets C2016-077C, C2016-104A and C2016-100A. We will proceed with the Opposition amendments appearing on sheet C2016-080B.

The Hon. LYNDA VOLTZ (15:29): I move Opposition amendment No. 1 on sheet C 2016-080B:

No. 1 **Age of Chief Commissioner**

Page 14, clause 18. Insert after line 16:

- (4) A person is not eligible to be appointed as Chief Commissioner or to act in that office if the person has reached the age of 72 years, and may not be appointed for any period that extends beyond the day on which the person reaches the age of 72 years.

The Opposition has asked that this amendment be inserted to make the Act consistent with the judiciary as it presently stands. We feel that it is important to have consistency in that range.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (15:30): The Government opposes Opposition amendment No. 1. Although there is an age restriction for judicial office, for some time there has been a move away from imposing age restrictions on other statutory positions. Although some statutory positions still have an age restriction such as the Ombudsman and the Director of Public Prosecutions, most statutory positions in New South Wales have no age restriction. Comparable positions such as Commissioner of the Police Integrity Commission, Commissioner of the

Independent Commission Against Corruption [ICAC], Commissioner of the Crime Commission, and Commissioner of the NSW Police Force do not have an age restriction. The Chief Commissioner of the Law Enforcement Conduct Commission [LECC] will be selected based on their experience, skills and knowledge, not how old they are. As I indicated, the Government does not support the amendment.

Mr DAVID SHOEBRIDGE (15:31): The Greens do not support Opposition amendment No. 1. We understand that the Opposition is putting it forward because it is concerned that somebody may be too frail or not up to the job of being the chief commissioner because of their age. I think society has moved on a little. There are people in their mid-seventies who would be assets to the commission. Likewise, there are people in their mid-forties who would not be assets. I understand why the Opposition puts the amendment forward, but I think we have moved beyond the 1980s view that someone who is 70 or 72 is no longer fit for purpose. In addition, given the quality of the people we expect to be appointed to these positions, if they felt their age was a barrier to them undertaking the functions of commissioner we believe they would likely step aside from the office. Of course, there will be three commissioners operating. On the whole we do not believe in hard and fast age discrimination provisions, which effectively is the nature of this amendment.

Reverend the Hon. FRED NILE (15:33): On principle I do not support age discrimination in legislation. I am sure the Government will always ensure that the nominated person is strong and healthy enough to do the job and not too frail, as Mr Shoebridge said.

The CHAIR: The Hon. Lynda Voltz has moved Opposition amendment No. 1 appearing on sheet C2016-080B. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. LYNDIA VOLTZ (15:33): I move Opposition amendment No. 2 on sheet C2016-080B:

No. 2 **Decisions of Commissioners**

Pages 14 and 15, clause 19, line 27 on page 14 to line 9 on page 15. Omit all words on those lines.

Insert instead:

19 Exercise of Commission's functions

- (1) Except as otherwise provided by this section, the functions of the Commission are exercisable by a Commissioner, and any act, matter or thing done in the name of, or on behalf of, the Commission by a Commissioner is taken to have been done by the Commission.
- (2) A decision of the Commission to exercise any of the following functions must be authorised by the Chief Commissioner and at least one other Commissioner:
 - (a) a decision under sections 44 (1) (a) and 51 (1), made after taking into account the relevant factors set out in sections 45 and 46, that conduct is (or could be) serious misconduct, serious maladministration, police misconduct, Crime Commission officer misconduct, officer maladministration or agency maladministration and should be investigated,
 - (b) a decision to hold an examination under Division 3 of Part 6 (except where there is a duty to hold an examination into conduct referred by Parliament for investigation under section 196),
 - (c) a decision under Division 3 of Part 6 to hold an examination (or part of an examination) in public,
 - (d) a decision under section 79 (2) that there are reasonable grounds to issue a search warrant,
 - (e) a decision under section 23 (1) to delegate a function of the Commission.
- (3) A decision of the Commission referred to in subsection (2) is presumed to have been duly authorised unless the contrary is established.
- (4) Except as provided by subsection (2), a decision of the Chief Commissioner prevails in the event of an inconsistency in the decisions of Commissioners with respect to a matter.

The bill as it currently reads allows for some decisions of the commission to be made by a majority and has a requirement at section (3) that certain functions be exercisable only by unanimous decision of the commissioners. This amendment essentially removes section (3) to make all the decisions majority decisions. Section (2) (a) and (b) remain the same and section (3) (a), (b) and (c) will become subsections (c), (d) and (e) of section (2). We feel that it is better that the commission exercise its functions by majority decision. This amendment will avoid any difficulty that may arise in that regard.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (15:34): This amendment would require decisions to have the consent of two out of the three commissioners, one of course being the chief commissioner. The Government supports this amendment. The Government recognises concerns about the potential for delays to certain decisions if unanimous agreement of all commissioners is required and one of the commissioners is not available. The Government is confident that the high-level scrutiny which is required will still occur with the decision-making structure in which two of the three commissioners, one being the chief commissioner, must agree. The amendment is also consistent with the recommendations of the recently released Committee on the Independent Commission Against Corruption review and report on the ICAC Inspector's Report. In that report the committee recommended a three-member commission for the ICAC and that the use of its extraordinary power be authorised by majority agreement of the three-member commission. The Government supports the amendment.

Mr DAVID SHOEBRIDGE (15:35): This is one of these moments when we are looking into the future of not just the Law Enforcement Conduct Commission but also potential changes that have been proposed to ICAC and other oversight bodies. A series of bodies in New South Wales effectively have royal commission powers. Each and every one of them is able to hold hearings either in public or in private depending upon the views of the officer or officers in charge of those commissions. The bill as originally drafted proposed that a public hearing could only be held if there was unanimity amongst the three commissioners. As I think the Government now acknowledges, that potentially made for an unworkable situation. If one commissioner had a philosophical view that there should never be public hearings the commission would never come to a decision. There would potentially be a logjam.

One would hope that wherever possible the three commissioners would be a united team, but there is also a place for a dissenting voice amongst the commissioners that might challenge the majority and say, "Is this really the place for a public hearing?" A commissioner may have that philosophical view and be more willing to challenge it, which would lead to those questions being tested amongst the three commissioners. However, we would not want that minority position to nullify the views of the majority, meaning there could never be public hearings. This amendment will not only significantly improve the day-to-day operation of the commission by facilitating some robust exchange between the commissioners and potentially small amounts of disagreement; it will also allow for a ready mechanism for the question to be determined by majority and ensure that there will be some public hearings.

I know there has been some concern about public hearings at the Independent Commission Against Corruption and that the Police Association has raised concerns about previous public hearings at the Police Integrity Commission. Some of those concerns are valid. A practice developed at different points for the gotcha moment, perhaps just before morning tea. There would then be what they described as feeding the chooks, which was the playing of what were once CDs of undercover footage and are now USB sticks of undercover footage. That would dominate the play in the media for the day. The evidence of the officer or person being cross-examined in the afternoon or following day that might put a totally different colour on it would get washed out by the great gotcha moment of the morning. That type of concern about procedural fairness is valid. The way we address it is by having counsel assisting, who comply with the bar rules that expressly say that most of the provisions of the rules apply to commissions of inquiry as much as they apply to court matters.

We have commissioners to ensure that their extraordinary powers do not get abused and that people are not treated with gross unfairness. We are never going to have, nor do we want to have, the same levels of procedural fairness that apply in a royal commission applying in a court because there is the essential matter of catching people out in public and identifying matters of substantial misconduct in public. Indeed, that public shaming and exposure has an essential role to play. Traditionally in New South Wales, because our corruption laws are so woeful, often it is only the public shaming that delivers change. We need public hearings. This amendment will mean that we will be more likely to get public hearings but there are still more checks and balances. It is a good amendment and The Greens support it.

Reverend the Hon. FRED NILE (15:39): The Christian Democratic Party supports the amendment. I am a member of the oversight committee of the Independent Commission Against Corruption. That committee has had a lengthy discussion and made the same recommendation. This amendment will bring consistency to the commissions operating in this State.

The CHAIR: The Hon. Lynda Voltz has moved Opposition amendment No. 2 on sheet C2016-080B. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR: We will now move to The Greens amendments on sheet C2016-100A.

Mr DAVID SHOEBRIDGE (15:41): By leave: I move The Greens amendments Nos 1 to 9 on sheet C2016-100A in globo:

No. 1 Investigation of police misconduct matters

Page 28, clause 44 (9), line 38. Omit "Except as provided by section 113 (6), the Commissioner must". Insert instead "The Commissioner may".

No. 2 Investigation of critical incidents by Commission

Page 32, clause 51 (1), line 18. Insert at the end of the line:

, or

- (f) in the case of a critical incident, if the Commission decides that it is in the public interest that it investigates the incident or investigates it concurrently with an investigation being carried out by the NSW Police Force.

No. 3 Investigation of critical incidents by Commission

Page 32, clause 51. Insert after line 45:

- (6) The Commission may decide to investigate a critical incident despite section 44 (9).
- (7) If the Commission decides to investigate a critical incident, the Commission:
 - (a) must notify the Commissioner of Police of its decision to investigate the incident; and
 - (b) may require the Commissioner of Police to postpone any investigation of the incident by the NSW Police Force until the Commission advises that the NSW Police Force may proceed with its investigation.

No. 4 Declaration of critical incident

Page 57, clause 111 (1), line 18. Omit "may". Insert instead "must".

No. 5 Declaration of critical incident

Page 57, clause 111 (2), line 27. Omit "may". Insert instead "must".

No. 6 Investigation of police misconduct matters

Page 58, clause 113 (6), line 30. Omit "despite section 44 (9)".

No. 7 Investigation of critical incidents by Commission

Page 58, clause 114, line 38. Insert "**or conduct own investigation**" after "**investigation**".

No. 8 Investigation of critical incidents by Commission

Page 58, clause 114. Insert after line 40:

- (2) The Commission may also, if it believes that it is appropriate to do so because of the circumstances of the case or the seriousness of the issues involved:
 - (a) conduct its own investigation of a critical incident; or
 - (b) take over an investigation by the NSW Police Force of a critical incident.

No. 9 Monitoring conduct of critical incident investigations

Page 59, clause 114 (3) (c), lines 8 and 9. Omit "with the consent of the person being interviewed and the senior critical incident investigator,".

The Greens have a longstanding record in saying that when it comes to serious misconduct police should not be investigating police. The inherent conflict of interest one gets when one police officer investigates the actions of another police officer is plain for the general public to see. Indeed, it has been plain to the many complainants who have approached my office over the past five and a bit years concerned about the way that police investigations of police have an extraordinary tendency to dismiss the seriousness of complaints and to dismiss complaints from the public, but they also do not give fairness to many police. Many police do not feel that one section of police investigating them will give them any kind of procedural fairness. For that reason The Greens believe, particularly in critical incidents—those incidents involving death or serious injury of either a member of the police force or a member of the public in the course of police operations—we can no longer have police investigating police. This inevitable conflict of interest was highlighted in the Lindt siege inquiry.

To illustrate the importance of these amendments, one only has to consider the extremely unenviable situation of the police investigators sent in to investigate the actions of police after the Lindt tragedy. It was declared a critical incident by the Commissioner of Police, so a number of police at inspector level and below were tasked with investigating what went right and what went wrong in the Lindt siege inquiry. Two of the key players in the Lindt siege inquiry were Deputy Commissioner Burn and Commissioner Scipione. It is hard to imagine a more career-limiting moment than one when an inspector of police trots up to the Commissioner's office

and says, "I would like to see your phone. Please show me your text messages. I want to run through your emails to find out exactly where you were, when you were there, what directions you made and what you said about the operational activities."

There was an official notation in the police records about the Police Commissioner making a determination about whether there would be intervention on the night. We only know that because it came out belatedly in the course of a coronial investigation, because the commissioner was never put on the spot by the investigators to give a statement about what happened. We now know that Deputy Commissioner Burn deleted a whole series of her text messages. She says they were not related to the Lindt siege inquiry, but we will never know because they were deleted by the deputy commissioner before she was required to go under oath in the coronial investigation.

I do not blame the junior officers who were put in the invidious situation of having to interrogate deputy commissioners and the Commissioner of Police to find out exactly what went wrong. They were in an impossible situation: They could not investigate that, given the chain of command and the nature of the police. Why would we allow that kind of conflict of interest to be at the heart of this bill? While there are good things about this bill, which establishes a single police oversight body, it expressly says that the new Law Enforcement Conduct Commission [LECC] cannot investigate police critical incidents and must postpone the investigation of any critical incident until after the police have finished. That may be months; it may be years. There is no time limit on it. This bill effectively says that this brand-new police oversight body, which we hope will start with a fresh culture, a belief in procedural fairness and a view that it will fix systemic problems in the NSW Police Force and address any substantial issue of corruption, cannot investigate the most serious incidents and has to sit on its hands.

If a member of the public is shot by a police officer, one would think that the best body to investigate that would be the brand-new, shiny, expensive Law Enforcement Conduct Commission—but this bill says it cannot investigate a police critical incident, which must be investigated by Professional Standards Command. We have police investigating police—and the bill does not put that at the discretion of the Law Enforcement Conduct Commission but expressly statutorily prohibits the LECC from investigating in those circumstances. Why would we put that fundamental flaw at the heart of what is otherwise a good bill?

Taken together The Greens amendments remedy that core defect in the bill, and I could go through them one after the other, explaining how they remedy that core defect in the bill. The amendments allow the Law Enforcement Conduct Commissioner, if the Law Enforcement Conduct Commissioner believes it is appropriate, to undertake an investigation notwithstanding that there is an outstanding police critical incident investigation, and the amendments allow the LECC to take over a police critical incident investigation, which I hope would be the option that it would most readily exercise. We want to get away from the situation where we have the police doing one thing over here and the oversight bodies doing another thing over there. That has been a recipe for disaster for years in New South Wales.

These amendments would give the LECC the power to take over a police critical incident investigation where it thought it was appropriate. We should end the culture of police investigating police. It is not just a cultural thing. No-one can blame the police for operating within the laws that have been given to them by the Parliament. We need to fix the structural conflict of interest, particularly when it comes to critical incidents where someone has been shot, killed, seriously wounded or injured. That is when we have to say, "Enough is enough: No longer do we have police investigating police. Let's have our new, shiny, expensive Law Enforcement Conduct Commission do its job and investigate the most critical incidents in New South Wales." I commend the amendments to the House.

The CHAIR: There is a conflict between Opposition amendment No. 5, which I anticipate the Hon. Lynda Voltz will move, and The Greens amendment No. 9. I invite the Hon. Lynda Voltz to move Opposition amendment No. 5, which was received first. Then I will put Opposition amendment No. 5 before separately putting The Greens amendment No. 9.

The Hon. LYNDIA VOLTZ (15:50): I move Opposition amendment No. 5 on sheet C2016-080B:

No. 5 **Monitoring conduct of critical incident investigations**

Page 59, clause 114 (3) (c), lines 8 and 9. Omit "with the consent of the person being interviewed and the senior critical incident investigator".

This amendment omits the clause "with the consent of the person being interviewed and the senior critical incident investigator". Currently, the Act allows the Law Enforcement Conduct Commission [LECC] investigator to sit in a critical incident investigation interview only with the consent of the person who is being interviewed. We believe it is important that LECC has oversight, but if consent is requested to sit in on an interview it may be refused—I assume the lawyers in this place would assure me that that is the first advice they would give to anybody. We

believe it is important, given the concerns The Greens have just raised in regard to oversight, that LECC has the ability to see that the police are doing their job in the appropriate way.

Having police investigate critical incidents, as contained in this bill, has been well thought-out and well discussed and it has been through a number of parliamentary committees. It is a very long bow to draw a comparison between whether police officers are required to keep messages on their phones as a reason for a complete structural change within this bill and the critical incidents regime that is being proposed to make significant changes in taking critical investigations away from the police. For that reason the Opposition will oppose The Greens amendments, but we will persist with our amendment in relation to consent because we believe that the withdrawal of the requirement that a LECC investigator can only sit in on an interview with the consent of the person being interviewed is unreasonable. I urge the Government to consider supporting the Opposition's amendment because we are committed to pursuing that amendment.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (15:52): I will deal firstly with Opposition amendment No. 5 and then I will proceed to deal with the amendments of The Greens. The Government does not support Opposition amendment No. 5. The model for the oversight of the NSW Police Force critical incident investigations contained in part 8 of the bill closely follows the recommended model in the Tink review. The main feature of the recommended model is that there should be a mechanism for an independent body to monitor critical incident investigations in real time. The bill provides for this.

When a critical incident is declared, the LECC will be notified immediately and will be able to monitor all stages of the critical incident investigation. LECC monitoring officers will be able to attend the scene of the critical incident, including where a crime scene has been established; to access all reports, documents and evidence prepared for the purposes of the critical incident investigation; and to access recordings and transcripts of all interviews conducted by police during the course of the critical incident investigation without unreasonable delay.

The Tink review recommended that monitoring officers be able to attend all witness interviews as an observer. There was strong feedback from key stakeholders that allowing monitoring officers to observe all interviews may hamper a critical incident investigation as it may dissuade witnesses from talking to investigators. Most critical incidents involve the death of a person and there can be, therefore, emotionally charged and complex investigations. It is fundamentally important that critical incident investigators are allowed to carry out their investigation in order to provide their brief to the Coroner.

I will now proceed to The Greens amendments Nos 1 and 6 on sheet C2016-100A. The Government does not support these amendments. They would allow the LECC to investigate a complaint against an officer whose conduct is the subject of a critical incident investigation. It is important that a critical incident be allowed to be investigated and concluded before any misconduct investigation commences unless the Commissioner of Police and the LECC agree otherwise. This is because critical incidents usually involve a coronial inquiry. Coronial proceedings take precedence and must not be impaired by the LECC investigation. The Government does not support The Greens amendments Nos 1 and 6.

The Government does not support The Greens amendments Nos 2, 3, 4, 5, 7 and 8 on sheet 2016-100A. The Government believes the current provisions provide the best arrangements for critical incident investigations. The Government has concluded that the NSW Police Force is best placed to undertake critical incident investigations with the Law Enforcement Conduct Commission providing monitoring. This reflects the position of the Tink review into police oversight. The Tink review recommended the NSW Police Force retain responsibility for investigating critical incidents because it is the only agency with specialist investigative skills to undertake this type of investigation and with the ability to maintain their skills at a sufficiently high level at a reasonable cost. To replicate all the necessary experience and skills required to investigate homicides in an external agency would be extremely resource intensive; it requires highly skilled and trained investigators, forensic and ballistic capabilities, crime scene support such as vans, lights, forensic and transport to facilitate prompt attendance at scenes across New South Wales.

After closely reviewing organisations in other jurisdictions that conduct external investigations of critical incidents Mr Tink concluded that given the number of critical incidents in New South Wales and the size of New South Wales, only the NSW Police Force has the necessary expertise and resources 24 hours, seven days a week to investigate a critical incident scene. LECC has therefore been given the ability to monitor critical incident investigations. This will ensure that critical incident investigations are undertaken in accordance with the Law Enforcement Conduct Commission Act and are conducted in a competent, thorough and objective manner. As indicated, the Government does not support these amendments as it believes the current provisions provide for the best arrangements.

The Government does not support The Greens amendment No. 9 on sheet 2016-100A. The model for the oversight of NSW Police Force critical incident investigations contained in part 8 of the bill closely follows the recommended model in the Tink review. The main feature of the recommended model is that there should be a mechanism for an independent body to monitor critical incident investigations in real time. The bill provides for this so that there is no unreasonable delay in relation to any information being sought by LECC at the time of the investigation. As indicated, the Government opposes the amendments.

The Hon. MICHAEL GALLACHER (15:57): It would be negligent of me if I did not take an opportunity to again put onto the record the personal and professional dissatisfaction I have with the position that The Greens continue to put in relation to the oversight of critical investigations by police, because this eats away at the confidence the public has in relation to critical investigations by police, which is exactly the intent of The Greens. It is disgraceful to be constantly sowing seeds of doubt in the minds of the public that the police are incapable of investigating their own. One has only to look at the number of charges that occur in New South Wales, both departmental and criminal, in relation to the conduct of police—from minor matters through to the most serious. Overwhelmingly they are investigations conducted by members of the NSW Police Force into their own colleagues, into their own workmates. To have it continuously put by The Greens that somehow there is a substandard or shoddy investigation in relation to critical incidents is disgraceful.

We should be making sure that we have confidence not only in this new structure but, indeed, in the fine men and women of the NSW Police Force to do the job. I believe this amendment by The Greens will be knocked down, but we continue to hear this position put time and time again, as we did in relation to the shooting of Mr Salter some years ago. The leader of The Greens, Mr Shoebridge, continued to put this position in relation to the police investigation at that time, and what was the final outcome? The court threw out the whole case against the police. Thank goodness some of the police stood by their colleagues; they still turned up to work. They are still there now and they are investigating serious crime and representing every one of us when we put our heads down to sleep at night. God bless them. This position by The Greens is an absolute disgrace yet again.

The Hon. JOHN AJAKA: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Motion agreed to.

Adoption of Report

The Hon. JOHN AJAKA: I move:

That the report be adopted.

Motion agreed to.

The PRESIDENT: Order! According to sessional order, proceedings are now interrupted for questions.

Questions Without Notice

ROAD SAFETY

The Hon. ADAM SEARLE (16:01): My question without notice is directed to the Minister for Roads, Maritime and Freight. Given that the Government has collected almost \$800 million in camera fines since 2011, why has the road toll still increased by 13 per cent in the past year? Will the Minister honour his offer of a bipartisan approach and join Labor in a round table with road safety experts?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:01): If there were any road safety recommendations of any common sense coming from the Labor Party, I would. But I have not seen anything sensible come from them. I have seen that the Opposition spokesperson on road safety wants to get rid of red light cameras—as did her predecessor—

The Hon. Walt Secord: Point of order: The Minister is clearly misleading the House. At no point have I ever said that.

The PRESIDENT: The honourable member knows that he is not making a point of order but is making a debating point and he should not do so. This is not the time for him to be doing that and he should not abuse points of order either.

The Hon. DUNCAN GAY: I think I have had six, seven or eight shadow Ministers in this area—I am not sure how many. None really stands out as they have wandered into the wilderness. But I reckon I could outlast another two or three because the member opposite was so easy—he was a pushover and he was the worst. I was searching my memory for a good one earlier and I went through the whole lot of them and I like Rob Furolo. When it comes to getting someone of substance from the Opposition, he was the one who stands out. I remember

the member opposite saying, "I am going to bring you down, I am going to bring you down. You won't deliver anything". But he will not deliver anything. Well, where is he now? If he was that good he would be still toiling away, trying to bring me down and he has not got anywhere near it.

But what have we got? We have a shadow Minister who wants to get rid of red light cameras and who wants to make it alright for a driver to run a red light and put someone else's family at risk. That is just shameful. We look at the road toll and we have certainly taken it seriously, as we should, because every person who is killed is a person from someone's family who does not make it home. Last week I was in Perth for the Council of Australian Governments [COAG] for a Transport Infrastructure Contract [TIC] meeting. The first day of the TIC meeting was on road safety. We indicated a raft of issues that I will talk about on another day. They were substantial matters that we wished to do as a Commonwealth, working together.

It was interesting when the Commonwealth's road safety expert spoke. He said that New South Wales is a victim of its own success. What he meant was that in states and in countries around the world when the economics improve, so does the travel and the money spent. We know that New South Wales has come from the bottom of the heap under those opposite to the top of the heap. That means more people working, more people going distances to new jobs and more people getting education. Fuel is a little bit cheaper at the moment and more money in a lot of pockets means people are moving around a lot more. It certainly hit home to me because I remember last Monday I was in Dubbo at the TAFE and talking about initiatives that we had taken in Orange and Dubbo TAFE colleges. [*Time expired.*]

NEWELL HIGHWAY FLOODING

The Hon. SARAH MITCHELL (16:04): My question without notice is addressed to the Leader of the Government and Minister for Roads, Maritime and Freight. Will the Minister update the House on the reopening of the Newell Highway after major flooding across the Central West?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:05): I did mention in the answer to an earlier question that I was in Dubbo last week and I was joined by my colleague, the Deputy Premier and the member for Dubbo, Mr Troy Grant, to announce the Newell Highway between West Wyalong and Forbes was reopened to all traffic on Friday 4 November at 9.00 a.m. First, I would like to thank the communities in the Central West for being so patient. Having spent time in Forbes and Parkes over the last few weeks on this issue, I know how frustrating the closure was for local businesses. It was more than frustrating—they certainly took a hit to their pockets.

Following excessive flooding, the highway was closed about six weeks ago. Since then the team at Roads and Maritime Services [RMS] has been working around the clock. The closure of this key freight route has impacted the State's Central West and it was important to open it to all traffic as soon as it was safe to do so. At the peak of the floods, water across the Newell Highway was more than 80 centimetres deep. That is too dangerous for vehicles to try to cross and the highway had to be closed. It should be acknowledged that we kept it open as long as we possibly could and, as I have stated in the House before, the last truck that went through on the Newell Highway was towed through by the RMS.

The reopening was good news for the local communities that use the Newell Highway each day. The highway is a lifeline for our communities and businesses and having it closed for six weeks has been tough. Seeing the highway reopened means that we can now get back to business as usual. Parts of the Newell Highway and other critical routes through western New South Wales were also reopened as soon as water levels dropped, to reduce detour times for all motorists, especially freight trucks.

The local road network has copped a lot of damage and that is why last month I announced additional funding of \$13 million to flood-affected councils in Central Western New South Wales to accelerate repairs to local roads affected by flooding and wet weather, and to give them the freedom to make decisions on where they spend this money. It was interesting that some of the councils, whilst pleased to receive the funds, were even more pleased to receive money that was not tied up. They came back a couple of times and said, "There are no strings on this?" and we said, "No, you can use it for betterment if you want to". The only condition we put on it was to use it on roads that have been affected by floods, but they can make their own choices about how they use it.

This funding is additional to the funding that will be provided under the Natural Disaster Resilience Program to restore flood-damaged roads following detailed assessments of the damage by councils and RMS.

Since 2011 the Government has invested historic funds of \$400 million into upgrades on the Newell Highway with a further \$500 million as part of Rebuilding NSW. Local communities have asked for funding to provide vital upgrades such as overtaking lanes and town bypasses. The crews from Roads and Maritime Services worked around the clock with local government partners on emergency repair work. [*Time expired.*]

SUFFOLK PARK PUBLIC LAND SALE

The Hon. WALT SECORD (16:10): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water representing the Minister for Education. This morning National Party member, the Hon. Ben Franklin, joined State and Federal Labor members of Parliament and Greens councillors to inform the *Echonetdaily* in Byron Bay—

The Hon. Ben Franklin: And the ABC and 2LM.

The Hon. WALT SECORD: The ABC and 2LM that he opposes the sale of public land at Suffolk Park. Will the Minister inform the House whether the Government will call off the 29 November auction of this land? Here is the Hon. Ben Franklin's press release.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:10): I thank the member for his question. It is the same question that he asked earlier in question time but this time directed—

The Hon. Walt Secord: That is my first question. It was previously a motion.

The Hon. NIALL BLAIR: A motion moved earlier today in Parliament. The member has directed the question to my colleague, the Minister for Education, Adrian Piccoli, and I am happy to take the question on notice. I will refer it to my colleague and supply an answer to the member at a later time.

SHARK WATCH PROGRAM

Mr JUSTIN FIELD (16:11): My question without notice is directed to the Minister for Primary Industries. Is the Minister aware that Byron Shire Council recently announced funding to trial a shark watch program in the Byron region? Will the Minister inform the House whether the Government will consider expanding the shark watch trial to Ballina?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:12): I thank the member for his question. I am aware, yes. The issue has been raised with me by a number of people including the Hon. Jan Barham and members from the North Coast, including the Hon. Ben Franklin and the Hon. Catherine Cusack. I understand that today in Parliament House there is a forum being conducted to discuss the issue. I am now the proud recipient of a shark spotters shirt that will form part of my parliamentary declarations. The shirt was presented to the Hon. Ben Franklin and he rushed that shirt to my office and gave it to me.

The Hon. Greg Donnelly: What colour is it?

The Hon. NIALL BLAIR: White. It is a long sleeved shirt that says "shark spotter" on the front and "crew" on the back. I have let myself go over the last few months. I have not tried it on. Now that the weather is warming up I will get back into my exercise regime and I will cut a striking figure in that shirt. There are a series of options for the North Coast through the \$16 million shark mitigation trial of technologies and new measures. Initially when the shark summit was held the shark spotter program was not chosen to receive funding. That funding has been directed to aerial surveillance and technology. That does not mean that others cannot look at different measures, and Byron Shire Council has done that.

The State will play a role, there is a role for local government and there is a role for individuals. There are personal devices in the market to assist with shark deterrence, which is something that individuals can apply. The Government will look at a range of options and will discuss those measures this week in the House. I know that the Opposition and Greens have published their plans for this issue. The majority of them are almost a cut and paste of what the Government has announced. One of the variances that The Greens and Labor have within their plans is a shark spotter or shark watch program.

I have spoken to individual members stating the Government will look at this option while addressing the issue. As it relies on volunteers the program is not a costly exercise. The initial request was for Government assistance with the current program in Byron Bay. This question relates to an expansion of the program to Ballina. The Government has brought the issue to the fore as part of the \$16 million shark mitigation strategy and will continue to look at possible solutions.

2018 INTERNATIONAL METROPOLIS CONFERENCE

The Hon. DAVID CLARKE (16:16): My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister inform the House of the outcomes of his recent visit to Japan?

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (16:16): I thank the member for his question. Last month I had the opportunity to undertake a very successful visit to Japan. The Japan-New South Wales relationship provides incredible opportunities. As part of the three-day visit I announced that a major international conference focused on migration settlement and cultural diversity will be hosted by Sydney in 2018. This is a major coup for the New South Wales economy. The Government, together with its partners Settlement Services International and the Australian Multicultural Foundation, will host the 2018 International Metropolis Conference at the new International Convention Centre Sydney. The International Metropolis Conference is the largest annual gathering of experts from academia, governments and civil society in the fields of migration, integration and diversity.

This year's theme was "Creating trust through wisdom on migration and integration". It was an honour to deliver a keynote address at the conference, which highlighted New South Wales' excellent record on migrant and refugee resettlement and the importance of cultural cohesion. Across the world countries are grappling with how best to deal with migration issues and the movement of people. New South Wales has hard-earned experience and expertise in this area. This State has been successful in creating a multicultural society of which it can be proud.

The International Metropolis Conference will bring close to 1,000 visitors from around the world to our shores. Those visitors will sleep in our hotels, eat in our world-class restaurants and spend time in our great city. Executive head of the Metropolis project Dr Howard Duncan said, "Australia is a founding member for Metropolis. The appeal of coming to the multicultural city of Sydney is very high. We hope this can enable the rest of the world to take lessons from Australia's experiences in integrating migrant communities."

The executive director of the Australian Multicultural Foundation Dr Hass Dellal, AO, said, "Sydney is a natural cosmopolitan home for such a great conference, and I am proud to be a co-host of Metropolis Sydney 2018." Chief Executive Officer of Settlement Services International Violet Roumeliotis said, "As an organisation at the coalface, we value the opportunity to showcase the extraordinary diversity of Sydney's local neighbourhoods to such a global audience via the Metropolis conference."

Hosting Metropolis 2018 is a tremendous opportunity to showcase the world-class work of the New South Wales Government in promoting to the international community social cohesion and best practice in migration and settlement services. While in Japan I was able to further establish and strengthen links with institutions and participants likely to attend the Sydney conference. I met and had close discussions with the Metropolis conference secretariat and gained some useful intelligence that will help us to ensure the success of Sydney 2018. It was also an excellent opportunity for the New South Wales Government, together with our partners, to commence promotion of the 2018 conference.

As part of the mission, I briefed high-ranking Government officials on disability reform and was briefed by Austrade on the trade position of New South Wales. Importantly, as the first New South Wales Government Minister to meet with the newly elected Tokyo Metropolitan Government, I reinforced just how important our relationship with Japan is. It was a pleasure to represent the New South Wales Government at the highest level in what is a critical market for both our State and our nation. Japan, the world's third-largest economy, has been identified as a priority country under the New South Wales Government's International Engagement Strategy. I look forward to the conference coming to Sydney in 2018.

INDEPENDENT COMMISSION AGAINST CORRUPTION FUNDING

Reverend the Hon. FRED NILE (16:20): My question is directed to the Minister for Roads, Maritime and Freight, as the Minister representing the Premier. Is it a fact that the Independent Commission Against Corruption [ICAC] receives a base funding of \$2.4 million? Is it a fact that the ICAC requested an increase of \$2.1 million but was granted only \$1.3 million? Will this reduction affect the efficiency of the ICAC, especially regarding its current heavy program of investigations?

The Hon. Trevor Khan: No.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:21): I thank the honourable member for his question. I assume that the numbers that he gave—\$2.4 million, \$2.1 million and \$1.3 million—are correct. He normally is. I will pass the question on to the Premier.

The Hon. Mick Veitch: I think the Hon. Trevor Khan wants to answer.

The Hon. DUNCAN GAY: I heard his excitement, but we will let the Premier answer.

REGIONAL WATER QUALITY

The Hon. DANIEL MOOKHEY (16:22): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Would the Minister reassure families that health and safety have not been compromised in the Central West, given that authorities waited almost a week before alerting 3,300 north Dubbo households to the fact that E. coli was found in their drinking water supply?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:22): I thank the member for his question. Water and its management are critical for most regional communities. The quality of water supplied to households by regional water supply authorities is good. It meets the Australian Drinking Water Guidelines and is monitored closely. Through the Department of Primary Industries—Water [DPI], the New South Wales Government ensures that water supply services in regional areas are appropriate, secure, affordable, cost-effective and sustainable. DPI Water achieves these outcomes by using the New South Wales best practice management of water supply and sewerage guidelines and leading infrastructure programs such as the Country Towns Water Supply and Sewerage Program. DPI Water publishes a report every year on compliance by local water utilities with Australian drinking water quality guidelines and other performance indicators. These annual reports show the high quality of water supplied to people in regional New South Wales and the improvements that have been made over many years.

Dubbo City Council declared a boil water alert in two parts of its water supply system, the Myall Street Reservoir and Newtown Reservoir zones. Approximately 9,000 people are affected by the boil water alert, which I am advised was triggered when E. coli was detected during routine monitoring by Dubbo City Council earlier this month. Preliminary sample results have detected low levels of E. coli. An investigation by the council to determine the root cause of the contamination is underway. The water treatment plant has been operating as normal and within its targets. As no E. coli has been detected in the reservoir, the investigation's focus is now on the water supply system.

In response to the detections, council has increased the level of chlorine used to treat drinking water and has carried out a complete flush of the affected part of the supply network. Council will continue to monitor the water quality and will provide advice when the alert is to be lifted. Residents and key stakeholders have been notified through local radio, council's website and social media. Council is also working directly with the local school, where bottled water is being provided, and the local hospital. At this stage the council has the matter in hand. Once the direct cause has been identified then all appropriate responses will be taken by the council. Residents will be kept informed of the situation, as they have been to date.

The Hon. DANIEL MOOKHEY (16:25): I ask a supplementary question. Will the Minister elucidate his answer? Is he confident that his department followed the best practice guidelines that he mentioned?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:25): I remind the member that the council is the water supply authority. It is the council, through its testing and monitoring regime, that identified the issue and has taken the appropriate measures to deal with it. DPI Water does not operate any water supply or treatment facilities. They are operated by the local supply authority. As I have detailed, that authority has responded appropriately.

RICE INDUSTRY

The Hon. BRONNIE TAYLOR (16:26): My question is addressed to Minister for Primary Industries, and Minister for Lands and Water. Would the Minister please update the House on his recent visit to Deniliquin, in the Murray region, and, in particular, his meetings with irrigators and rice growers?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:26): I thank the Parliamentary Secretary for her question. Last Tuesday I visited Deniliquin, in the Riverina region of New South Wales, with the great Nationals member for Murray, Adrian Piccoli. I had the pleasure of meeting with representatives from the Ricegrowers' Association of Australia and SunRice to reflect on the importance of the rice industry in New South Wales. I also met other irrigation stakeholders. The New South Wales rice industry is one of the highest yielding in the world. Last year the State's rice exports equalled \$98 million. This Government, through the Department of Primary Industries, undertakes research and development partnerships with the Rural Industries Research and Development Corporation, SunRice and the Ricegrowers' Association of Australia to build on the productivity and value of the industry.

The New South Wales Department of Primary Industries is helping our rice growers to drive efficiencies through access to improved rice varieties. There are currently two varieties pending release. The Department of Primary Industries has also recently undertaken a review of rice vesting in New South Wales. The review is examining whether vesting continues to be in the best interests of the industry and community and whether the single desk continues to provide New South Wales producers with a price premium over what they could otherwise

earn from an open, competitive export market. As part of the review the department facilitated interactions with more than 400 industry stakeholders and received 249 submissions. The Government is now considering the findings of the review.

Since I last visited the Murray River, in March this year, there has been a dramatic shift in water availability throughout New South Wales. Consistent rainfall throughout winter and record inflows in September have resulted in many storages reaching full capacity. During my visit last week I also met with irrigators and saw firsthand the effect recent rainfall and flooding events have had on southern New South Wales and local communities. At the meeting with southern irrigators I heard loud and clear their concerns about the rollout of the Murray-Darling Basin Plan, specifically sustainable diversion limits and our approach to constraint management. It was good that I could hear firsthand the challenges that southern irrigators are facing and speak at length about the steps to be taken to tackle these head-on before the ministerial council meeting this month. New South Wales has advocated strongly for a triple bottom line consideration that takes into account the impacts on our communities. I am also committed to implementing the plan because I want certainty for Aboriginal communities.

But, as I have said on many occasions, I do not want to see more productive water taken out of New South Wales valleys simply to achieve numerical targets in the basin plan. The key to delivering a plan that works for regional communities is to be adaptable in the way we achieve environmental outcomes. We can also be smarter about how environmental water is delivered. The recent flooding in the southern system highlights the improvements that we can make to resolve both flooding issues and deliver environmental outcomes. These are practical approaches that deliver sensible environmental gains while keeping water where it is most needed, in our regional communities, and it is this message that I will be taking to the Ministerial Council next week in Adelaide.

LANNATE L INSECTICIDE

The Hon. MARK PEARSON (16:30): My question is directed to the Minister for Primary Industries. Recently I asked a question in relation to reports of the unauthorised and cruel use of Lannate L. In the Minister's answer to my question which he took on notice he stated that Lannate L was not approved for use on animals. However, the Minister omitted to answer as to whether he will direct his department to investigate reports of it being used on animals. Therefore, will the Minister's department investigate these reports of misuse of a schedule 7 poison and advise my office of his findings? If not, why not?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:30): The Environment Protection Authority regulates the use and investigates reports of inappropriate use of all pesticides in New South Wales. Therefore, any questions about investigating alleged inappropriate use of pesticides in New South Wales are best directed to the Minister for the Environment who is represented in this Chamber by my colleague, the Minister for Ageing. For the agency to investigate, misuse cases need to be reported to the Environment Protection Authority. If allegations relate to poisoning of eagles then they should also be reported to the National Parks and Wildlife Service within the Office of Environment and Heritage that has responsibility for native fauna.

I take this opportunity to point out that these chemicals play a vital role in our agricultural production systems and allow us to grow high-quality produce but must be used responsibly. Pest insects can have significant adverse impacts on agricultural systems, food production and market access. They can also seriously damage the natural environment and alter ecosystem function. Pest insects cause problems by damaging crops, inhibiting growth and can even spread plant pathogens and pose a biosecurity risk. Insecticides are chemicals that specifically target and kill insects by destroying or inhibiting a specific developmental stage of an insect. Managing pest insects is a problem estimated to cost farmers up to \$500 million a year.

Methomyl is a group 1A insecticide commonly sold as Lannate for the control of insects in cereals, pasture and horticultural crops. This chemical is registered for use in Australia by the Australian Pesticides and Veterinary Medicines Authority [APVMA] and was first registered for use in New South Wales a decade ago. An insecticide cannot legally be used for any other purpose other than that shown on the approved label. Application and timing is important to maximise the effectiveness of insecticides, reduce costs and reduce impacts on non-target organisms. Precautions need to be taken particularly when transporting, mixing and applying insecticides.

We have strict national- and State-based systems for regulating the use of agricultural chemicals. There is readily available published information in relation to the product, including directions for use, application and safety recommendations and withholding periods. Using chemicals responsibly is good business for our farmers, and the New South Wales Department of Primary Industries will continue to provide support and guidance on requirements and best practice.

In relation to the Hon. Mark Pearson's earlier question about the Department of Primary Industries doing the investigation, it is actually an issue that should be directed to the Environment Protection Authority. It is also something that, as I said in relation to National Parks and Wildlife Service and the effect on native fauna, could be looked at by the Office of Environment and Heritage. I hope that will suffice for the member. It should be a question that could be directed to my colleague and passed on to the Minister for the Environment for any further information and or details the member may require.

F6 PROPERTY ACQUISITIONS

The Hon. SHAOQUETT MOSELMANE (16:34): My question is directed to the Minister for Roads, Maritime and Freight. Given that 205 property owners had no knowledge their properties sit on the path of the future F6, how does the Minister explain that his department was able to lodge road reservations for the F6, yet the landholders were never told?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:34): This question relates to Land and Property Information. The Roads and Maritime Services certainly supports Land and Property Information [LPI] in its review of property records that were not correctly updated at the central register of restrictions. Between the 27 June to 24 October 2016 records were not updated at the register which provides information about government interest in land. As a result, as indicated in the question, LPI provided incorrect information to some inquirers and did not refer them to Roads and Maritime Services for further details on land of interest for potential road projects. This means LPI issued certificates to land buyers without advising them about potential New South Wales Government interest in the land.

LPI has engaged PricewaterhouseCoopers to investigate the issue and propose recommendations for improvement. Since the issue period, Roads and Maritime Services provided a current status of all its interests in the properties. Roads and Maritime Services is now working with PricewaterhouseCoopers to provide information as required and is visiting affected property owners and contacting conveyancers and solicitors to ensure all people are contacted. Additionally, the Minister for Finance, Services and Property, the Hon. Dominic Perrottet, has asked the Customer Service Commissioner to contact those affected and to provide assistance. Roads and Maritime is supporting this approach through door knocking and making contact with people who are potentially impacted.

As at 8 November, Roads and Maritime teams have visited 99 properties. Letters to conveyancers and solicitors will be sent to respond to their initial inquiries. It was also mentioned that Werrington Arterial Road was included. Roads and Maritime is building the Werrington Arterial Road as part of the Australian and New South Wales governments' Western Sydney Infrastructure Plan which will deliver \$3.6 billion in road infrastructure improvements in the next 10 years. The project involves upgrading Kent Road and Gipps Street, Claremont Meadows, to form the new Werrington Arterial Road. The Australian and New South Wales governments have provided \$70 million to build this improved road infrastructure which will create a new link. There are no outstanding property acquisitions required for this project.

The Hon. SHAOQUETT MOSELMANE (16:38): I ask a supplementary question. Will the Minister elucidate his answer and explain what sort of assistance will the Roads and Maritime Services provide to the 205 property owners?

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:39): The first thing is to contact them, which is what we are doing because we understand the angst of people who may have purchased properties without being fully aware of a blight on the land, some of which is substantial. The majority of it is not substantial but certainly some of it is substantial. We are letting them know their rights in order to work through the possible ramifications and help wherever possible. Those are the sorts of things that we should do. I know if I was in that situation I would want government departments to be offering whatever help they can. I know our staff are helping people through this situation wherever they possibly can.

REGIONAL ROAD SAFETY

The Hon. MATTHEW MASON-COX (16:40): My question is addressed to the Minister for Roads, Maritime and Freight. Would the Minister please update the House on his recent visit to Dubbo and how the Government is helping to drive down the road toll in regional New South Wales?

The Hon. Walt Secord: A lot of visits to the Central West.

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council) (16:40): It is interesting that the person who knows nothing about regional New South Wales said there are a lot of visits to the Central West. Dubbo is not having a by-election. The Hon. Walt Secord should

get out more but avoid the North Coast, because I know he is not that popular there anymore. As a result of his comments in Parliament where he disgraced himself no-one wants him up on the North Coast. He will have to find somewhere else to go. Driving down the road toll is a top priority for the New South Wales Government. A rise in the road toll is happening across the country. It is not something that we or anyone is at all happy about.

In New South Wales we are doing everything we can to reduce the road toll, including measures from high-visibility policing to pedestrian lights in the ground. Last week I went with my colleague and good friend Deputy Premier Troy Grant to his electorate in Dubbo to announce that we will be partnering with TAFE at regional campuses across the State to educate every regional trainee and apprentice about road safety. The workshop, which will start next year, will cover five key issues including speed, driver fatigue, animals on rural roads, the use of mobile phones, and alcohol and drug use whilst driving. Each year thousands of regional TAFE students including plumbers, sparkies and mechanics travel significant distances—some up to several hundred kilometres—for work or to attend training. With young country drivers continuing to be overrepresented in the road toll we wanted to find a face-to-face solution to drive home road safety messages to those travelling on our highways and try to reduce the carnage on our roads.

The road toll continues to rise and too many young people are dying. Education is instrumental in addressing this spike. I am thrilled this great program will now be delivered far and wide across country New South Wales. This year alone we have lost 33 drivers aged between 17 and 25 in this State. That is more than two rugby teams not coming home to their families. Of those 33 deaths 23 were on country roads. In the bush things such as fatigue and wildlife on the road can have tragic outcomes if young drivers do not understand the warning signs or how to handle themselves behind the wheel. That is exactly why this program is so valuable. Some 300 tradies who are doing apprenticeships through TAFE in Dubbo and Orange undertook the program. They are canny. They would not be telling their mates it is worthwhile to do the course if it was not hitting the mark. Northparkes apprentice Ben said that these things are normally death by PowerPoint but that was not the case this time. He said, "They engaged us, entertained us and challenged us." He was very supportive. Because the course was so successful with more than 300 people in attendance we are going to roll it out right across the State.

CHILD SEXUAL ABUSE NATIONAL REDRESS SCHEME

Mr DAVID SHOEBRIDGE (16:44): My question without notice is directed to the Minister for Ageing, representing the Attorney General. When will the New South Wales Government commit to joining with the Commonwealth Government in the recently announced national redress package for victims of institutional child abuse?

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (16:45): This is a very important question and an issue that I know all members in this House are concerned with. I will refer the question to the Attorney General and come back with an answer.

Mr DAVID SHOEBRIDGE (16:45): I ask a supplementary question. Noting the Minister's concern and the concern of all members, will the Minister address those concerns by advising what funding the New South Wales Government has set aside to ensure it has adequate funds to meet its obligations under the national redress scheme?

The PRESIDENT: The supplementary question is out of order.

BONDI BEACH CLEVER BUOY TRIAL

The Hon. PENNY SHARPE (16:45): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. How many sharks were detected during the eight-week Clever Buoy trial at Bondi?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:46): In February I was pleased to attend the launch of the Clever Buoy program, which was trialled for 30 days off Bondi Beach. The trial went well. The next phase of a collaborative trial involving the Clever Buoy company, the New South Wales Department of Primary Industries and the University of Technology Sydney started in late October and will run until early December. This research will determine the effectiveness of Clever Buoy to detect sharks and more specifically white sharks. The Clever Buoy sonar was deployed on 27 October at the southern end of Hawks Nest Beach, 1.7 kilometres south-east of the surf club and approximately 1 kilometre offshore in 10 metres of water. Six stereo video cameras will be deployed every weekday for four to six weeks, weather permitting, within the sonar field to capture footage of white sharks. Images captured by Clever Buoy will be compared with video images caught on the cameras. The aquarium trial will start in late November in the Sydney Aquarium at Darling Harbour. Sonar and video imagery will be collected over a week. Images seen in the sonar images will be compared with the video images.

In this next stage of the trial we will shore up the known presence of white sharks particularly in breeding grounds with what the Clever Boy Sonar technology is picking up. We will compare that against what we are seeing through the video. I do not have the numbers of sharks they picked up with me, but to be honest it is a moot point because we have now progressed to two more stages of the trial. Being able to compare the technology with some of the other technologies in the water and the aquarium trial is an important next step. It is a continuation of what this Government has said it will do. We will look at a range of new technologies. We will be testing new approaches that have not been done anywhere else in the world. We are not doing what members opposite did by relying on 1930s methods. Members opposite should embrace the new technology and not talk down the private investors and private companies entering this area.

We are steadfast in working with industry, we are making sure that our scientists are working with the development of those technologies, and we have taken it to the next stage. We are not just sitting on our hands and relying on what used to happen; we are looking at new ways—

The Hon. Penny Sharpe: Point of order: I listened very closely to what the Minister said in terms of relevance. This question was very specific. There was a trial, which the Minister has admitted, that was in Bondi for 30 days. We want to know how many sharks were detected. What is going on into the future is irrelevant to the question.

The Hon. Duncan Gay: To the point of order: I do not think anyone in the Chamber could hear the answer over the noise from the shadow Minister.

The PRESIDENT: There is some substance to what the Leader of the Government says. However, the Minister had been generally relevant. In the time remaining to him he may wish to come more directly to the particular point the member makes, if he is able to.

The Hon. NIAL BLAIR: The actual numbers and the details of the trial are commercial-in-confidence with the private sector. But it does not matter; we are taking it to the next level and we have deployed a 4G listening station off Bondi Beach as well. We will continue to work with industry and we will continue to look at new technologies. We are looking at a whole range of things, which is in stark contrast to what those opposite did. Why do they want the numbers? To do a scare campaign? This Government does not use this for scare campaigns.

AGEISM

The Hon. SCOTT FARLOW (16:52): My question is addressed to the Minister for Ageing, Minister for Disability Services, and Minister for Multiculturalism. Will the Minister update the House on initiatives the Government is promoting to tackle ageism?

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (16:52): We know that our population is ageing. More people are living longer, and that is a good thing. Inaccurate portrayals of older people that focus solely on the negative aspects of ageing can be harmful. We need to end ageism in our community and recognise the great value and benefit seniors are to our whole community. During my consultations with older people across New South Wales as part of the process of refreshing the Ageing Strategy, I heard about the challenges our ageing population faces. Many older people worry that they are not valued or respected in their community. It is for this reason that when I recently launched the NSW Ageing Strategy 2016-2020, I was committed to showcase the diversity of life stories of older people in New South Wales with the aim of challenging the prevalence of negative perceptions of ageing and older people.

As part of this commitment to address ageism, I launched the Art of Ageing exhibition at Sydney Lower Town Hall on 21 October 2016. The Art of Ageing exhibition is a photographic exhibition featuring older people in New South Wales as the subjects of art and what they accomplish. The exhibition celebrates the rich and diverse lives of older people living in New South Wales and gives us the opportunity to reflect on the impact of the way older people are often portrayed. This is particularly important if people in New South Wales are to experience the benefits of living longer and enjoy opportunities to participate in, contribute to, and be included in their communities. Each photograph is accompanied by a story from the photographed participants, highlighting their experiences and reflections.

The photographs and stories can now be found on the Department of Family and Community Services website, and I encourage all members here to take a look. The photographs in the exhibition originated as an initiative in the renewal process of the Ageing Strategy, where photographer Louise Hawson was documenting case studies of older people living in the community to demonstrate a positive view of ageing. The exhibition was open to the public from 21 to 23 October and I had the pleasure of officially opening it to guests ranging from the people involved in the case studies to partners involved in implementing the Ageing Strategy. The opening also included a wonderful choir performance by one of our case studies, the Blacktown Simply Voices choir group, who feature on the cover of the NSW Ageing Strategy document.

Building on the successful launch, the Department of Family and Community Services is working with local government, the arts community and private sector partners to take the exhibition and the concept to further locations, with a focus on regional New South Wales. I was very pleased to learn that expressions of interest in hosting the Art of Ageing exhibition have already been received. The exhibition has sparked a new enthusiasm amongst the partners involved in the Ageing Strategy to develop additional opportunities for participation by older people. This would not have been possible without the generosity of the people who agreed to be photographed and to tell their story. To all of them I say thank you. Of course, there are many more older people in New South Wales who are challenging the stereotypes by just getting on with their lives. I hope that their stories are visible in their communities so that they can inspire others and challenge those who hold onto outdated views about ageing. As we all know, there are a number of us here in this Chamber who fit that category nicely.

FOREST AGREEMENTS REVIEWS

Ms JAN BARHAM (16:56): My question without notice is directed to the Minister for Primary Industries, and Minister for Lands and Water. Section 69G of the Forestry Act 2012 requires that a review of New South Wales agreements and related integrated forestry operations approvals be conducted every five years. Noting that the most recent document relating to a review of forest agreements was published in 2010, can the Minister indicate when the overdue third review of the New South Wales forest agreements that is required under the Forestry Act will be undertaken?

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (16:56): In the year 2016 we celebrate 100 years of the original Forestry Act here in New South Wales, which then gave birth to the initial Forestry Commission, which then went on to become in recent years the Forestry Corporation. I am glad that the member has taken an interest in the role that our forestry sector plays in New South Wales, particularly for our regional communities and the economies that rely upon this important sector—not only on the softwoods but also the hardwoods. Just recently I was joined by the Hon. Rick Colless in celebrating 100 years of forestry in New South Wales and the original Forestry Act of 1916. I am sure that as the next days go by I will have more of an opportunity to talk about this wonderful event.

The Hon. Lynda Voltz: Point of order: My point of order is relevance. The member asked a question about when a report was due. She did not ask for an extensive history of the 100 years of the forestry industry. I ask you to bring the Minister back to the question.

The PRESIDENT: While struggling to see the relevance, I hate to discourage anyone from reflecting on our history. I am sure the Minister will come to answering the question in due course.

The Hon. NIALL BLAIR: One cannot talk about the Integrated Forestry Operations Approvals [IFOAs] without talking about the importance of the forestry sector in New South Wales. The existing IFOAs for the coast regions consist of 12 separate licences and around 2,000 conditions. They no longer reflect best practice, with many of the conditions being proscriptive, overlapping and unenforceable. The remake of the Integrated Forestry Operations Approvals [IFOAs] for the coastal regions of New South Wales is expected to streamline and simplify the conditions for carrying out harvesting while delivering the same environmental outcomes.

By focusing on outcomes and impacts, the new IFOA aims to deliver positive environmental outcomes at the landscape level, enable industry to operate more efficiently and make the enforcement of the conditions more meaningful. There will continue to be a very high level of environmental protection oversight for forestry operations in New South Wales as we go through with the remake. In relation to an update on the progress and the timeframes, I am happy to take that part of the question on notice and come back to the member.

The Hon. DUNCAN GAY: The time for questions has expired. If members have further questions I suggest that they place them on notice.

Deferred Answers

OUT-OF-HOME CARE

In reply to **Mr DAVID SHOEBRIDGE** (20 September 2016).

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism)—The Minister provided the following response:

The Office of Children's Guardian has accredited 12 of 15 Family and Community Services' [FACS] districts for statutory out-of-home care services. The three remaining districts have interim accreditation. These districts are:

- Mid North Coast
- Murrumbidgee
- Western New South Wales

Information regarding the number of children and young people in statutory out-of-home care in FACS placements is publicly available on the FACS' Statistics website at: www.facs.nsw.gov.au.

PARLIAMENTARY PRECINCT ACCESS

In reply to **the Hon. PETER PRIMROSE** (20 September 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

I am advised two staff members and an elected member from NSW Farmers Association were signed in by my Ministerial Office earlier on that morning for meetings which occurred prior to the briefing the member refers to.

Later that day, the NSW Farmers Association Executive Council elected to come to Parliament House and entered the public areas of Parliament House via the Macquarie Street security desk and therefore did not require a sign in.

GAS PIPELINES

In reply to **Mr JEREMY BUCKINGHAM** (20 September 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provide the following response:

Information on the actions being taken and measures agreed to by energy Ministers to implement the recommendations of the ACCC East Coast Gas Inquiry can be found in the COAG Energy Council's latest communique, which can be accessed at:

<http://coagenergycouncil.gov.au/sites/prod.energycouncil/files/publications/documents/Energy%20Council%20Communique%20-%2019%20August%202016%20-%20FINAL.pdf>

YOUNG DRIVERS AND MOBILE PHONE USE

In reply to **the Hon. LYNDIA VOLTZ** (20 September 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister provided the following response:

I am advised:

Transport for NSW [TfNSW] adopts an integrated marketing approach to addressing the issue of illegal use of mobile phone whilst driving. A paid media campaign forms the core of the strategy to raise awareness of the risks using your mobile phone whilst driving with the TVC portraying both a male and female driver and the consequences of taking your eyes off the road, even for two seconds means you are driving blind. This is supported by outdoor and radio advertising including taxi backs as a contextual reminder when driving.

To build social unacceptability of the use of mobile phones whilst driving the Sydney Swans have come on board as a partner to promote this important message. The Swans were chosen due to their strong alignment with the core target audience for this message and male and female membership base (56 per cent and 44 per cent respectively).

The New South Wales Government is also the major sponsor of Cricket NSW [CNSW] as it allows TfNSW to reach the young male fan base, which aligns with the core Plan B target audience, and deliver meaningful community engagement initiatives to target demographics within New South Wales. CNSW association with regional cricket provides a key channel for TfNSW to communicate the Plan B message to the core audience in regional New South Wales where eight out of 10 drink driving fatalities are occurring. One hundred per cent of drivers involved in drink driver fatalities in New South Wales this year have been male.

TfNSW's sponsorship program allows key road safety messages to be communicated to core target audiences, and engages sporting teams to advocate for positive road safety behaviours. Consideration is currently being given to how sponsorship of female sporting teams can have a positive effect on road users.

YENNORA SENIOR CITIZENS PUBLIC TRANSPORT

In reply to **the Hon. PAUL GREEN** (20 September 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister provide the following response:

I am advised:

Planning for public transport services takes into account a range of factors, including demand, travel patterns, local community needs, strategic plans, customer feedback and available resources.

While every effort is made to address the travel needs of customers, it is not always possible to satisfy every preference. However, Transport for New South Wales will continue to monitor services to ensure they meet customers' needs.

Yennora is serviced by train and bus services, providing local and regional access to a range of destinations, including Fairfield, Parramatta, and Sydney CBD.

CHILD BRIDES

In reply to **Reverend the Hon. FRED NILE** (21 September 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister provided the following response:

The Criminal Code Act 1995 contains offences regarding forced marriage.

The New South Wales Government has put in place processes to make it easier to identify and report cases of underage forced marriage to the Family and Community Services Child Protection Helpline. The level and type of intervention for reports to the helpline varies depending on the identified risk and the needs of the child or young person.

The New South Wales Government's Child not Bride campaign—aimed at educating parents and community leaders about the illegality of underage forced marriage—was launched in January 2015.

JUVENILE DETENTION

In reply to **Mr DAVID SHOEBRIDGE** (21 September 2016).

The Hon. DUNCAN GAY (Minister for Roads, Maritime and Freight, and Vice-President of the Executive Council)—The Minister provided the following response:

Juvenile Justice uses confinement in accordance with the Children (Detention Centre) Act 1987.

Confinement to a place for a period not exceeding 12 hours or, in the case of a detainee of or over the age of 16 years, not exceeding 24 hours, is one of a range of punishment options available within Section 21 of the Children (Detention Centre) Act 1987 as a response to detainee misbehaviour.

During a period of confinement, detainees are able to communicate with juvenile justice staff, justice health staff and counsellors. Detainees are also able to communicate with the Official Visitors and the NSW Ombudsman's office.

Juvenile Justice has reviewed confinement reports in the Client Information Management System [CIMS] for the period 1 January 2015 to 20 September 2016 relating to the use of confinement for periods exceeding 22 hours for consecutive days.

For the period 1 January 2015 to 20 September 2016, there were 220 instances of the use of confinement for a period of 22 hours or more, involving 116 young people.

The longest consecutive series of days where a detainee was confined for 22 hours or more was two (2) days.

WENTWORTH PARK SPORTING COMPLEX TRUST

In reply to **the Hon. DANIEL MOOKHEY** (22 September 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

The income generated by the trust from leases and licences go into maintaining and managing the facility and managing the affairs of the trust.

EXPLOSIVES ACT PENALTIES

In reply to **Mr DAVID SHOEBRIDGE** (22 September 2016).

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism)—The Minister provided the following response:

Under the New South Wales Explosives Act 2003 a 12 month prison term is the maximum penalty for handling explosives without a licence, however there are other various State and Commonwealth protections for the safety and protection of citizens regarding explosives.

The New South Wales Crimes Act 1900, Section 55, covers possession of explosives with an intention to injure and carries a term of imprisonment of 10 years.

If the NSW Police suspect that the possession of an explosive is for the purposes of committing a terrorist act by an international group, the Australian Federal Police would have jurisdiction and the offence would be dealt with under the Criminal Code Act 1995 (Cth). Possession of an explosive comes with a two year imprisonment sentence, unless there is "intent" to cause death or serious harm which carries a penalty of life imprisonment.

SEAFOOD LABELLING SCHEME

In reply to **Mr JUSTIN FIELD** (22 September 2016).

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water)—The Minister provided the following response:

The Department of Primary Industries held a meeting on 24 June 2016 with key stakeholders across a broad cross section of the supply chain, including fishing and seafood groups, importers, retailers and restaurant/catering.

Committees

STANDING COMMITTEE ON STATE DEVELOPMENT

Report: Economic Development in Aboriginal Communities

Debate resumed from 18 October 2016

Ms JAN BARHAM (17:02): I speak in debate on the report tabled by the Standing Committee on State Development entitled "Economic development in Aboriginal communities" and commend the report and the good

work done by all members of the committee. This important inquiry examined a crucial issue concerning Aboriginal economic development and advancement in New South Wales. Fifty people and I put forward a submission to the inquiry. I acknowledge the Hon. Greg Pearce, Chair of the committee, who is in the Chamber and who no doubt will reply to debate on this report. As those of us who have been examining this issue for a long time know, this excellent report highlights a history of poor practice and reveals that we have not learned from the past. The report identifies some of the core issues that need to be addressed to ensure that the future is much brighter for Aboriginal people.

Some of the recommendations in this report are similar, if not the same, as those in the report of General Purpose Standing Committee No. 3, which inquired into reparations for the stolen generations in New South Wales. That report dealt with the need for a whole-of-government approach—one set at the level of the Premier's department—to ensure that this issue is given the attention and priority it deserves and to ensure that the shame of the past is not visited on future generations. A number of recommendations in the report refer to the importance of Aboriginal culture and the relationship between culture and education not just of Aboriginal people but also the broader community, which resonates with recommendations in the report of General Purpose Standing Committee No. 3, which inquired into reparations for the stolen generations.

These issues have been referred to governments for the past 20 years by the Ombudsman, by the Auditor-General and through parliamentary inquiries. I am confident that the Chair of the committee, who has a real passion for these things, will follow through and ensure we approach this economic development issue by recognising that advancement for all people in New South Wales will not occur unless Aboriginal people are given the opportunities that all of us enjoy. Recommendations 14 through to 17 refer to identifying capacity building, mentoring, creating opportunities and early education.

Primary schools must ensure that young Aboriginal people understand that educational opportunities are available to them. Partnerships with business and industry must be created so that young people coming out of educational institutions are able to enter employment. This is where governments—in particular this Government with its relationship with business—should ensure that businesses take this on. So many opportunities are available, such as the provision of wraparound services, to support people not just in educational or economic matters but also in the area of housing and family support services—all those things that will make a difference and improve economic opportunities for Aboriginal people.

The inquiry highlighted some of the problems that occurred over a long period with the implementation of the Aboriginal Land Rights Act. It was a great moment in history for New South Wales when that Act was introduced in 1983. However we are now at a point where many claims have still not been dealt with—an issue to which I have referred many times in this House. A number of claims have been resolved but not yet transferred, which is affecting many Aboriginal people.

A number of issues are not dealt with in the report, such as legislation regarding Crown lands. The speedy resolution of claims will make a difference to the provision of economic benefits that will enable Aboriginal people to advance. The ownership of land makes a difference. When we have land we have the ability to provide a cultural centre, housing opportunities or a place where Aboriginal people can belong and sustain an intergenerational community. In reality the broader community, the environment and a community's social resilience can be enhanced by learning from Aboriginal people.

Recommendation 39 is short but it is dear to my heart—an issue that I have previously raised in this House. It refers to the proclaiming of section 21AA of the Fisheries Management Act and cultural fishing rights for Aboriginal people. The Minister has focused on this issue. It challenges the natural thinking process regarding resource management and whether or not we truly respect and connect with Aboriginal people and their relationship to country, history and the future. There are so many opportunities to learn. Overseas visitors highlight the importance of Aboriginal culture. They understand the importance of a country where the first people are practising a living culture that is 60,000 or 80,000 years old, which is regarded as phenomenal. I conclude with a quote from the New South Wales Aboriginal Land Council which stated:

The New South Wales Government should commit to build upon existing structures for Aboriginal peoples in New South Wales by developing strategies which recognise the role of Aboriginal Land Councils in delivering economic development opportunities in New South Wales, and seek to support Aboriginal Land Councils achieve better economic development outcomes for Aboriginal communities.

I hope that is what this report delivers.

The Hon. COURTNEY HOUSSOS (17:12): I speak in debate on the report of the Standing Committee on State Development entitled "Economic development in Aboriginal communities" and begin by congratulating the chair and members of the committee for an honest assessment of the dire circumstances that face Aboriginal communities in New South Wales. The report states:

The committee was unanimous in finding that there is a desperate and moral need for leadership and action on the deplorable outcomes for our Aboriginal communities. However, encouragingly, we also found there is a broad acceptance that now is the time to act.

The report notes the depressing lack of progress in closing the gap. Economic development is the key to unlocking the spiral of shame. I commend the committee for offering a clear policy framework for the future. It is a complex and difficult area. These 39 recommendations offer a clear pathway forward. Ms Jan Barham spoke of the inquiry into reparation for the stolen generations, where committee members saw the disadvantage firsthand. This committee report offers a way forward. I was fortunate to be a substitute member of the committee for a couple of hearing days in Dubbo and Brewarrina where I had an opportunity to see firsthand some of the work done by the Clontarf Foundation. I met with the inspirational staff at Dubbo South High School and witnessed the wraparound support offered to Aboriginal boys and young men and the data-driven approach to the issue that quantifies the support and results achieved, which is attractive.

In February 2000 the Clontarf Foundation opened its first academy on the campus of the Clontarf Aboriginal College, Waterford, metropolitan Perth, for 25 Aboriginal boys. I subsequently met chief executive officer Gerard Neesham. I commend him for his practical approach to revolutionising the support provided to young Aboriginal men. It is important for them to attend school in order to achieve a WorkReady workforce. At a time when so many sticks are used to force young Aboriginal men to attend school the Clontarf Foundation has structured its program using a carrot approach. There are no truancy officers or punishment. Kids are attracted to school through rugby league in New South Wales and Australian Football League in Western Australia. It offers engagement with local communities through a centralised program.

I commend the New South Wales zone manager Brendan Maher. He is an inspirational young man who is doing fantastic work. It is not just the support provided to young men and boys who are at school but also the ongoing network of support following school. It makes a dramatic difference in the community. I had the opportunity to visit the Merriman Shearing School, which is a small program that is achieving great results. This 16-week shearing course provides young Aboriginal people with concrete skills to gain employment. I urge the Government to address the funding issues that were identified.

The Hon. Greg Pearce: They have been.

The Hon. COURTNEY HOUSSOS: I acknowledge the committee chair's interjection. This small but effective program equips young people with skills to pursue a lucrative career in shearing. There is potential for them to gain employment around the globe. One of the young men explained his tattoo and said that it was a reminder of when he gave up ice and his battle with addiction. He was there to make a new life for himself and this was an important step in his healing journey. I highlight those concrete examples of support offered to young Aboriginal men and women in regional areas.

I welcome the committee's recommendation to find for young women a program similar to the Clontarf Foundation's program. The Clontarf Foundation said it will not overextend by entering an area where it feels it cannot succeed and it is this gap that needs to be addressed. The report spoke of the need for a centralised approach. There are a number of recommendations concerning the need for the Premier's department to take a leadership role and to remove politics from this issue. This occurred under previous Labor governments and I hope that it occurs in the future. The report on the stolen generations and this report reveal that these are not issues to be dealt with in isolation by individual government departments; they need a whole-of-government approach which will occur only if the Premier's department provides leadership.

As I said, it is a deeply complex area of policy. I congratulate the committee on its report and its 39 recommendations that provide a clear framework to address Aboriginal disadvantage through economic development in New South Wales.

Mr JUSTIN FIELD (17:19): I speak on the report by the Standing Committee on State Development entitled "Economic development in Aboriginal communities". I thank the committee for its work. I will speak specifically to recommendation 39 of the report, which deals with enacting section 21AA of the Fisheries Management Act 1994. I note that the committee acknowledged that Indigenous people have a profound connection to water. It recommended that that section of the Fisheries Management Act be enacted. It was passed in this Parliament almost seven years ago but still has not been enacted. The Greens agree with that recommendation. I note that the discussion paper recognised the deep connection that Aboriginal people have with land and sea. On the South Coast, where I am based, Aboriginal fishers, the Yuin people, have faced prosecution. I acknowledge their concern about the creation of marine parks and marine sanctuaries that impede their capacity to obtain gainful employment in what they consider to be a traditional industry—fishing.

I take that on board, as someone who is a proponent of marine protected areas and marine sanctuaries. I want to work with Aboriginal communities as much as possible to ensure that they can access the marine

environment for economic opportunities, but we must also protect that environment for all people in New South Wales. Since I came to this place I have done a bit of research into section 21AA of the Act and the way the Act currently impacts on Aboriginal communities. The cultural connection of Aboriginal communities to the marine environment requires a different form of consideration when it comes to making laws. That is particularly the case with regard to economic opportunities.

It is now six years since the Parliament passed section 21AA, which is yet to be enacted. Aboriginal people still face prosecution and fines for doing what their families have done for generations. The legislation is criminalising culture and limiting economic opportunities for Aboriginal people. Everyone I speak to in politics tells me that they support the recognition of cultural fishing in our laws. The problem is that in practice the complexity of this issue seems to have paralysed the parties involved as well as the bureaucracy in New South Wales, preventing them from achieving consensus. Aboriginal communities are frustrated that today people are in jail despite the acknowledgement of cultural fishing. The amendments passed in 2009 recognise cultural fishing under the Act as:

... fishing activities and practices carried out by Aboriginal persons for the purpose of satisfying their personal, domestic or communal needs, or for educational, ceremonial or other traditional purposes, and which do not have a commercial purpose.

It is significant that the committee recognised the enactment of section 21AA would also provide an economic opportunity for Aboriginal people. I have been speaking about that with people along the coast. The tension at the heart of this issue with cultural fishing is that Aboriginal people do not see a distinction in the same way that others do between recreational fishing, fishing for the extended family, fishing for ceremonial purposes or fishing for economic opportunities such as barter, trade or sale.

I note the commentary in the report about the potential opportunities for the Recreational Fishing Trust to invest in purchasing a quota to deliver back to Aboriginal communities so that real economic opportunities can be created. That is particularly important for the South Coast, where abalone is a significant resource for the Aboriginal community. I appreciate the work of the committee. I highlight recommendation 39. I would like to see the Government enact section 21AA. I would like us all to start to work more collaboratively with Aboriginal communities to ensure that traditional practices, that connection to the coast and to the marine environment, can be part of the economic future of Aboriginal communities along the New South Wales coast.

The Hon. SHAOQUETT MOSELMANE (17:24): I speak on the report tabled by the Standing Committee on State Development entitled "Economic development in Aboriginal communities". I begin by commending all members of the committee for their hard work, and I note the bipartisan, cross-party and unanimous support for the 39 recommendations ultimately put forward in the report. It is an ongoing shame for our country that the first Australians are locked into a recurring pattern of disadvantage, disconnectedness and despair. I do not think that it is too controversial to say that many of us here agree with the sentiment expressed by recently canonised Pope Saint John Paul II, who said:

A society will be judged on the basis of how it treats its weakest members ...

On that basis Australian society must do better in supporting Aboriginal communities, and specifically those in New South Wales. As we all saw recently in the horrific *Four Corners* report on the Northern Territory's juvenile detention system, to do nothing will only increase our collective national shame and invite disgrace on the international stage. It seems that every day we hear more troubling news about the challenges faced by Aboriginal people in the twenty-first century. The Indigenous incarceration rate remains at 15 times the national rate. Aboriginal and Torres Strait Islander peoples aged 15 to 64 are 20 per cent less likely to participate in the workforce than other ethnic groups. The suicide rate in the Aboriginal community is six times higher than in non-Aboriginal communities.

Aboriginal women are disproportionately affected by domestic violence, compared with non-Indigenous women. Although none of us have a silver bullet for any or all of these significant problems, one of the core pillars of a solution must be economic development. With greater economic development and participation, with better prospects and upward mobility, many of these ills can be reduced or resolved. Gerry Georgatos, an expert on suicide prevention, published an article in the *Stringer*, entitled "The nation should weep when 6-year-olds contemplate suicide, when 9-year-olds suicide, when a father of eight and a mother of five end their lives". In that article he said:

Aboriginal and Torres Strait Islander suicides are predominately a socioeconomic problem. This is fixable but it is not being fixed ...

The jails are being filled by the poorest of the poorest, by the most vulnerable of the vulnerable. More than a third of the prison population was homeless before arrest ... the majority came in dirt poor ...

The answers are not in Culture but in ending the inequalities, the chronic and acute levels of poverty.

That comes from an expert in Indigenous suicide prevention. We know what economic stability provides: more stable homes, greater attachment to the wider community, reduced incentives for crime and, ultimately, reinvestment in public and private life. The development of economic opportunities also has longer term benefits for government and individuals. It leads to better mental and physical health, lower participation in the criminal justice system and less reliance on social security and government assistance. The overwhelming balance of benefits over short-term costs is self-evident. For those reasons I repeat the call for action made by the Chair of the Standing Committee on State Development, the Hon. Greg Pearce: Now is a desperate time for leadership and action by those who have the power to do something.

Even with the good work of those who have come before us, the decades of investment and goodwill by governments of every stripe, we have not seen the kinds of results that will truly close the gap. I really hope that the Premier and his Government will take up the recommendations in this report and act upon them. Unlike his Federal counterparts, let us hope that the Premier and the relevant Ministers in this jurisdiction will not just launch another investigation to continue to tell us the things we already know. Let us hope that this report will pique their interest. Let us hope that these recommendations can be combined with other programs such as Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE] to improve the quality of life in Aboriginal Australia. I take some reassurance from hearing about younger Indigenous people trying to set up their own businesses, seeking out employment opportunities and entering education to improve their lives.

But I also hope that those growing up in 2016 get the help they need and deserve. It will not do for any government, least of all the government of Australia's largest State, to leave another generation to remain in institutional and systemic disadvantage. We cannot hope for the best and tell these communities to be patient, as we have done in respect of the unbelievable backlog in Aboriginal land claims. I commend the recommendation to bring Aboriginal Affairs into the Department of Premier and Cabinet, and I hope that a top-level structure of secretaries and executive officers is put in place to coordinate policy and make programs consistent in this area. Perhaps this kind of whole-of-government approach will help clear those 29,000 claims that limit the resources available to corresponding communities. I hope that we as a Parliament, as a State, and as a country are able to give real substance to the respect we otherwise have for Aboriginal culture and communities. I hope that with greater economic opportunity that places capital and prosperity into the hands of community members, we will be able to reverse and reduce the awful trends that are currently eroding the lives of our First Australians.

Debate adjourned.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. BEN FRANKLIN: On behalf of the Hon. Paul Green: I move:

That Committee Reports Orders of the Day No. 2 be postponed until a future day.

Motion agreed to.

Bills

LAW ENFORCEMENT CONDUCT COMMISSION BILL 2016

In Committee

Debate resumed from an earlier hour.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (17:32): I want to confirm what amendments we have before the Committee. I understand we have Labor amendments on sheet C2016-080B and we have dealt with amendments Nos 1 and 2 and amendments Nos 3 to 7 are outstanding.

The Hon. Lynda Voltz: Point of order: We are dealing with Opposition amendment No. 5 on sheet C2016-080B and The Greens amendments Nos 1 to 9 on sheet C2016-100A.

The Hon. JOHN AJAKA: As it has been clarified I am happy to continue.

Mr DAVID SHOEBRIDGE (17:33): I want to address two matters that have been raised in the debate about The Greens amendments Nos 1 to 9. The first came from the former Minister for Police, the Hon. Michael Gallacher, whose role was to conduct internal police investigations so I understand his passion for the matter. He suggested that The Greens position that we should end this direct conflict of interest of police investigating police is something that is peculiar to The Greens and that The Greens want to attack police, but nothing could be further from the truth. First of all, many people within the NSW Police Force want to have independent police

investigations. In fact, the Police Association points out that a good number of complaints that have been brought against police have come from other police.

The NSW Police Force can be very tight knit and many of its officers would prefer to have their complaint about another police officer dealt with by an external body and to remove the conflict of interest for police themselves. But if the general public makes a complaint against a police officer they do not want their complaint dealt with by another police officer most of the time. Far from it being a sort of a boutique concern of The Greens—as the Tink report picked up; it is not hidden—in the international context in English speaking Anglo-Saxon traditions, we are talking about police oversight that as often as not is done by an external body as it is done by an internal body. In parts of Canada such as Quebec and Nova Scotia we see police investigating police.

The Hon. Dr Peter Phelps: Quebec is hardly Anglophone.

Mr DAVID SHOEBRIDGE: I note the interjection. Quebec is hardly Anglophone and it probably comes from its more centralist civil law tradition from the Continent. There is a hybrid civilian police model in Alberta, Canada. A civilian managed and supervised investigation is in the model of the Independent Police Complaints Commission [IPCC] in England and Wales. There is an embedded civilian observer model in places like the Los Angeles Police Department, one of the biggest police departments in the globe. But crucially, in three extremely comparable jurisdictions in South Africa, New Zealand and Northern Ireland, which is slightly less comparable given its troubles, we see a distinct separation and an absolute independent model. The Tink report talks at length about the New Zealand model of a fully independent oversight body, which undertakes its own investigations, and which works particularly effectively in New Zealand.

The idea that getting rid of that inherent conflict is something that only The Greens are concerned about is completely false. Globally we are more likely to find a police oversight model, at least in the common law tradition, that accords with what The Greens advocate for in these amendments than in what the Police Association and the Government have been advocating for in retaining police investigating police. Secondly, The Greens amendment is a carbon copy of the Opposition's amendment, which obviously we will support, and is consistent with what the NSW Bar Association says. The correspondence from the NSW Bar Association to my office on 16 September 2016, which I think has been replicated to both the Government and the Opposition, states:

However, the Association has particular concerns in relation to clause 114 in the *Law Enforcement Conduct Commission Bill 2016* (which relates to the LECC's discretion to monitor conduct of a critical incident investigation). In particular, we raise concerns with respect to cl 114 (3) (c):

For the purpose of the Commission monitoring a critical incident investigation, a Commissioner or other officer of the Commission authorised in writing by Commissioner may (subject to clause 115)....—

This is the nub of the Opposition's amendment to get rid of consent—

(c) with the consent of the person being interviewed and the senior critical incident investigator, be present as an observer during an interview conducted by police officers for the purposes of the investigation, or view such an interview by audio visual link...

The Bar Association also states:

With respect to that provision, the Association submits that, if the LECC is monitoring a critical incident investigation, it is quite inappropriate to require the consent of the person being interviewed or the senior incident investigator for the Commissioner or LECC authorised officer to be present as an observer during an interview conducted by police officers for the purposes of the investigation.

A simpler way to say that is that the Bar Association does not think consent is a good idea because if the police officer does not want the LECC there consent will be withdrawn and the LECC has to disappear and cannot observe the interview. Why is the Bar Association's position crucial? The argument from the Government, which is false, that in fact the model being proposed requiring the consent of the police officer is consistent with the Tink report does not do the Minister credit. The Tink report made it very clear that although it did not adopt the position for which we are advocating for an independent office to undertake the investigations, it wholly accepted the position of the Bar Association that there be independent monitoring. That included independent monitoring and independent oversight of each step in the investigation. I will not read it all, but at page 164 and following of the report Mr Tink wrote:

To fashion a system that allows for real time monitoring of critical incident investigations, without exerting improper influence on police investigators, is challenging. Nevertheless it seems to me that the NSW Bar Association's submission particularises a workable model that strikes the right balance. That model is as follows:

He then set out the various subsections of the model put by the Bar Association at subparagraphs (a) through to (n), including a monitoring role that is designed to maintain and ensure administrative regularity. That included the ability to watch what happened in interviews. There is no reference to that ability being constrained by the

consent of the police officer in question. This has somehow come out of left field in the drafting of the bill. It is not consistent with the Tink report. The Tink report said let us move away from police investigating police but the oversight model proposed by the Bar Association will ensure we have integrity and it will all stack up. The Government has watered even that down. It is not adopting the Tink report. It is moving from the independent oversight model that the Bar Association proposed and that Mr Tink adopted. The amendment that Labor is proposing is 100 per cent consistent with the Tink report. For those reasons we support it.

The CHAIR: I will put the question on Opposition amendment No. 5 and then deal with the others. The Hon. Lynda Voltz has moved Opposition amendment No. 5 appearing on sheet C2016-080B. The question is that the amendment be agreed to.

The Committee divided.

Ayes17
Noes19
Majority.....2

AYES

Barham, Ms J
Faruqi, Dr M
Houssos, Ms C

Brown, Mr R
Field, Mr J
Mookhey, Mr D

Buckingham, Mr J
Graham, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Pearson, Mr M
Secord, Mr W
Voltz, Ms L

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E (teller)

NOES

Ajaka, Mr J
Clarke, Mr D
Farlow, Mr S
Green, Mr P

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)
MacDonald, Mr S

Blair, Mr N
Cusack, Ms C
Gallacher, Mr M
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Phelps, Dr P

Mallard, Mr S
Nile, Reverend F
Taylor, Ms B

Mason-Cox, Mr M
Pearce, Mr G

PAIRS

Donnelly, Mr G
Sharpe, Ms P

Gay, Mr D
Harwin, Mr D

Amendment negatived.

The CHAIR: The Greens amendment No. 9 has lapsed. Mr David Shoebridge has moved The Greens amendments Nos 1 to 8 on sheet C2016-100A. The question is that the amendments be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes6
Noes30
Majority.....24

AYES

Barham, Ms J
Field, Mr J

Buckingham, Mr J
(teller)
Pearson, Mr M

Faruqi, Dr M (teller)
Shoebridge, Mr D

NOES

Ajaka, Mr J
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Houssos, Ms C

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Graham, Mr J
MacDonald, Mr S

Blair, Mr N
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Nile, Reverend F
Primrose, Mr P
Taylor, Ms B
Wong, Mr E

Mallard, Mr S
Mookhey, Mr D
Pearce, Mr G
Searle, Mr A
Veitch, Mr M

Mason-Cox, Mr M
Moselmane, Mr S
Phelps, Dr P
Secord, Mr W
Voltz, Ms L

Amendments negatived.

The Hon. LYNDA VOLTZ (17:53): I move Opposition amendment No. 3 on sheet 2016-080B:

No. 3 **Exercise of investigative powers**

Page 32, clause 51 (1) (a), line 8. Insert "or, though not serious misconduct or serious maladministration, is conduct of such a nature that it should be investigated" after "investigated".

The Act itself defines "serious misconduct" alongside "serious maladministration", which includes conduct that constitutes criminal offences—

The Hon. John Ajaka: Point of order: It is difficult to hear the member because of all the noise in the Chamber.

The CHAIR: That is fair. The criticism is principally made of Government members who happen to be still sitting in the Chamber. Members should take their conversations outside the Chamber.

The Hon. LYNDA VOLTZ: As I was saying, serious misconduct and serious maladministration are defined within the Act and include a criminal offence and corrupt conduct. But there is some conduct that, while it mostly would not be investigated, the Opposition believes the Law Enforcement Conduct Commission [LECC] should have the ability to consider. We believe that the LECC should have the flexibility to consider offences such as unlawful conduct as opposed to criminal offences and that it should be given the ability to consider irrelevant matters as well. If a mistake of law has been made of course the LECC would not look at that, but, given the nature of inflexibility within the definitions of "serious misconduct and maladministration", we believe the LECC should have the ability to consider unlawful acts.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (17:56): The Government does not support the Opposition's amendment. This amendment would undermine the underlying policy intent of the bill that will ensure that the Law Enforcement Conduct Commission's [LECC's] substantial investigative powers are used in the most serious matters. When undertaking an investigation, the LECC will have the powers of a standing royal commission. It will therefore be able to require a person to provide information to the LECC including requiring a person to attend before the LECC to provide the information, and the LECC will be able to enter the premises of a public authority and use covert powers, such as telecommunication interception and surveillance devices. The LECC will also be able to conduct a private or public compulsory examination or hearing as part of an investigation. Where this occurs, a person is compelled to attend an examination and answer all questions put to the person by the examining commissioner. Refusal to answer a question, even if the answer may incriminate a person, is an offence. The privilege against self-incrimination or right to silence, therefore, does not apply to examinations.

Given the extraordinary powers available to the LECC for its investigations, it is appropriate that the use of these powers is reserved for only the most serious matters such as serious misconduct, serious maladministration and matters involving the Commissioner of Police, Deputy Commissioners of Police, the Crime Commissioner and Assistant Crime Commissioners. Matters that fall into any of these categories can be the subject of an investigation by the commission on the commission's own initiative, whether or not a complaint has been made. While the investigation of less serious matters will be directly undertaken by the NSW Police Force or the Crime Commission, the LECC will be able to monitor all misconduct and maladministration investigations it undertakes. There will not be a reduction in the level of oversight.

In addition to its functions to investigate and monitor the investigation of misconduct matters, the LECC is responsible under clause 32 for keeping under scrutiny the systems established by the NSW Police Force and

the Crime Commission for dealing with all types of misconduct matters and inspecting their records at least annually to ensure compliance with the requirements of the Act. The LECC also has a range of education and prevention functions under clause 27. As indicated, the Government does not support the amendment.

Mr DAVID SHOEBRIDGE (17:58): The Greens support the Opposition's amendment. The Opposition's amendment is, effectively, to say we have this new body, it has three new commissioners; it is, hopefully, getting a new culture. What we do not want to do is have a landmine sitting there that can be used to kill off a good inquiry or potentially stop the investigation of an inquiry because it does not fit the precise terms of serious misconduct or serious maladministration. I accept that you need constraints on how one of these bodies with royal commission powers operates but ultimately—and this is something partly acknowledged in the debate but partly not—the ultimate constraint on a body that has royal commission powers is not really what we write here in Parliament.

It is not about carefully defining serious maladministration or serious misconduct—of course that provides some constraint. But the best constraint on a body with royal commission powers is a bunch of commissioners—one, two or three—who exercise their powers with appropriate constraint and appropriate consideration for the extraordinary nature of those powers. To avoid having a landmine that can knock over an otherwise good investigation, we support the Labor Opposition's amendments to broaden the scope of the investigative powers.

The CHAIR: The Hon. Lynda Voltz has moved Opposition amendment No. 3 on sheet C2016-080B. The question is that the amendment be agreed to.

Amendment negatived.

Reverend the Hon. FRED NILE (18:00): By leave: I move Christian Democratic Party amendments Nos 1 and 3 on sheet C2016-074G in globo:

No. 1 Use of compelled evidence

Page 34, clause 57 (2), line 42. Insert "This subsection extends to any further information, document or other thing obtained as a direct or indirect consequence of the statement, document or other thing produced." after "and (5)".

No. 3 Use of compelled evidence

Page 41, clause 74 (3). Insert after line 11:

This subsection extends to any further information, document or other thing obtained as a direct or indirect consequence of the answer made or document or other thing produced.

This bill provides the new Law Enforcement Conduct Commission with extraordinary power to compel a witness to provide information, even over the privilege against self-incrimination. This power is fundamentally at odds with the principle of the accusatorial criminal justice system which requires the prosecution to prove the guilt of an accused and prevents the accused from being required to assist in their own prosecution. As such, when the commission utilises its power to compel information, there must be sufficient safeguards. That is what I am seeking to do.

We are committed to the importance of a fair trial and therefore believe that whilst the commission must be capable of exposing serious misconduct, its use of powers of compulsion must not undermine these principles. The bill, as currently drafted, does provide a minimal protection in the form of sections 74(3) and 57(2). These protections are referred to as a "use amenity", which provides that when a witness is compelled, over objection, to give evidence which is self-incriminatory, that evidence is not admissible in proceedings against a person from whom the evidence was compelled. However, the bill does not provide protection for the derivative use of that compelled material. This means that material compelled over objection can be used to obtain further evidence which may then be used against a witness. In effect, this still requires a witness to assist in their own prosecution and this is irreconcilable with the principles of a fair trial. As expressed by French and Crennan JJ in the High Court decision *X7 v Australian Crime Commission*, the use and proceedings of evidence derived from compelled, self-incriminatory evidence is inconsistent with the maintenance of fair proceedings. I quote from their finding:

Given the onus on the prosecution to prove an offence, and the non-compellability of an accused, in the absence of a factor such as the independent sourcing of evidence it is not possible to reconcile a fair trial with reliance on evidence against a person at trial which derives from compulsorily obtained material establishing that person's guilt, or disclosing defences.

My amendments seek to rectify this. Under these amendments, while the commission will be able to gather all evidence and expose serious misconduct, the fairness of any proceedings will be maintained as personnel involved in the investigation and prosecution for criminal charges will not be able to utilise compelled self-incriminatory evidence or the derivative evidence in proceedings against a witness for whom that evidence was compelled. Rarely has this Parliament granted the power to compel information over the privilege against self-incrimination and to utilise derivative evidence against a witness in proceedings.

The New South Wales Crime Commission is an example of where that power has been granted. However, the New South Wales Crime Commission's function is to combat serious and organised crime. The Crime Commission investigates matters reaching a much higher threshold of seriousness, constituted by deliberate engagement in organised crime. By contrast, the threshold of the Law Enforcement Conduct Commission to exercise its powers of compulsion is far lower. It will investigate matters falling within the definition of serious misconduct, as defined by section 10 of the bill. This is defined to include conduct which could result in disciplinary action, for example under section 173 of the Police Act 1990. This could enable the commission to investigate a broad range of conduct of police officers at the low end of the spectrum of seriousness, much of which may occur in the course of officers performing their duties to the people of New South Wales.

Despite the coroner investigating serious matters, such as death, fires and explosions, section 61 of the Coroners Act 2009 still provides a protection similar to the amendments that I am moving. This is because the Parliament has recognised the fundamental principles of an accusatorial criminal justice system and that the fairness of proceedings can and should be maintained while still achieving the object of exposing the truth, through the work of the commission. The Parliament should make the same principled decision today. I commend amendments Nos 1 and 3 to the House.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (18:06): The Government supports the Christian Democratic Party amendments Nos 1 and 3. These amendments provide for derivative use immunity for those subject to the powers of the commission. Derivative evidence exists where a person is compelled to provide self-incriminating evidence to investigators and that self-incriminating evidence leads investigators to discover other incriminating evidence—the derivative evidence. It is clear that primary evidence obtained under compulsion and objected to cannot be used against the person who is compelled to give that evidence. However the bill is silent on the issue of the admission of derivative evidence. That has been left to the common law. The admissibility of derivative evidence at common law is currently uncertain, particularly following the High Court decisions in *X7 v Australian Crime Commission* (2013), *Lee v the Queen* (2014) and *R v Independent Broad-based Anti-Corruption Commissioner* (2016).

I note what Reverend the Hon. Fred Nile has indicated in relation to this and I note that he has indicated that, in the absence of a factor such as the independent sourcing of evidence, it is not possible to reconcile a fair trial with reliance on evidence against a person at trial which derives from compulsorily obtained material establishing that person's guilt or disclosing offences. While this does not represent a settled position of common law, it does indicate that of those justices who have commented on the issue, a critical position has been adopted. As this amendment provides more certainty than the common law for those subject to the power of the commission and is more consistent with the ability of individuals to obtain a fair trial, the Government, as I indicated, supports both Christian Democratic Party amendments 1 and 3.

Mr DAVID SHOEBRIDGE (18:08): The Greens acknowledge the concern that has been raised by the Police Association and spoken to by Reverend the Hon. Fred Nile in terms of derivative evidence and there is, in criminal proceedings, the absolute obligation on the prosecution to prove its case and not to allow for a position where the prosecution can be proved through the mouth of the accused. That is a longstanding common law position. Whilst we have seen the strong support of it from Reverend the Hon. Fred Nile here, I have not heard such support when other similar common law principles have been traduced by this Government and the previous Labor Government. I look forward to that being a change of position about supporting fundamental principles in our criminal justice system. This is a difficult one. The proposed protections in part mirror the derivative use restrictions contained in section 128 of the Evidence Act. If someone is compelled to answer a self-incriminating question in cross-examination they will receive a certificate under section 128 of the Evidence Act. Section 128 (7) places a restriction on the use to which the evidence can be placed, and states:

- (7) In any proceeding in a NSW court or before any person or body authorised by a law of this State, or by consent of parties, to hear, receive and examine evidence:
 - (a) evidence given by a person in respect of which a certificate under this section has been given,

The transcript cannot be tendered to prove guilt. Further:

- (b) evidence of any information, document or thing obtained as a direct or indirect consequence of the person having given evidence,

There is a prohibition on the use of indirect evidence. There is in principle support for common provisions to protect the use of indirect evidence that is being compelled through an investigation in the Law Enforcement Conduct Commission [LECC] under section 128 of the Evidence Act. There are other examples. The Greens are concerned that there is no finesse to the amendment. It is an absolute that it cannot be used. There may be circumstances where evidence given in an LECC investigation is of such urgency and concern that immediate action must be taken to protect someone or ensure assets are retained within the jurisdiction. In the course of an

investigation there may be evidence given concerning the removal of assets from the jurisdiction. Those assets have been obtained through criminal wrong doing. It is not just police that are called before the LECC—criminals are investigated about their conduct and relationships with police.

Many police activities involve interaction with criminals. When the LECC is doing investigations it is as likely to have criminals as police under investigation. This is a fact of life. For example, in the course of an interrogation by a LECC officer a criminal may make concessions or admissions that involve child sexual abuse and the officer knows that person works in a school. This bill will prevent that evidence being used in proceedings to have that person's working with children certificate cancelled. It would prevent that evidence being used to commence a criminal prosecution that will see that person brought to account. If during an LECC investigation the person being investigated admits that their criminal associate is just about to move the \$30 million of ill-gotten gains out of the jurisdiction to a bank account in Switzerland this bill will prevent the Law Enforcement and Conduct Commission from using that evidence for an order in the Supreme Court to freeze and retain the assets.

There is no finesse in the amendment. The amendment is a blanket prohibition about which The Greens have strong reservations. It is the result of a negotiation and discussion, but it has not ended in a good place. It has placed the bar too high at an absolute prohibition. The Greens considered drafting amendments that allowed for the admission of this evidence in circumstances where it was necessary as a matter of urgency to protect a person's welfare or to prevent the flight of assets. The Greens believe those amendments would have been useful. The Greens did not have the time to draft a set of amendments to effect that. I urge the Government to do this.

The majority of members are going to support the amendments, but they have no finesse and potentially leave the LECC in a invidious situation. It may have evidence of terrible criminality occurring in the near future but will be prohibited from acting. That is what this amendment does. That is a terrible position in which to place the Law Enforcement and Conduct Commission. The Government together with the Police Association must look at reform of the bill that will allow for indirect evidence to be used for matters of genuine urgency. Picture yourself in the position of an LECC officer who has evidence in hand and the knowledge that if they do not act somebody will suffer irreparable harm, but they cannot do anything. That is what the amendments propose.

The CHAIR (The Hon. Trevor Khan): The Christian Democratic Party has moved amendments Nos 1 and 3 appearing on sheet C2016-074G. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. LYNDIA VOLTZ (18:15): I move Opposition amendment No. 4 appearing on sheet C2016-080B:

No. 4 Examinations

Page 36, clause 62 (1), line 26. Insert ", the Commissioner for Oversight" after "Integrity".

This amendment inserts into page 36 clause 62 (1) "the Commissioner for Oversight". Currently the bill states:

- (1) An examination must be held by the Chief Commissioner, by the Commissioner for Integrity or an Assistant Commissioner, ...

Oversight will investigate complaints received directly about officers as well as monitor the handling of complaints by the NSW Police Force. The Opposition submits it should be inserted within the clause for examinations held by commissioners as part of administration of the Law Enforcement and Conduct Commission Act and urges members to support the amendment.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (18:17): The Government does not support Opposition amendment No. 4. The Law Enforcement and Conduct Commission [LECC] has two distinct functions, integrity and oversight. The integrity arm is responsible for undertaking investigations under part 6 of the Law Enforcement and Conduct Commission Bill. When undertaking an investigation the LECC will have the powers of a standing royal commission. It can require persons to provide information to the LECC, including requiring a person to attend before the LECC to provide this information, enter premises of a public authority and use covert powers such as telecommunications, interception and surveillance devices.

The LECC will also be able to conduct a private or public compulsory examination as part of its investigation. When this occurs a person is compelled to attend an examination and answer all questions put to the person by the examining commissioner. Refusal to answer a question, even if the answer may incriminate the person, is an offence. The privilege against self-incrimination and the right to silence does not apply to examinations. Given the extraordinary nature of these powers these particular examinations can only be used in the most serious matters such as conduct that could be serious misconduct, conduct that could be serious

maladministration or conduct involving the Commissioner of Police, Deputy Commissioners of Police, Crime Commissioner and Assistant Crime Commissioners.

The oversight arm has separate functions from the integrity arm and is responsible for monitoring the NSW Police Force and NSW Crime Commission investigations into matters that are not investigated by the integrity arm of the Law Enforcement and Conduct Commission. When monitoring an investigation the LECC is able to be present as an observer and at all interviews conducted for the purpose of the investigation, request information about the investigation, request further investigation be undertaken, and request a review of action proposed to be taken to an officer who was the subject of an investigation. It is not necessary for the oversight arm to conduct examinations. If the oversight arm comes across a matter that involves serious misconduct or serious maladministration, that matter may be pursued by the integrity arm. On that basis, the Government does not support the amendment.

Mr DAVID SHOEBRIDGE (18:19): The Greens support the Opposition's amendment. Notwithstanding the treatise from the Government about what the role of the Law Enforcement and Conduct Commission [LECC] is, we think that there is a valid argument for establishing the provision as put by the Opposition in this regard. I will not revisit the arguments put by the Hon. Lynda Voltz.

The CHAIR: The Hon. Lynda Voltz has moved Opposition amendment No. 4 appearing on sheet 2016-080B. The question is that the amendment be agreed to.

Amendment negatived.

Reverend the Hon. FRED NILE (18:20): I move Christian Democratic Party amendment No. 2 on sheet 2016-074G:

No. 2 **Use of compelled evidence**

Page 41, clause 74 (3), line 6. Omit "is admissible in evidence". Insert instead "may be used".

The ability to compel an individual to provide evidence despite objection is fundamentally at odds with the principles of our accusatorial criminal justice system. In very confined circumstances, investigative commissions have been granted this power of compulsion. This power is accompanied by compensatory protections to ensure that the compelled information is not used to convict a witness out of their own mouth. This important protection, contained in article 14, section 3 (g), of the International Covenant on Civil and Political Rights, provides:

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality ...

(g) Not to be compelled to testify against himself or to confess guilt.

Section 74 (3) of this bill attempts to provide this compensatory protection. However, as currently drafted, the protection is not sufficient to uphold this principle. The current drafting would render compelled material obtained over objection inadmissible in proceedings against a witness who gave that evidence. The material could still potentially be provided to a prosecutor with carriage of proceedings against the witness. So, while the material would not be admissible evidence, it would still be used by the prosecutor for purposes such as anticipating the defences the accused may use, planning questions to ask in cross-examination or assisting the prosecution in preparing its case. This would provide the prosecution with an unfair forensic advantage, based on evidence compelled from the accused despite their objection. In effect, the accused would be forced to assist in their own prosecution. Therefore, making the compelled material inadmissible is not sufficient. The protection must prevent the use of that material in proceedings against the witness who was compelled to give the material. The amendment that I have moved achieves this.

The practical effect of the amendment will be to ensure compliance with the practice of what is known as clean terms of prosecution personnel. The material obtained under compulsion, over objection, will not be provided to prosecution personnel with carriage of proceedings against the person who was compelled to provide that material. The commission will not in any way be limited in the persons it can examine or the questions it can compel answers for. If a person has engaged in serious misconduct they will still be subject to adverse findings. Disciplinary or dismissal action can still be taken against that person, where appropriate, by the NSW Police Force or the New South Wales Crime Commission. Prosecutions will still flow from commission investigations, and material obtained by the commission will be used in the prosecution, providing it was not obtained from the defendant themselves, having been compelled over objection. This amendment will simply ensure that the exercise of these extraordinary powers does not alter proceedings within the accusatorial justice system. I therefore commend amendment No. 2 to the House.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (18:24): The Government supports the amendment. This amendment replaces the words "is admissible in evidence" with the words "may be used".

I understand the concern articulated by Reverend the Hon. Fred Nile. Under the current drafting, the prosecution could still obtain an unfair forensic advantage by, for example, using the material to anticipate the defences that the accused may utilise or to plan questions to ask in cross-examination. The effect would be that the accused would be forced to assist in their own prosecution. This amendment aims to address those concerns. As indicated, the Government supports the amendment.

The Hon. LYNDIA VOLTZ (18:24): The Opposition supports this amendment for similar reasons. The use of the words "may be used" as opposed to "is admissible in evidence" is more logical given the way in which the prosecution may use the evidence.

Mr DAVID SHOEBRIDGE (18:25): Given the way the High Court and the Federal Court have interpreted similar provisions, it is unlikely that this amendment will make any real difference. I could recite the decisions, but they have been mentioned in debate on earlier amendments and in second reading speeches. As I said, this amendment is unlikely to make any real difference in the conduct of any proceedings. However, the bigger difficulty is common to the earlier amendment. How does one go about proving whether or not the investigating or prosecuting officials have used some evidence to obtain some other evidence? I have not had that articulated by the Government nor by the mover of the amendment. How does one prove that the moving party has been told something in the pub, or discovered something in the rumour mill that is the NSW Police Force or the New South Wales legal profession? I might join someone for a cup of coffee and be asked, "Have you seen that Trevor Khan bloke? You should investigate what he is doing in Tamworth." How does one prove this kind of stuff?

The CHAIR: Not in Tamworth.

Mr DAVID SHOEBRIDGE: No, not in Tamworth. I have heard that said. That is one of the key problems. If we agree to this amendment, we would be putting in place a prohibition. Would we then have the defence interrogating the various prosecuting officers about who they spoke to, when they spoke to them, and how it happened. The issue of proof is a substantial concern. It could result in any prosecution coming from a Law Enforcement Conduct Commission [LECC] investigation deteriorating into an endless inquiry about the investigation process rather than the actual prosecution and the substance of the offence itself. Indeed, I think that is probably what will happen. The bar will be set so high that we will not see any prosecutions coming from the LECC. Perhaps that is the intention, but I hope it is not. However, the bar will be so high that no-one will be able to use, directly or indirectly, evidence that is obtained in the course of an investigation to prove a criminal prosecution for the conduct identified by the LECC. The passage of this amendment would suggest that we are comfortable with there being no criminal prosecution arising from LECC inquiries. The Government may be comfortable with that, but The Greens are not, and that is why we have these reservations.

The CHAIR: Reverend the Hon. Fred Nile has moved Christian Democratic Party amendment No. 2 on sheet C2016-074G. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. LYNDIA VOLTZ (18:28): I move Opposition No. 6 on sheet C2016-080B:

No. 6 **Conferral with critical incident investigators**

Page 60, clause 115 (6), lines 15–17. Omit all words on those lines. Insert instead:

- (6) For the purposes of exercising its monitoring function in relation to a critical incident, the Commission may confer with the nominated contact for the critical incident and any police officers investigating the critical incident.

The Act provides that all communications between the commission in the exercise of its monitoring function of police officers investigating a critical incident must be made through the nominated contact for the critical incident. The Opposition believes it is more appropriate for the commission, in exercising its critical incident monitoring function, to confer with a nominated contact and with any police officer investigating such an incident. That is important as it is difficult for the commission to monitor and oversee any critical incident if it is allowed to talk to only one person. A body with an oversight function should be able to talk to anyone, including police officers who are investigating a critical incident. By establishing the LECC we are assuming that commissioners will use common sense when exercising their powers. It is excessive to restrict the oversight of the commission by enabling it to speak only to a nominated contact.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (18:30): The Government does not support Opposition amendment No. 6. Critical incident investigations are rapid pace, complex investigations that usually involve the death of a person. It is therefore important that critical incident investigators are able to conduct their investigations without delay. It is also important that critical incident investigations are monitored. The bill provides that all communications between LECC monitoring officers and the NSW Police Force that relate to the monitoring activities of the LECC should be through the nominated contact for a critical incident investigation which will be the senior critical incident investigator or a person nominated by the senior investigator.

The Government believes that this communication arrangement strikes an effective balance between allowing critical incident investigators to undertake investigations without delay or unintentional hindrance whilst still allowing for effective real-time oversight. If the LECC monitoring officers encounter any issues when communicating with the nominated contact and those issues are not adequately addressed during the critical incident investigation the LECC officers can include them in their report. The LECC could also raise it with the NSW Police Force as part of the ongoing dialogue between these two agencies. As indicated, the Government does not support the amendment.

Mr DAVID SHOEBRIDGE (18:31): The concept that the oversight body can talk to only one person, that is, the person nominated by the NSW Police Force, is grossly flawed. Obviously if it needs to monitor an investigation it may need to talk to more than just the one person nominated by the organisation it is monitoring. It may need to talk to the chief investigator to find out what the organisation is doing or to one of the officers who has made a complaint about the way the investigation has been undertaken. On one view, the commission would be almost prohibited from even hearing a complaint unless it came through the nominated contact point.

This is another provision in the bill that largely neutered the LECC's oversight capacity, particularly in relation to critical incident investigations. If it can go only to one person and that person is nominated by the police, it would be greatly prohibiting the effective oversight powers of the LECC. This is not the model that was proposed by Mr Tink. He did not say "The police force finds the person, nominates the person and that is the only contact point." The concept of LECC oversight that was put forward by Mr Tink was much more robust. The Government cannot pretend that it is implementing the Tink reforms and then include these kinds of provisions that move so far away from what Mr Tink proposed. Mr Tink's proposed model is much more robust than the model proposed in Opposition amendment No. 6.

The Hon. LYNDA VOLTZ (18:33): In response to the Minister's comments relating to Opposition amendment No. 6, the LECC was set up for a purpose, that is, to ensure that the public has complete confidence in the NSW Police Force. Importantly, we have LECC oversight to ensure that the police force is transparent. I do not know why Minister Ajaka is so tied to the idea that the LECC commissioner would somehow hinder a critical investigation.

I am assuming they are people with considerable experience. It is also important to ensure there is not a public perception that the oversight of the police will be hindered in some way. That is why the Opposition has put forward this amendment. It is important for the police force—who people want to support—to ensure that the drafting of legislation in this House in no way appears to hinder what the police have worked towards as well, which is a transparent and strong police force. Therefore the Opposition asks for some kind of explanation from the Government as to why it thinks the commissioners would in any way be hindering critical incident investigations.

The CHAIR: The Hon. Lynda Voltz has moved Opposition amendment No. 6 on sheet C2016-080B. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. LYNDA VOLTZ (18:35): I move Opposition amendment No. 7 on sheet C2016-080B:

No. 7 **Publication of critical incident investigation advice**

Page 61, clause 117 (8), line 26. Insert "and at any other time if it considers a critical incident investigation has not been completed in a reasonable period and that it is in the public interest to publish the advice" after "investigation".

Currently the commission may make public any advice that is given under section 117 of the Act at any time after the conclusion of a critical incident report. As members of this Chamber may be well aware, investigations into police officers that drag on for some time can erode public confidence in the police. An interim ability to release a document or advice that has dragged on for some time would in some ways help to clarify those matters and ensure there is transparency around the investigation or the incident at the time. Rather than waiting for an investigation that may take a long time and may in some way be eroding public confidence, or about which questions will be asked, this allows the commission to release earlier advice and make it publicly available.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (18:37): The Government does not support Opposition amendment No. 7. It is common for a death that is the subject of a critical incident investigation also to be subject to a coronial inquiry in order to determine the cause of death. Where the death may have been caused by a criminal act or omission or where a criminal act or omission may have contributed to the death, criminal proceedings against a person may also be commenced. The NSW Police Force does not declare a critical incident investigation to be concluded until any coronial or criminal proceedings have been concluded. In order to ensure that any coronial or criminal proceedings relating to a critical incident are not prejudiced, the Law Enforcement Conduct Commission [LECC] cannot publish a report about the critical incident until the NSW Police Force advises that the critical incident investigation proceedings have concluded.

The LECC must provide advice to the NSW Police Force and the Coroner if applicable about whether the critical incident investigation was conducted in accordance with the LECC Act, whether any aspect of the investigation was inappropriate and whether the conduct of a police officer involved in the critical incident investigation may amount to misconduct. This advice from the LECC about concerns with the critical incident investigation can be provided to the NSW Police Force and the Coroner if applicable at any time during the critical incident investigation. However, the bill makes clear that it must not be made public until after the investigation has been completed. The Government does not support the amendment.

Mr DAVID SHOEBRIDGE (18:39): The Government is falsely conflating the Law Enforcement Conduct Commission [LECC] oversighting of a critical incident investigation with only those cases in which a death has occurred and the Coroner is involved. The definition of "critical incident" involves discharging a firearm and the use of police force including in circumstances where there is serious injury and not death. Where there are cases of serious injury there will not be a coronial investigation. The police internal critical incident investigation could drag on for years. We have seen internal police investigations that have dragged on for years, in some cases for decades. The Government's position is that if the LECC gets all het up that a critical incident investigation is dragging the chain it can write a letter to the police commissioner. Of course it cannot publish it or say anything about it, because the Government says that you cannot prejudice a coronial investigation.

What about those cases where there is no coronial investigation? Also, how does it prejudice a coronial investigation to have the properly constituted oversight body say to the police critical investigation team and the police, "We do not think you're doing your job properly. Get on with the investigation"? Far from prejudicing a coronial investigation, it is likely to greatly assist it. The arguments from the Government seem to be based upon the position that whatever the Opposition puts forward is by definition wrong because it was not contained in the original bill. This is a problem with the bill. The Opposition has helpfully moved an amendment that would allow the LECC to improve critical incident investigations. The Government's answer is, "Go fish."

The CHAIR: The Hon. Lynda Voltz has moved Opposition amendment No. 7 on sheet C2016-080B. The question is that the amendment be agreed to.

Amendment negatived.

Reverend the Hon. FRED NILE (18:41): I move Christian Democratic Party amendment No. 4 on sheet C2016-074G:

No. 4 **Police Act amendment**

Page 124, Schedule 5.1 [37], lines 3–14. Omit all words on those lines.

The current drafting of section 170 of the Police Act 1990 is operating as intended to regulate the admissibility of documents brought into existence for the purposes of an investigation of a police complaint. Item [37] would be a significant change to the existing provisions of the Police Act. Item [37] was included only in late drafts of this bill and there has been insufficient time for adequate consultation and consideration of the practical impact of the proposed new wording. The consequences of item [37] would potentially mean extremely broad changes to the well-established practices in relation to a complaint investigation, the consequences of which the drafters of the bill may be unaware. There has been no indication that section 170 is operating with any negative impact and no need has been demonstrated for any alteration to existing processes. There is therefore no imperative to rush through the significant change effected by item [37].

As members know, a review of the Police Act is under way. The Police Association has indicated that it is concerned that section 170 of the Police Act should not be changed through such a late inclusion to the bill without the time to properly consider its impact and conduct proper consultation. If section 170 requires amendment it should be achieved by thorough examination through the proper avenue—that is, the imminent finalisation of the Police Act review following the tabling of the review report on 25 August. That will allow the

Government, the NSW Police Force, the Police Association of New South Wales and other stakeholders to fully consider if any changes are needed and, if so, reach a mutually agreeable position on the new legislative language.

Therefore, this amendment omits item [37]. That means that the current section 170, which has been operating effectively, will remain unchanged. This will allow the section to continue to operate as intended until such time as any need for amendment can be demonstrated and then proposed changes can be fully considered.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (18:44): The Government supports Christian Democratic Party amendment No. 4. This amendment reverses the redrafting of section 170 of the Police Act 1990 that is contained in the bill, thus ensuring that the current wording of the Police Act remains. Section 170 of the Police Act 1990 concerns the admissibility of evidence brought into existence due to what is commonly referred to as a part 8A complaint. The Government agrees that more consultation is required before such a change is made to section 170 and the Government supports the amendment in order to facilitate further consultation.

Mr DAVID SHOEBRIDGE (18:45): The Greens support Christian Democratic Party amendment No. 4. This was snuck in and buried in a schedule in the Law Enforcement Conduct Commission Bill, which had not been the subject of any consultation. It may be that the drafting that is proposed in item [37] of schedule 5.1, which is hidden away on page 784 of the bill, is an appropriate reform of section 170, but the way to do that is in the review of the Police Act, not by sneaking it in at the end of this bill.

The Hon. LYNDY VOLTZ (18:45): The Opposition supports Christian Democratic Party amendment No. 4. As it has been noted, there is a process for review. If the Government wishes to do so, it can do so by that process.

The CHAIR: Reverend the Hon. Fred Nile has moved Christian Democratic Party amendment No. 4 on C2016-074G. The question is that the amendment be agreed to.

Amendment agreed to.

Mr DAVID SHOEBRIDGE (18:46): By leave: I move The Greens amendments Nos 1 to 3 on sheet C2016-104A in globo:

No. 1 Transfer of Operation Prospect records

Page 109, Schedule 3, clause 7. Insert after line 32:

- (3) As soon as practicable after the date of assent to this Act, the Ombudsman must transfer all Ombudsman records relating to Operation Prospect to the Commission.
- (4) The Commission is to maintain the Operation Prospect transferred records as a discrete part of its records until the end of the period of 10 years after the date of assent to this Act (the *access embargo period*).
- (5) The Commission must ensure that no person is given access to the Operation Prospect records transferred to it under this clause during the access embargo period except to the extent necessary for the maintenance of the records as required by subclause (4).

No. 2 Secrecy and confidentiality of Operation Prospect transferred records

Page 109, Schedule 3, clause 8. Insert after line 44:

- (2) Subclause (1) ceases to apply to and in respect of a transferred record relating to Operation Prospect to which section 19A, 19B, 19C or 34 of the Ombudsman Act applied before the commencement of this clause at the end of the access embargo period referred to in clause 7.

No. 3 Termination of Operation Prospect

Page 111, Schedule 3, clause 16, lines 22–40. Omit all words on those lines. Insert instead:

- (1) On the date of assent to this Act, Operation Prospect is terminated and accordingly the Ombudsman must discontinue any investigation relating to that inquiry and must not exercise any other function or take any further action (including making any report) in relation to that inquiry and no proceedings for an offence arising out of that inquiry may be commenced.
- (2) Clause 6 does not authorise the Commission to continue an investigation, inquiry or other matter relating to Operation Prospect commenced by the Ombudsman.

The Parliament can now fix up a horrible mistake that it made. In a budget estimates hearing a bit over four years ago I raised the concern that police bugging other police, journalists and lawyers had gone unresolved for more than a decade. I recall showing the police Minister a memorandum that raised concerns about it. Suddenly, all hell broke loose. The budget estimates hearing was shut down and the Government cobbled together a cunning plan to refer the police bugging scandal to the Ombudsman and granted the Ombudsman a number of secrecy powers so that the entire investigation would be done behind closed doors. It created a series of criminal penalties for

anyone who dared speak about what went on in the Ombudsman's investigation. Lo and behold, that secret, cobbled-together Ma and Pa Kettle inquiry, which was referred to the Ombudsman—a body that never had the capacity to conduct this kind of serious investigation in the first place and had never done so before—has become an unholy mess.

The Government created that monster, which now goes by the title Operation Prospect and which celebrated its fourth birthday a month ago, and it should now kill it off. The Parliament should accept that sending this sensitive, detailed and complex 18-year-old police bugging scandal—which not only involved the Commissioner of Police but also deputy commissioners of police, rafts of mid-level police and journalists—to the Ombudsman's office, which had no proven capacity to deal with such a complex inquiry, was flawed. The Government gave the Ombudsman's office a number of new secrecy provisions and jammed a lid on it, hoping it would be all right. We opposed giving the Ombudsman those powers at the time and it has proven to be an unholy mess.

Indeed, what have we seen? Four years on, where is the report? We have not seen it yet. We were told originally it would be about six months, then we were told it would be 18 months, then we were told it would be two years, then we were told maybe it would be three years, then we were told we would get it in the first half of this year, and we are now told we will be having the boys home before Christmas. Who seriously believes that whatever is produced by the Ombudsman—which has been more than an investigation into the original bugging scandal, the illegal intercepts of police, journalists and lawyers—who would have thought that we would still be talking about the as yet unfinished Operation Prospect in November 2016? Not only is it hideously delayed—

The CHAIR: Order! The member is starting to move beyond the nature of the amendments and into a more generalised discussion on Operation Prospect. I invite the member to speak to the amendments as opposed to something broader than that.

Mr DAVID SHOEBRIDGE: I will read out part of the amendment:

- (3) As soon as practicable after the date of assent to this Act, the Ombudsman must transfer all Ombudsman records relating to Operation Prospect to the Commission.
- (4) The Commission is to maintain the Operation Prospect transferred records as a discrete part of its records until the end of the period of 10 years after the date of assent to this Act ...
- (5) The Commission must ensure that no person is given access to the Operation Prospect records transferred to it under this clause during the access embargo period except to the extent necessary for the maintenance of the records ...

Further, the amendment provides:

On the date of the assent to this Act, Operation Prospect is terminated and accordingly the Ombudsman must discontinue any investigation relating to that inquiry and must not exercise any other function or take any further action (including making any report) in relation to that inquiry and no proceedings for an offence arising out of that inquiry may be commenced.

Why is that important? Because it has turned from an investigation of the original police bugging, the scandal of Supreme Court judges rubberstamping intercept warrants, rubberstamping listening device warrants, without having any capacity to review them—116 at a time, if one follows one of the warrants that was issued by current High Court judge Virginia Bell; 116 in one go—it has turned from an investigation of that appalling conduct to an investigation of the whistleblowers and, worse still, to an investigation of some senior police—

The CHAIR: Order! The member does not overcome what I formerly said by simply reading through the terms of the amendment and then continuing to launch into the matter. I note that this matter has been the subject of very considerable debate in this House in a variety of circumstances, including when reports have been before the House. I again encourage the member to speak to his amendment and not to have a generalised discussion, whatever the merits may be, with regard to Operation Prospect.

Mr DAVID SHOEBRIDGE: I will wind this up. But why is this amendment important? Many people have heard about the potential damage that will be done to a fine police officer such as the former deputy commissioner Nick Kaldas because of the secrecy provisions and the aggressive investigation of Operation Prospect of that police officer for having done no more than to want to raise a matter of general concern and illegality in the operations of other police officers. His reputation—the reputation of one of the finest police officers that has been produced by this State—is at peril if we allow this Operation Prospect to continue, because it has turned into a hunt on the whistleblowers. There will be further concern and further division because we now know that the Crime Commission is on the point of commencing its own proceedings to shut down—

The CHAIR: Order! The member is not speaking to the amendment. I understand the member's passion about the matter but the member is to speak to the amendment. If he does not he must sit down.

Mr DAVID SHOEBRIDGE: To speak to why we want to shut down Operation Prospect is absolutely relevant. The New South Wales Crime Commission is about to commence proceedings against the Ombudsman's

Office to do exactly this in the Supreme Court. I must be able to speak to that if I am going to identify the merits of the amendment.

The CHAIR: Order! I rule that the member is speaking beyond the leave of the amendments. If he continues he will be called to order.

Mr DAVID SHOEBRIDGE: To not be able to speak about why it is important to shut down Operation Prospect—to not be able to point out the obvious truth if we do not do this—

The CHAIR: Order! The member is cavilling with my ruling. I call Mr Shoebridge to order for the first time. I understand the member's passion, but the member has made his point with regard to the amendments and is going beyond the amendments that he is moving.

Mr DAVID SHOEBRIDGE: This is the opportunity for the House, now, to save the State of New South Wales, the NSW Police Force and a variety of officers at all levels of that force, a world of unnecessary pain and damage. Let us end Operation Prospect now. Let us not wait for the inevitable damage to unfold and have a further two years of division, litigation and contest within the NSW Police Force. This is a moment when we can end it and fix it. That is why The Greens moved the amendments.

The Hon. LYNDA VOLTZ (18:56): The Opposition does not support this amendment. However, I agree with Mr David Shoebridge with regard to the origins of Operation Prospect and the referral to the Ombudsman in regard to the role of estimates committees and what can be asked within estimates committees. It was ill-advised for the advice to be ignored at that time. A lot of us who sat through the evidence about Operation Prospect still wake up in fright about that. It is a horrendously complex matter and has been an issue of concern for nearly two decades now. There have been many different groups of people—too numerous to count—asking for transparency in different ways. They reach, perhaps, to all elements of the NSW Police Force. Given the number of inquiries that this Parliament has held into Operation Prospect, the decisions that have been taken by Government and the demands that have been made for the Government to take action, it would be ill advised for this Parliament to just close down Operation Prospect in this way through the Law Enforcement Conduct Commission Bill.

While I understand that there are concerns and that there are different views, I firmly believe that they will never be resolved. At the end of the day, I am not sure that the Law Enforcement Conduct Commission Bill is the appropriate place for these concerns to be dealt with. Having said that, I am still concerned about the original actions that were taken within the estimates committee that led to members of this Parliament not being able to ask questions. Our role as an oversight committee allows us to do that, and I think there is a lesson there for any Government in New South Wales, now or in the future, to consider our roles and how the excessive use of powers, in one way or another, can lead to unintended consequences.

Reverend the Hon. FRED NILE (18:58): This is a strange amendment moved by The Greens. It has a lot of elements in it which seem to be inconsistent with all of the other things that The Greens members say and do. It is basically an amendment designed to gag or to provide secrecy. I gather, from the way the amendment is drafted, that the records would not be allowed to be looked at or considered for 10 years. As members know, over \$9 million has been spent to facilitate and conclude Operation Prospect, which began in October 2012.

The Legislative Council also passed amendments to ensure that Operation Prospect could be conducted properly and thoroughly. Mr Shoebridge's amendments would mean that significant resources and money invested in Operation Prospect since 2012 would have been wasted.

Another important point is that there is evidence that certain individuals could have or may have committed offences. That evidence should be assessed and, if necessary, prosecutions commenced. When all the material is made public and members wish to criticise the Ombudsman, that may be justified from the point of view of the length of time Operation Prospect has taken. For the reasons I have stated, the Christian Democratic Party opposes The Greens amendments.

The Hon. ROBERT BROWN (18:59): It is very unusual for me to argue when I really do not know what I should say. By that I mean that I do not know how I will be able to contain myself and avoid being challenged for being passionate like my learned friend Mr Shoebridge. Generally speaking, the Shooters, Fishers and Farmers Party is about as politically far from The Greens as could be—and as far as I am concerned, quite comfortably—yet all members of the Legislative Council are aware that my colleague the Hon. Robert Borsak and Mr Shoebridge worked tirelessly in the pursuit of getting to the bottom of this piece of garbage, Operation Prospect. I hear what has been said by Reverend the Hon. Fred Nile and I agree that the amendments seem a little counterintuitive, but I urge Reverend the Hon. Fred Nile to think about what we are doing here.

If Reverend the Hon. Fred Nile does not support the amendments, that is tantamount to approving of two governments of different colours, two ombudsmen—an acting ombudsman and an ombudsman, one of whom ran out of time and ran out of money—and countless inquiries keeping Operation Prospect going for an untold number of years in deliberate secrecy. If the amendments have the effect of enabling the Legislative Council to now draw a line under all those occurrences and perhaps save some of the people involved from a bit more pain, surely that is the compassionate thing for members of the Legislative Council to do. The Shooters, Fishers and Farmers Party will support the amendments. I will give Mr David Shoebridge the second voice.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (19:02): The Government opposes The Greens amendments Nos 1, 2 and 3 that were moved in globo. The Ombudsman commenced Operation Prospect in October 2012. To date the Government has spent in excess of \$9 million to facilitate and conclude this investigation. The Ombudsman has been provided with extra resources that have been dedicated to Operation Prospect and legislative amendments were made to ensure that Operation Prospect could be conducted thoroughly. The NSW Police Force, the NSW Crime Commission and the Police Integrity Commission also have invested significant resources in complying with requests for information relating to Operation Prospect. The Acting Ombudsman has stated that the final report for Operation Prospect will be tabled by the end of 2016. The Government expects the Acting Ombudsman to meet that commitment.

The focus of Operation Prospect is to examine allegations of misconduct by officers of the NSW Police Force, the NSW Crime Commission and the Police Integrity Commission in relation to certain operations conducted by those agencies between 1998 and 2004. Some of the allegations of misconduct may constitute a criminal offence. The Greens amendments also would mean that significant resources and money invested in Operation Prospect since 2012 would have been wasted. It is important to note that the Acting Ombudsman cannot determine that a person is guilty of committing an offence. Like other integrity agencies, such as the Independent Commission Against Corruption and the Police Integrity Commission, the role of the Acting Ombudsman is administrative and not judicial.

The CHAIR: Order! I remind the Minister that earlier I warned Mr David Shoebridge that I would call him to order for making remarks that went beyond the leave of the amendment. I am bound to apply that ruling equitably.

The Hon. JOHN AJAKA: Thank you, Chair. In August 2005 the Legislative Council's standing committee inquiry into the progress of Operation Prospect, of which committee Mr David Shoebridge was a member, recommended that the Government provide the Acting Ombudsman with the resources necessary to ensure the timely finalisation of Operation Prospect. The Government did that. Operation Prospect has nearly concluded and should be allowed to be concluded. The Government opposes the amendments.

Mr DAVID SHOEBRIDGE (19:04): When will this Government stop resourcing failure? Because that is what is proposed here. Without supporting these amendments, \$9 million that has already been spent on the Ombudsman will be compounded by a multiple, with a raft of proceedings that will commence before Christmas and go off into the never-never. The argument appears to be that we should just let the machinery roll through, let this unfair process grind its way through to its final position of a flawed report, based upon a gross lack of procedural fairness that tarnishes the reputation of police at all levels, current and former. Should we just let it grind its way through, resulting in the wholly predictable damage—because it is not our job to stop it? That is something I fundamentally disagree with. We created it.

We know it will produce an unfair report. We know it will produce enormous ongoing division amongst all levels of the police. We know it will produce a sea of litigation between city and State and between one agency and another. We can see it all with perfect, clear vision, right now. Why let it happen? Of course we should not let it happen. This amendment will stop that from happening. If members do not support these amendments, this will become a moment of enormous regret for all those organisations that have said no to these amendments; for the hardworking members of the NSW Police Force who will see the division continue for months and years into the future; for NSW Treasury that will pay for it; and for the taxpayers and the people of New South Wales who want their police to get on with policing and not attacking each other. This is a chance to stop it, to fix it and that is why The Greens have moved these amendments.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 1 to 3 on sheet C2016-104A. The question is that the amendments be agreed to.

The Committee divided.

Ayes	7
Noes	29
Majority	22

AYES

Barham, Ms J (teller)
Faruqi, Dr M
Shoebridge, Mr D

Brown, Mr R
Field, Mr J (teller)

Buckingham, Mr J
Pearson, Mr M

NOES

Ajaka, Mr J
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Houssos, Ms C

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)
Graham, Mr J
MacDonald, Mr S

Blair, Mr N
Cusack, Ms C
Gallacher, Mr M
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Nile, Reverend F
Searle, Mr A
Veitch, Mr M

Mallard, Mr S
Mookhey, Mr D
Phelps, Dr P
Secord, Mr W
Voltz, Ms L

Mason-Cox, Mr M
Moselmane, Mr S
Primrose, Mr P
Taylor, Ms B
Wong, Mr E

Amendments negatived.

The CHAIR: To suit the convenience of honourable members, I will now leave the chair and the House will resume at 8.15 p.m.

The CHAIR: The Greens amendments on sheet C2016-104A have been disposed of. The Committee will now move to The Greens amendment No. 10 on sheet C2016-100A.

Mr DAVID SHOEBRIDGE (20:17): I move The Greens amendment No. 10 on sheet C2016-100A:

No. 10 **Transfer of staff**

Page 111, Schedule 3. Insert after line 42:

17 Staff transfers—preservation of remuneration and other conditions of employment

The following applies in relation to a Public Service employee who is transferred to the Office of the Law Enforcement Conduct Commission:

- (a) the transfer is to be made at the person's existing level of remuneration, unless the person consents to a transfer at a lower level of remuneration;
- (b) the person is, on being transferred, entitled to the conditions of employment applicable to the person as a Public Service employee immediately before the transfer, until such time as further provision is made in respect of the person's employment under any law.

This amendment provides for preservation of remuneration and other conditions of employment for those staff transferred from the Ombudsman's agency into the Law Enforcement and Conduct Commission [LECC]. It relates to public service employees as they are the bulk of the officers employed by the Ombudsman. It provides that the transfer will be made at the person's existing level of remuneration, unless they consent to a lower level of remuneration. Upon being transferred, they remain entitled to the conditions of employment previously held as a public service employee prior to the transfer—until some other provision is made. It does not freeze the situation but it protects their entitlements. There is a need for cultural change within the organisation. The Greens do not believe there will be a complete transfer of the Ombudsman's staff to the LECC, but when they are transferred their entitlements will be protected.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (20:18): The Government does not support The Greens amendment No. 10. The salaries and conditions of Law Enforcement and Conduct Commission [LECC] employees have been tied to the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector—Salaries 2016) Award. The LECC is consistent with the public sector generally and matches to a high degree the salaries and general conditions for employees within the office of the Ombudsman. In establishing the LECC a benchmarking exercise was undertaken. The salary structures within the Independent Commission Against Corruption, the NSW Police Force and the Australian Federal Police were reviewed and the LECC has subsequently adopted a salary structure that is competitive with these organisations.

All positions in the LECC are being filled by competitive process in accordance with the Government Sector Employment Act 2013. The salary range and benefits of each role is known to the applicants. Existing employees from the Police Integrity Commission and the Office of the Ombudsman are able to apply for roles with the LECC, but are not compelled to do so. Those who choose not to apply for a role with the LECC can elect to be redeployed elsewhere in the public sector or opt to take a voluntary redundancy payment in accordance with the Managing Excess Employees Policy. As indicated, the Government does not support the amendment.

The CHAIR: Mr David Shoebridge has moved The Greens amendment No. 10 on sheet C2016-100A. The question is that the amendment be agreed to.

Amendment negatived.

Reverend the Hon. FRED NILE (20:20): By leave: I move Christian Democratic Party amendments Nos 5 and 6 on sheet C2016-074G in globo:

No. 5 **Disclosures by law enforcement officers**

Page 136, Schedule 6.16. Insert after line 17:

[1] **Section 15A Disclosures by law enforcement officers**

Omit "alleged indictable offences" and "alleged indictable offence" wherever occurring.

Insert instead "alleged offences" and "alleged offence", respectively.

[2] **Section 15A (1A)**

Omit the subsection. Insert instead:

- (1A) The duty of disclosure arises only if the Director exercises any function under this Act with respect to the prosecution of the offence (including in connection with a law enforcement officer seeking advice from the Director under section 14A of the *Criminal Procedure Act 1986* about the commencement of proceedings for an offence).

[3] **Section 15A (6)–(8)**

Omit the subsections. Insert instead"

- (6) The duty imposed by this section does not require law enforcement officers to provide to the Director any information, documents or other things"

- (a) that are the subject of a claim of privilege, public interest immunity or statutory immunity; or
- (b) that would contravene a statutory publication restriction if so provided.

- (7) The duty of a law enforcement officer in such a case is to inform the Director of"

- (a) the existence of any information, document or other thing of that kind; and
- (b) the nature of that information, document or other thing and the claim or publication restriction relating to it.

However, a law enforcement officer must provide to the Director any information, document or other thing of that kind if the Director requests it to be provided.

No. 6 **Disclosures by law enforcement officers**

Page 136, Schedule 6.17. Insert after line 36:

[2] **Schedule 1 Disclosure certificate (for prosecutions and advisings)**

Insert "or summary" after "indictable" wherever occurring.

[3] **Schedule 1**

Insert "if the DPP is involved in the prosecution of the offence" after "all relevant material" in the matter appearing under the heading "**Acknowledgement**".

[3] **Schedule 1**

Omit "but only to the extent not prohibited by the statutory prohibition certificate" in the matter appearing under the heading "**Certification**". Insert instead "and provide the material to the DPP on request".

Members will understand the concern that has arisen about this area as a result of what has happened at the Independent Commission Against Corruption, where evidence favourable to the accused was not revealed that

may have assisted that person or even had them declared innocent. That concern has led to the Christian Democratic Party proposing these amendments. Commissions such as the Law Enforcement Conduct Commission have the power to make adverse findings against individuals, to provide evidence to the Director of Public Prosecutions for the purposes of prosecuting an individual, and even to commence criminal proceedings. These powers have considerable impact on the rights, reputation, career and wellbeing of individuals.

While these commissions are not judicial bodies, serious consequences are experienced by persons investigated by them due to their findings or simply by virtue of the person even being investigated by the commission. It is therefore imperative that these commissions gather, consider, and present all of the relevant material, and make findings and recommendations based on determining the truth. There has been considerable community concern that the existing provisions are insufficient to guarantee that this occurs as reports continue to indicate selective use of evidence and evidence being withheld from affected persons, the prosecution and the courts. The matters that have attracted public attention are ones in which this practice has been discovered, usually during court proceedings.

However, by then the damage to individuals is done; they have lost their reputation and livelihood, and no doubt their wellbeing has suffered considerably even if the deficiency is rectified at trial. That is what I was referring to in my opening comments. Due to the secrecy and non-disclosure powers of these commissions, the community has no way of knowing how many times this has occurred but has not been discovered. Under section 15A of the Director of Public Prosecutions Act 1986, the commission is obliged to disclose to the Director of Public Prosecutions "all relevant information, documents or other things obtained during the investigation that might reasonably be expected to assist the case for the prosecution"—and this is important—"or the case for the accused person". However, this obligation now applies only to indictable offences.

Many of the prosecutions arising from investigations undertaken by the Police Integrity Commission have involved non-indictable offences. This amendment would apply the obligation to all offences, ensuring in all cases that the prosecution can decide whether or not to commence proceedings based on the available evidence or any potentially exculpatory evidence being presented to the court. The need for this arises because of reports that relevant material, which is often exculpatory material or which would otherwise assist the case for the accused person, has not been provided to the Director of Public Prosecutions.

The impact of this is that the DPP may not be aware of the material when it considers whether proceedings should be commenced, and then the material may not be presented to the court in those proceedings. That may lead to proceedings commencing that would not have done, had the material been provided, which would waste time and State resources and cause considerable harm to the affected individuals. If the material never comes to light, it may result in the conviction of innocent people. This amendment will not inhibit the Law Enforcement Conduct Commission from effectively detecting serious misconduct. It is simply an accountability and fairness mechanism to ensure all relevant evidence is considered in prosecutions.

This amendment is a modest protection for persons who are potentially facing considerable consequences from the commission's exercise of extraordinary powers. It imposes a minimal burden on the commission in conducting investigations while addressing real concerns held by the community about the fairness of the commission's investigations. We do not want allegations directed to the Law Enforcement Conduct Commission that have recently been directed to the Independent Commission Against Corruption [ICAC]. It is important that these amendments be passed. I commend the amendments to the House.

The Hon. JOHN AJAKA (Minister for Disability Services, Minister for Ageing, and Minister for Multiculturalism) (20:25): The Government supports Christian Democratic Party amendments Nos 5 and 6. These amendments aim to address concerns that have arisen about the level of disclosure that investigative bodies are required to provide to the Director of Public Prosecutions. Section 15A of the Director of Public Prosecutions Act 1986 currently requires that law enforcement officers investigating alleged indictable offences have a duty to disclose to the director all relevant information, documents or other things obtained during the investigation that might reasonably be expected to assist the case for the prosecution or the case for the accused person. There are some obvious deficiencies with this section that were recently highlighted by the report "Review of the Independent Commission Against Corruption: Consideration of the Inspector's Reports" of the parliamentary Committee on the Independent Commission Against Corruption.

One deficiency that was highlighted by the Committee on the Independent Commission Against Corruption, and which is addressed in these amendments, is the fact that section 15A covers only indictable offences. Fairness demands that those accused of summary offences should also be covered by section 15A. Another deficiency that was highlighted by the ICAC committee, and which is addressed in these amendments, is that currently non-publication orders can operate to prevent the provision of disclosable evidence to the Office of the Director of Public Prosecutions. This is addressed in the Christian Democratic Party's amendments, moved by Reverend the Hon. Fred Nile, which provide that a law enforcement officer must provide to the director any

information, document or other thing of that kind if the director requests that it be provided. I note that appropriate amendments are also made to the Director of Public Prosecutions Regulation 2015. These amendments appear eminently sensible. The Government supports both amendments.

Mr DAVID SHOEBRIDGE (20:27): The Greens support both these amendments. Expanding the disclosure requirement for law enforcement officers, where they are providing a brief of evidence to the Director of Public Prosecutions [DPP], to cover both summary and indictable offences is long overdue. Normally the director deals only with indictable offences because that is the nature of the office. As a general rule, police prosecutors deal with summary offences. Where there is a prosecution against police, the standing arrangement is that the DPP undertakes a prosecution against police because we do not want police prosecutors prosecuting police. Expanding the obligation for summary offences is a clear and necessary change. We support it absolutely.

We would support the arrangement whereby a law enforcement officer who was compiling a brief of evidence, whether indictable or summary, had an explicit statutory obligation to provide both inculpatory and exculpatory evidence in delivering that brief. Whether it concerns a police prosecutor or the DPP, we say that should be the state of play across proceedings, both summary and indictable. I hope that this is an indication that we will get to that point sooner rather than later. The obligation to providing inculpatory and exculpatory evidence that now lies with indictable offences and summary offences concerning police will now cover all summary offences, including the summary offences that are prosecuted by police prosecutors. It is a definite step in the right direction.

The CHAIR: Reverend the Hon. Fred Nile has moved Christian Democratic Party amendments Nos 5 and 6 on sheet C2016-074G. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR: The question is that the bill as amended be agreed to.

Motion agreed to.

The Hon. JOHN AJAKA: I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

Motion agreed to.

Adoption of Report

The Hon. JOHN AJAKA: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. JOHN AJAKA: I move:

That this bill be now read a third time.

Motion agreed to.

CROWN LAND MANAGEMENT BILL 2016

Second Reading

Debate resumed from 19 October 2016.

The Hon. MICK VEITCH (20:31): I lead for the Opposition on the Crown Land Management Bill 2016. Crown land, whilst many people may not necessarily realise it, is a fundamental part of our way of life in New South Wales. It includes our parks, sporting fields, waterways, beaches, showgrounds, community halls and a host of sporting and community clubs throughout the State. From cradle to grave we all interact and benefit from Crown land. This is why when it comes to Crown land the community takes a very strong interest. It is, after all, their land. It is critical that those in government who oversee the management and use of Crown land on behalf of the people of New South Wales undertake their role wisely and sustainably and seek to balance the often competing interests brought to bear on the use of public land. The achievement of triple bottom line outcomes—so easy to say—is the meat in the Crown land sandwich. It is this ongoing effort to meet the social, environmental and economic needs of the State that is the intrinsic role of Crown land management in New South Wales.

The history of Crown land in many ways reflects the history of New South Wales since 1788 when the British declared terra nullius and stripped away the stewardship of the First Peoples to the land and water.

Destroying a people's connection with land and water was one of the most insidious components of the war waged on First Peoples since 26 January 1788. In the last 228 years the State of New South Wales has either sold off, reserved or dedicated Crown land for a variety of public purposes. Reservation and dedication powers have always been important as a clear statement by government that certain land should not be freehold or privatised but held in public hands for the longer term interests of the public of New South Wales. The unfolding of Crown land decisions over the next two centuries reflected the concerns, battles and at times best intentions of this State.

Governor Macquarie's reservation of land on either side of the Tank Stream to save Sydney's first source of drinking water was the progenitor of public land reservation in the colony. There were battles between the squattocracy and the government over the use of vast tracts of land west of the Great Divide. There was the establishment of civic areas like the Domain and Hyde Park and countless civic parks in suburbs and towns throughout New South Wales. There was also the allocation of soldier settler blocks to soldiers returning from the battlefields of the First World War. This is the historical legacy of Crown land and it gives an insight into why it is so important to the people of New South Wales.

This is the lens that we need to bring to bear on this bill. It has had a somewhat lengthy gestation period, having been initiated under the former Labor Government back in the 1989 Act. The 1989 legislation was the first time we brought the concept of triple bottom line into Crown land management, balancing the economic, social and environmental aspects within a broader concept of sustainability. Yet in many ways the 1989 piece of legislation was part of the incremental approach to Crown land legislation stretching back to the historic Robertson Land Act 1861. This bill is a departure from that. It is a paradigm shift in the management of Crown land in this State. It is the rewrite of some of the underlying principles in Crown land management. As such, it needs closer examination and in-depth scrutiny but time has not been afforded by this Government as it has sought to rush the bill through at the business end of a very busy sitting schedule in 2016.

As I said, the genesis of this bill goes back almost a decade. The Government has had five years to produce a draft. To seek to push this through without an exposure draft and without the opportunity for the community and a wide range of stakeholders to sit down and properly digest what it means is contemptuous of due parliamentary process. It is the Baird disease—the conviction that you are right until proven otherwise—which breeds hubris and arrogance, as the community now fully realises and resents. The Government would like to think this bill is the panacea for all of its problems with Crown lands. Unfortunately, that is not the case as most of the problems with Crown lands are not due to the 1989 Act or regulations but, rather, to the implementation and administration of them.

The problems lay with what the National Party has done to Crown lands since 2011. First it diced up public land management in New South Wales. The development corporations and the Office of Strategic Lands went to Planning to wither on the vine, State Property and Land and Property Information went to Finance, and poor old Crown Lands got stuck with Primary Industries. The Office of Primary Industries is good at many things but I do not think Crown land management is one of them. Then, as has occurred everywhere else in New South Wales, came the job cuts. Crown Lands lost almost 20 per cent of its staff. Those made redundant were joined by many disillusioned staff with many decades of Crown land management experience.

Job cuts were a key factor behind the Auditor-General's recent report into aspects of Crown land management, which was so scathing. The Auditor-General did not wring her hands over land assessment and was not in despair over the existence of trusts; she pointed to chronic problems in the basics of land management brought on by an under-investment in staff and resourcing in Crown lands. This is why the Opposition believes the real intent of this bill is to get rid of Crown land and its legislative framework. I personally believe this to be a long-term objective of some in Government. This bill establishes key provisions that one day, under a future Minister in a future government, may be put to a devastating use. And this is a significant consideration for members. This bill will give the Minister of the day substantial power. I will address those aspects later.

The Crown Lands Management Bill 2016 consolidates into one Act the statutory provisions dealing with the ownership, use and management of Crown land in New South Wales. It reframes many of the legislative underpinnings of Crown land management and will repeal a number of Acts, including the Commons Management Act, the School of Arts legislation, the Hay and Wentworth irrigation Acts and the Western Lands Act. While there are some positives within the bill, the Opposition believes the risks far outweigh the advantages. As I said, the problems in Crown land is not with legislation. The Minister can be vainglorious and talk up this bill but the hidden snares and the contemptuous lack of community consultation on the bill, particularly the inability of this House to have a closer look at the bill, prove it impossible to support the bill.

As I said before, this bill is the product of years of effort from within the department, a series of reviews, community consultation and even a parliamentary inquiry chaired by the Hon. Paul Green. There now seems to be undue haste from the Government to have this bill pass through the Parliament in the remaining few sitting days. We have been advised by Parliamentary Counsel that there is insufficient time to prepare some of the

amendments we sought because of the complex nature of the bill and the complex nature of the amendments required. Parliamentary Counsel needs additional resources. They are essential to our work. They do a wonderful job but they need resourcing to do their job. Job cuts under the Baird Government are having massive impacts in the way the government and public service operate. There are significant failings within the bill. There are internal inconsistencies that reflect eleventh hour changes made to the bill, possibly to try to accommodate the parliamentary inquiry into Crown lands recommendations, which, we all must remember, was tabled the day the Minister gave notice to introduce this bill.

In my view, the result is rushed and sloppy, and a betrayal of the amount of work that has gone into the bill over the past several years. As such, the Opposition will seek to defer the bill and send it off to a committee for a focused review. We need the collective wisdom of this House to go through the bill line number by line number to ensure that this piece of legislation is acceptable and practical and guarantees long-established principles of public land management that the people of New South Wales expect and want.

I now turn to specific concerns and objections that the Opposition has with the bill. If the bill is not referred to a committee, the Opposition will move a series of amendments to attempt to sort the arsenic from the sugar. Stakeholders have broadly criticised the vagaries of the objects of the bill. It recognises the relationship with the first peoples of the land, which is to be applauded. In other parts of the bill it is watered down. The department seems to be at pains to place the objects of Crown land management anywhere else except in the Crown Land Management Act. The Opposition will move an amendment to strengthen the objects, including a reference to environmentally sustainable principles, which should underpin Government decision-making in the twenty-first century.

The bill wrongly removes the principles of Crown land management, which were enshrined in the 1989 Act. At that time the inclusion of those principles was advanced thinking. We should acknowledge and commend the National Party Minister at the time, the Hon. Ian Causley, who kept those principles in the Act. Section 11 of the Crown Lands Act 1989 sets out those principles immediately after the objects of the Act. The principles for the management of Crown land act as the bedrock for the Minister and, indeed, the entire department in framing the decision-making for the allocation and use of Crown land in New South Wales. All decisions must be drawn back to the principles, which reflect sustainability and the triple bottom line outcomes that should be the goal of Crown land management. It reflects poorly on this Government that it chose to remove those principles in the first place. The Opposition will move an amendment to reinstate the principles of Crown land management in this bill.

The Opposition is similarly concerned that the opportunity was not taken to embed a definition of public interest in the new bill. At the very least, I seek from the Minister in his reply speech an explanation of what he considers to be "in the public interest". This, I am sure, will be the basis of a lengthy court case in the future and some instruction from the Minister may well prove useful. Serving the broader public interest and balancing competing needs around the allocation and use of Crown land is the ongoing challenge of Crown Lands so it would be beneficial to have a definition of what is public interest. Again, a committee should be looking at this aspect of the bill. It is another reason that the bill should be deferred to allow proper scrutiny and consideration of the issues at stake.

Concerns have been conveyed about an attempt to sneak in more retrospectivity concerning the Minister's powers to grant secondary interest over dedicated or reserved land. Section 2.19 of division 2.5 replicates the provisions introduced by the Government in the Crown Lands Amendment (Multiple Land Use) Act 2013. Many members will recall the dreadful attempts of this Government to ride roughshod over the longstanding rights of the first peoples of New South Wales, which stem from the Aboriginal Land Rights Act 1983. Arising from the Goomallee decision of the New South Wales Court of Appeal, the Government first sought to whip up a scare campaign over land claims and then it sought broad retrospective powers to limit the standing of land claims in the system.

Non-government members came together to condemn those actions, which I have no doubt contributed in no small way to the removal of the former Minister and a particularly noxious bill that he sought to ram through Parliament and, secondly, through clauses in the savings and transitional provisions of the Crown Lands Act, which protected land claims lodged prior to 9 November 2012—the date of the Goomallee decision—with respect to the Minister's ability to retrospectively validate secondary interests.

Again, the Government has sought to quietly remove those protections in the bill and I wonder if the Minister is aware of what has happened. In this and other parts of the bill, we see an attempt to diminish the impact of the Aboriginal Land Rights Act with respect to Crown land. This should be strongly opposed by this House and the Opposition will seek to move amendments to retain provisions to protect Aboriginal land rights against the broad retrospective powers of the Minister.

The Government has sought to justify its move to no longer vest dedicated or reserved Crown land to reserve trusts as reducing red tape. Practitioners of Crown land tell me it is nonsense and that it will cause confusion and alarm in some sections of the community which accept and like the management of dedicated land or land reserved from sale under the trust management system. Indeed some may see it is symbolic that, without any rationale, this Government is seeking to remove the concept of trust from Crown land management. There is no clear explanation from the Government why it has chosen to go down this path. The Opposition wants to reinstate the existing provisions of the Crown Lands Act where Crown land is reserved or dedicated for a public purpose, a trust named and established, and a reserve trust manager appointed to manage the affairs of the reserve or dedication. I am advised there is insufficient time for amendments to be made in this regard. It is something that a committee should assess.

I now move to addressing several aspects of the bill that impact the relationship between councils and Crown land management in New South Wales. I will first address the attempt to move the management of Crown reserves and dedication by councils to the provisions of the Local Government Act. Parliament must tread carefully when there is an attempt to move responsibility from one Act to another and from one Minister to another. The Opposition is particularly cautious when we know the Government wants to fundamentally change the operations of the Local Government Act 1993. Parliament needs to be alert to these pea and thimble tricks, and there are quite a few of them in this bill.

While the Opposition supports the assessment of Crown land as State and locally significant land, it does not support allowing councils to manage Crown land under the provisions of the Local Government Act. In effect that moves Crown land administration not just to the Minister for Local Government but possibly in some circumstances to the Minister for Planning. Labor believes the community expects that the Minister responsible for the Crown Land Management Act should be the ultimate authority on the management of Crown land and the principles that underpin it. While on the surface there may seem to be good arguments for allowing councils to manage Crown land under the Local Government Act, there are serious questions. We all need to be satisfied that adequate checks and balances are in place. The Minister for Local Government is not in that position for their land management skills and the Government has cut the Office of Local Government to shreds. The House must satisfy itself that the Office of Local Government is able to provide the expertise and resources needed to assist the Minister for Local Government in overseeing the management of Crown reserves by local government.

Further, the Local Government Act only requires the Minister for Local Government to approve leases longer than 21 years. The management of significant Crown reserves will be left entirely with councils without the input of a statewide perspective from the Minister for Lands and Water. Confusion will be brought about by this change, which could lead to situations where the Minister for Local Government and the Minister for Lands and Water disagree over the management of a reserve or parcel of land by a council. This bill is unclear as to which Minister would be the ultimate decision-maker in these circumstances. I again ask the Minister to tidy this up in his reply.

Labor believes this bill is more about the Government seeking to wash its hands of responsibility over much Crown land in the State even when it is designated to have statewide significance. Labor will seek to remove that section of the bill and reinsert existing provisions that allow the Minister to grant powers to councils to manage Crown reserves without necessarily seeking ministerial consent on all occasions. The Minister for Lands and Water would always have reserve powers to revoke this liberty and thus ensure oversight if there is community concern. We believe this can remove duplication without directly bringing another Minister and another Act into the management of Crown lands in New South Wales.

I now turn to plans of management made under this bill in division 3.6. The Opposition supports the preparation and adoption of these plans of management as central to transparent and strategic use of Crown lands, particularly in situations of high and often competing use. This has the potential to be a strong element of the bill. Labor used plans of management in government and sought to engage the community through statutory processes. In contrast, this Government has resiled from the concept of plans of management, has actively dissuaded councils from preparing them and refuses to adopt many of them, leaving them in limbo with no statutory force. We need only read the report and accompanying transcripts of the General Purpose Standing Committee No. 6 inquiry to see community views about this. It is of little surprise then that the bill removes much of the prescriptive measures from the existing provisions of the Crown Lands Act 1989 and seeks to hide processes and decisions within the nebulous and ultimately powerless community engagement strategy.

The Opposition will be moving several amendments in relation to division 3.6 dealing with plans of management largely to reinsert some statutory weight behind the preparing, advertising and adoption of plans of management. We will be moving to mirror the statutory advertising and submission periods as contained within the Local Government Act 1993, making it clear that the Minister must consider all submissions as well as generally tidying up some of the inconsistencies in the wording used around new section 3.35 dealing with

community engagement of draft plans and section 3.36 regarding adoption of the plan of management. Finally on plans of management, I ask the Minister to advise the House how current endorsed plans of management will be carried forward until the new plans of management are endorsed under this bill. Are the savings and transitional clauses sufficient to protect the existing plans of management in New South Wales?

The current Act allows for the vesting of Crown land with local government. As I have said, the Opposition supports vesting of land deemed of local significance with councils assuming the council wishes to accept the land. Yet there remains concern over the future of these vested lands. Currently, any land vested with council is vested as community land. This is an important principle that provides safeguards for land gifted to councils. The community is screaming out for an assurance that this will continue. People do not want it to be easier to sell their Crown land.

This bill gives the Minister discretionary powers to vest Crown land as operational land, and we do not support this. Land used for depots and other operational matters can still be used by councils, yet it should remain Crown land, reserved for the appropriate public purpose. The Opposition is also concerned about any attempt by this Government to blur the lines between community and operational land, as seems to be the intention of legislative reform that puts a glint in the eye of the Minister for Local Government. As a result, the Opposition will be moving amendments to require that any council wishing to convert any land to operational will trigger provisions requiring that such land be given back to the Crown at nil compensation. In a similar way, we need to legislate to provide not just for the vesting of Crown land to local governments as local land, but also to provide for the State to accept former local land back as State significant land if deemed appropriate at some stage in the future.

For example, a small park in Crookwell may seem locally significant now, but when the Leader of the Government in this place eventually leaves the House—perhaps that park was an important part of his childhood—the council make decide to rename the park the Duncan Gay Reserve. There may be overwhelming sentiment across the State to move this back to the State as State significant land. This bill should be flexible enough to accord to changing times and sentiments. The Opposition will be moving amendments to allow land vested to local councils to be gifted back to the State at nil compensation should the Minister deem it appropriate, having undertaken consultation with the community. I now turn to what the Opposition sees as the most disturbing aspect of the bill—namely, the new provision in the bill, division 4.3, allowing the vesting of Crown land in other Government agencies. I think it is appropriate to quote the proposed wording of the relevant section of this division. This division applies to:

- (a) a Minister, or an agency of the State, with express power under an Act to hold land in the exercise of the Minister's or agency's functions, including:
 - (i) a State owned corporation, and
 - (ii) any other statutory corporation prescribed (or of a kind prescribed) by the regulations,
- (b) an agency of the Commonwealth capable of holding property in its own name.

It allows the Minister to vest Crown land in a Government agency if:

- (a) the Minister is satisfied that:
 - (i) it is in the public interest to vest the land in the agency, or
 - (ii) the agency would, because of the functions that are conferred or imposed on the agency, be an appropriate owner and manager of the land ...

Let us unpack the intention, or otherwise, of this division. Essentially, it could facilitate the transfer of every parcel of Crown land to another Government agency in one fell swoop—a mere notification in the Friday Government Gazette would give effect to the mass transfer of all Crown land not under land claim to a number of existing or new entities. This division has the potential to empty the Crown land estate of most holdings, and enable public land to be managed under provisions less transparent or onerous than the Crown Lands Act. This is why we are concerned about the administration of this Act by the Minister of the day. Pesky checks and balances will not get in the way. I think this is the red tape that stifles the implementation of the Government's vision—a vision to sell, sell, sell.

In many ways, this division gives cause to why this bill could be referred to as the "End of Crown Lands Bill". That is the effect of vesting. It provides the recipient an estate in fee simple. The land ceases to be Crown land. Any dedication or reservations are revoked and the new owner released from all conditions, trusts and any proviso in the original Crown grant. It would enable this Government—not known for its transparency in the first place—to package up discrete parcels of land and move them to agencies such as State property, Urban Growth, and development corporations or, potentially, a new statutory corporation—Lands Incorporated.

The Opposition is also concerned that the Government is trying to exclude certain dealings from community engagement. I note that one of its glossy brochures includes "considerations and exclusions". This section states that community engagement strategies are not required on decisions involving "transfers to Government agencies". This is the escape clause when it comes to vesting land in other Government agencies. There will be no consultation and no notification—just a simple, easy transfer of Crown land to elsewhere in Government.

On vesting, the land ceases to be Crown land. The protections of the Crown lands legislation no longer apply. It is pure freehold land that the relevant Minister can use according to his or her own legislative framework. What will be lost are the triple bottom line considerations, the consultation and the public oversight of public land. You can easily see the Government setting up a corporation with similar powers to the Sydney Motorway Corporation—a private entity outside the Government Information (Public Access) [GIPA] Act and outside public scrutiny. This is what we fear when we talk of the privatisation of Crown land enabled by this legislation. To get to the thinking of the Government I remind the House of the sentiments expressed by a member of this House—a former Minister for Finance, the Hon. Greg Pearce, who advised the departmental Secretary in a recent budget estimates hearing in relation to Crown land debts:

... if you can get that business cleaned up and sorted out it might well be something that we can add to our asset recycling scheme and sell.

The Hon. Greg Pearce: And I'm glad you were listening.

The Hon. MICK VEITCH: I was listening. Perhaps the most insidious impact of this legislation is the way it could be used to thwart the spirit and operations of the Aboriginal Lands Right Act 1983. The legislation itself betrays this. Section 4.12 (b) states that land cannot be vested if it is under claim. For that to occur it needs the written consent of the local or NSW Aboriginal land councils. For any other land, no notification, no consultation; it could be vested to another part of government—no longer Crown land, no long claimable. What is all the more disturbing is that the Government did not even flag this division—perhaps the most radical section of the bill—in the explanatory note. I ask the Minister why that is so. I think the Committee requires an explanation as to why the explanatory note to the bill did not contain that particular division that is in the bill.

We are simply being told to trust the Government on the community engagement strategy regarding these expansive powers. This is why the Law Society has raised concerns over this division, stating that there are limited constraints, insufficient safeguards and no ongoing oversight. The Opposition cannot accept a "just trust me" approach, particularly when in the bill the Minister does not have to be satisfied any vesting is in the public interest, only that the agency or corporation can hold land. This is scandalous, it is sloppy and it undermines the integrity of legislation in providing built-in checks and balances. Checks and balances are not red tape. For these reasons the Opposition will be seeking to strike out division 4.3 as a provision that goes against the interest of the transparent management of Crown land and against the spirit and workings of the Aboriginal Land Rights Act. If we cannot throw out the division we will be moving amendments to insert statutory notification and consultation into any vesting to another agency, statutory corporation or the Commonwealth, and to ensure that the Minister must consider public interest in such dealings.

To provide further checks and balances before vestings occur and to understand what we are taking out of the Crown land estates, the Opposition will move amendments to require an assessment of land as to its environmental, social and cultural value. We do not want to inadvertently dispose of land in the future that should be retained and managed by the State because it is significant to the State. An equally concerning provision in the bill is the loose fashion in which the Minister can deal with Crown land generally. Historically, the Minister has been subject to a number of checks and balances when it comes to certain dealings. For example, under the current Act, the Minister must give notice if he or she wishes to sell or lease a parcel of Crown land. Under this bill, division 5.2 states that, subject to the Act, the Minister can do anything with Crown land that a registered proprietor can do.

There are significant issues with removing statutory notification provisions in the Act: its impact on the transparent dealing in Crown land and subverting the operations of the Aboriginal Land Rights Act 1983. Again, the Government hangs its transparency provision on the community engagement strategy, which grants huge discretionary powers to the Minister in terms of what engagement is carried out and how it is undertaken, as well as a convenient get-out-of-jail-free card that legitimises any act that contravenes a community engagement strategy. By the way, this is a community engagement strategy we have not seen. We do not know what it contains.

Under this bill not only could a future Minister vest land with another government agency but he or she could technically sell to any party without any specific provisions to notify or consult the public. This is too broad a power with too many vague protections to be allowed to pass this House. The Opposition will be moving amendments to restore statutory notification requirements should the Minister seek to sell or lease land for a period

of more than five years, as currently exists in the Crown Lands Act—which brings me to the next concern: the vagaries of the Government's much-touted community engagement strategy. I have spoken of the exceptions already, but I need to address section 5.8 of division 5.3. This section has a nice get-out-of-jail-free clause which states:

... any compliance with a requirement of the community engagement strategy does not affect the validity of a dealing or other action affecting Crown Land use to which it applies unless the strategy provides that compliance with the requirement is mandatory for the purposes of this section.

Did not advertise an intention to sell? No problem. Did not consult with the community over a plan of management that has been adopted? No issue. This is too loose a protection, and too much wriggle room is given to the broad powers granted to the Minister of the day. There should be no opt-in compliance measure; it must be mandatory that any dealing must follow the engagement strategy. Labor will move amendments to that end. Another pea-and-thimble trick in this bill is the conversion of Western Lands Leases to freehold. The Western Lands Act 1901 was a visionary piece of legislation that sought to protect the fragile landscape of the Western Division.

Most land in the Western Division is Crown land that is held under lease and subject to a range of restrictions that are designed to protect this unique landscape. Historically, some leases could be converted to freehold for use as urban blocks, land required for urban expansion, and rural land that is used predominantly for residential, business, industrial or community purposes. The Opposition has no problem with that; we should be supportive of farmers who wish to install solar or other such infrastructure to assist in the operation of the properties. Yet this bill introduces more types of leases and more classes of leaseholds that can be considered for freeholding—namely, land with soil types that fall within classes 1 to 6 of the Land and Soil Capability Assessment Scheme of the Office of Environment and Heritage [OEH].

Some of the land being contemplated by this House is, according to assessment by the OEH, under severe to very severe restrictions on productive capability. Yet even the science is uncertain. When we consider the mapping that has been done by OEH, the agency notes that the reliability of the mapping is poor. If we could be guaranteed a robust statewide legislative framework for native vegetation protection, then selective conversion could be entertained. Yet here we sit, awaiting the biodiversity conservation bill—of which notice was given today—that we know will weaken protection for native vegetation across the State and that could have particularly severe impacts on parts of the fragile landscape of the Western Division. Furthermore, the conversion will realise only approximately 3 per cent of the market value of the leases since the remaining government equity is low and considering that leases are bought and sold close to freehold value.

This Government wants to consider conversion that includes some of the most fragile landscapes in New South Wales, lacks scientific rigour in terms of mapping vegetation, intends to replace overarching legislative protection of native vegetation with weaker laws, and will not raise much revenue, if any. For those reasons, the Opposition will move amendments to restrict the types of leases that can be considered for conversion to freehold in the Western Division. Information around Crown land is vital. The public has a right to know the restrictions and dealings involving Crown land. The Government's privatisation of the Land and Property Information agency has called into question the reliability of titling information. That is why this House must ensure that the Minister must report dealings and any changes to the status of Crown land to the Registrar General, who must then update the land register. The Opposition notes several inconsistencies throughout the bill in provisions that deal with the reporting requirements of the Minister and the Registrar General in respect of Crown land. The Opposition will move amendments in Committee to ensure that reporting and amendments to the State's land register are mandatory.

While the Opposition supports a rationalisation of various Acts into one new Act, it is concerned with the treatment of commons and the repeal of the Commons Management Act 1989. I have met with a number of people who do not wish to lose their historical rights and ways of dealing with this unique category of public land, such as members of the St Albans Common with whom I met last week. I thank them for their detailed briefing and for the passionate plea they made for protecting the way in which they manage their common. The Opposition has seen no real case made for repeal of the Acts and will seek to retain the rights of commoners either in the new Act or under the existing Act. The Opposition does not oppose the concept of the 10-year strategic plan but questions whether subregional plans would be a better use of diminishing resources under this Government.

The problem with this Government is implementation. Members of this Government are masters of glossy brochures but are not so good at putting ideas into practice. The Opposition will move amendments to require the Minister to report annually to Parliament on the progress and implementation of the strategic plan. When it comes to Crown land, parliamentary reporting and scrutiny are essential. Another concern entails the role and nature of Crown land commissioners. The Opposition supports the establishment of those positions and believes it will help to address conflicts in the use and allocation of Crown land as well as assist in producing transparency of decisions around Crown land. This is an outstanding recommendation of the inquiry undertaken

by General Purpose Standing Committee No. 6, chaired by the Hon. Paul Green. The Opposition will move amendments to establish the role of commissioner as a permanent position and ensure that an annual report to Parliament is provided on the management of Crown land in New South Wales and any other matter of public interest regarding the management of Crown land.

The Opposition also believes the role of a commissioner would be made more effective if he or she was assisted by a State land board whose members could be appointed by the Minister to assist a commissioner with inquiries, appeals and reviews. The Opposition believes such roles could assist the Minister in making appropriate decisions on the use and allocation of Crown land and would afford the public a relatively low-cost mechanism for examining decisions and processes around Crown land. The Opposition's final concern is an omission. Considering all the work that has gone into introducing this bill, why has the Government not taken the opportunity to rename Crown land as State land? On most titles, Crown land is identified as being held by the State of New South Wales.

The bill presents an opportunity to update the terminology and address the wrongs of the past and the fact that New South Wales no longer needs to refer to ownership or vesting of land in the Crown. That is why we will move an amendment in Committee to allow Crown land also to be referred to as State land—as land owned by the people of New South Wales and managed on their behalf by the State. On another point of clarification, the Opposition seeks the advice of the Minister in relation to bringing in dedicated lands as Crown land, particularly the status of dedicated lands and whether they are rateable lands. I am aware of some dedicated lands that are not Crown land and may be eligible for rates. I seek the advice of the Minister as to whether the potential rating implications of dedicated lands has been considered. I also seek clarification regarding a list of former dedicated lands that will now be brought under the auspices of this bill.

Here we are, at the end of 2016, and the Government is seeking to push this legislation through without adequate time for scrutiny by the community, parliamentarians or stakeholders. It is perhaps a fitting conclusion to a process that has been botched, undermined and ultimately mishandled. The timing and process around this bill is contemptuous of the Parliament and of the public servants who have spent so long bringing this bill to the House. It is contemptuous of the people of New South Wales on behalf of whom the Department of Crown Lands manages the Crown lands estate. On those grounds, and because the Opposition, the crossbench, the community, local government and all local Aboriginal land councils have not been given time to consider the impact of this bill—unintended consequences or otherwise—Labor cannot support the Crown Land Management Bill 2016. I move:

That the question be amended by omitting "be now read a second time" and inserting instead "be referred to General Purpose Standing Committee No. 6 for inquiry and report by the first sitting day in February 2017".

The Hon. COURTNEY HOUSSOS (21:06): I make a brief contribution to debate on the Crown Land Management Bill 2016 and speak particularly in support of the amendments that the Opposition has foreshadowed. The Crown Land Management Bill 2016 will consolidate a number of pieces of legislation governing Crown land, including the Crown Land Act 1989, the Commons Management Act 1989, the Trustees of Schools of Arts Enabling Act 1902 and the Western Lands Act 1901. Crown land, as the shadow Minister has noted, accounts for more than half the land in New South Wales and can include land held under lease, licence or permit; lands retained for public ownership for environmental purposes; lands within the Crown Lands public road network; and other unallocated lands.

I pay special tribute to the shadow Minister for the extensive work that he has done to make sure that the community has been consulted on this issue and to ensure that practical and considered amendments are made to the bill. There is no doubt that we are dealing with something historic tonight. The phrase used by the shadow Minister, "from the cradle to the grave", is an apt one. Australian history shows that Crown lands date from settlement—or invasion; however we phrase it. Governor Phillip in 1791 and later Governor Macquarie were issuing free grants of land on behalf of the Crown. The purpose of those grants was to encourage and advance settlement of the State. The State's first Crown Land Act was passed in 1884 and there was another iteration in 1913. Those Acts led to the Crown Land Act 1989 that provides for the management of Crown land today. That Act followed increasing community requirements for improved consultation, more appropriate principles for Crown land management and a more streamlined tenure system.

There is no doubt that tonight we are dealing with incredibly complex legislation that is the most significant rewriting of Crown lands legislation in many decades, if not in over a century. But this Government has sought to rush it through Parliament during the final sitting. Thankfully, it held off but a fortnight is hardly long enough to consult with the community about such significant and long-lasting changes. As I noted earlier, some of the Acts that we are amending tonight have been in place for more than 100 years.

The particular concern that I wanted to raise about the Act was the vesting of land with other agencies, statutory bodies or the Commonwealth with simply the flick of a ministerial pen. Given that the Auditor-General report released on 8 September this year found that the management of sale and lease of Crown land is not effective because the decision-making process is inadequate and community involvement is limited, this bill, instead of seeking to address those concerns, goes the other way and removes the requirement for consultation entirely. The Auditor-General went on to say that the department does not provide consistent opportunities for people to understand or have a say in decisions about the sale and lease of Crown land. As the shadow Minister noted, once the land is gone, it is gone—once it is sold there is no way to get it back. As the Auditor-General report identified, 97 per cent of leases and 50 per cent of sales over the past four years, under this Government, were hidden from public scrutiny and negotiated directly—these statistics hardly build community confidence by simply passing this responsibility over to the Minister.

The Baird-Grant Government approach to the sale and lease of Crown land shows a culture of avoiding public scrutiny of decisions being made by this Government. Indeed, the Government's approach to community consultation seems to be simply ticking off notifications, rather than genuine engagement with communities themselves. I draw to the attention of the House something that we have discussed and on which the shadow Minister has spoken at length, and that is the Port Macquarie Plaza car park. This car park is on a prime piece of foreshore real estate, which is Crown land, within Port Macquarie. What did this Government try to do with this piece of land over the past 12 months? It tried to sell off this land in a secret deal, negotiating directly with Woolworths, and ram through the deal. This resulted in 12,623 locals signing a petition opposing the sale of the plaza car park.

The Hon. Niall Blair: And did it go ahead?

The Hon. COURTNEY HOUSSOS: It did not go ahead as a result of the community campaign.

The Hon. Niall Blair: It had nothing to do with us making a decision?

The Hon. Penny Sharpe: Point of order: It is completely out of order for the Minister at the table to be shouting at the member with the call in this debate, or interrupting the member, or interjecting.

DEPUTY PRESIDENT (The Hon. Shayne Mallard): I did not observe the Minister doing that, but I make the point that there was a lot of noise in the Chamber at the time. However, the member is entitled to be heard in silence, and that applies to all members of the Chamber.

The Hon. COURTNEY HOUSSOS: I pay tribute to the community leaders, in particular Kristy Quill, who led the local campaign by raising awareness of the issue. This process was cloaked in secrecy as the Government tried to ram through the sale of this prime foreshore real estate to a private company in order for the company to develop it. Indeed, the mayor of Port Macquarie-Hastings Council, Peter Besseling, accused the Government of misrepresenting the council's position to reach an agreement. He said:

The Chamber of Commerce are against it, Council are against it—the community wants to see that land developed into the longer term benefit for the community.

I congratulate local community members on the campaign they ran and on forcing this Government to capitulate and allow that prime foreshore real estate to remain as Crown land in perpetuity for community use into the future. Labor will be moving a large number of amendments to try to improve this bill. I particularly support the idea of changing the antiquated name of "Crown land" to "State land". This is clearly a very practical and modernising approach, and the Government should have no problem in adopting it.

This highly complex area requires community consultation. It is not appropriate for detailed and complex legislation to be rushed through the House at 9.15 p.m. I call on the House to refer the bill to a committee for further consultation or to delay debate until 2017 to allow further community consultation.

Mr DAVID SHOEBRIDGE (21:14): Two years ago a little girl at St Albans wrote:

Dear your Majesty, happy birthday. I hope you had a good one. But there is another reason why I write to you. You see St Albans, NSW, Australia, our common was given to us by Queen Victoria. It is rightly owned by the people but now the council want to take it for money. If you can't help us that is okay but please pray. Thank you very much.

That shows just how passionate people are about commons such as St Albans and about public land in New South Wales. Reserve lands are for the benefit of all. I note that Her Majesty responded on 1 July 2014 and referred this issue to the Governor-General. This young St Albans commoner wrote to the Governor-General and said:

Dear Mr Governor-General, I am writing to you because I was wondering if you received the letter I wrote to the Queen about our common in St Albans. My name is [X] and I am very worried about our common. The Queen said I should write to you and that you could help. I have copied the letter I got from the Queen for you. Please help.

A drawing is included. The Governor-General wrote and explained that it was not his job to help. Whose job is it to help? It is the job of members of this House to stand together and to protect the commons and public lands that represent 42 per cent of New South Wales. They include pristine patches of environmentally sensitive lands on the coast, caravan parks on the coast that are accessible to the public even if they are not multimillionaires, State forests, recreational reserves in western New South Wales and the vast bulk of the Western Division of this State that is set aside as leased grazing land.

Crown land, whether Hyde Park in the centre of the city, Stuart Park in Wollongong, King Edward Park in Newcastle, Paddington Bowling Club or the Talus Trust in Willoughby, is a precious and increasingly scarce public asset. Any reform to Crown lands must have one primary goal—to serve and protect for the public benefit through principles of ecologically sustainable development. It is a precious public asset. What does the Crown Land Management Bill do? Current provisions in the Crown Lands Act are good but often they are honoured in the breach. Proof of that can be found in the Auditor-General's report which found that 98 per cent of leases issued in the past few years by the department were issued following closed door one-on-one negotiations with a private provider.

It was a closed door private negotiation, with the public none the wiser. Half the land sales followed exactly the same process. What public protection exists at the moment? The Minister will say the only protection is a 28-day notice in the *Government Gazette*. Other than that the Minister can do as he likes with Crown land. That is not a good state of play. The Minister said that the way community consultation is prioritised concerning Crown land in New South Wales must change. The Minister is correct. The bill implements some change. The Greens believe there are not enough teeth in the community consultation provisions but I acknowledge that it is a step forward from the present gazettal process.

Of course, there is a whole lot of devil in the detail of this bill. In fact, there are 208 pages of detail, and a few high points on community consultation do not save it for The Greens. If we could guarantee that we would always have a good lands Minister in New South Wales, perhaps we could say that the imperfections in the bill were acceptable. But we have had a bunch of rotten lands Ministers in this State over just the past decade. I would not have left my wallet on the table of the Legislative Council, let alone have granted them unlimited powers.

The Hon. Niall Blair: Test me.

Mr DAVID SHOEBRIDGE: I will keep it in my pocket. We would not have granted them unlimited power over the sale, transfer, and permanent loss of public land. We do not make a bill for a good Minister, we make it for a rotten Minister, because we are in New South Wales and we know that they go but that they also come back. We need robust bills that contain integrity measures so that the public interest in our environment is protected notwithstanding a bad Minister in office. That is the truth in New South Wales. What are some of the real problems in this bill? First, it undermines a key principle, that is, the Rutledge principle, which has been established for the better part of half a decade in New South Wales. It states that when land is set aside for a public purpose it needs to be used for that public purpose. It should not be used for a private purpose, whether it be a function centre or a casino, to overwhelm it and to take it over.

This bill derogates from that; it removes much of the principle of Rutledge from our law. As a result, we will be much the poorer if we allow the bill to be passed without amendment. The Greens have a series of amendments that would reinstate the Rutledge principle. We will not oppose the second reading of this bill because we think it can be amended in Committee. However, if we do not see the amendments, if we do not have Rutledge reinstated, if the environment is not protected, and if we do not have land that is transferred to local councils protected from future sales without further checks and balances, The Greens cannot support the third reading. The Greens have had ongoing negotiations and discussions with the Government and with other members. We know that the Christian Democratic Party has a series of amendments that it will present soon. We have engaged in this process in good faith. I will be frank and say that I think the Government has done likewise over the past couple of weeks.

However, we have not had enough time to examine the 208 pages of this bill, nor has the community had enough time to consider it. I am sure that there are many problems in the bill that have not been found despite our having examined it as best we can over the past two weeks. Problems will also become apparent over the next six to 12 months. The Greens are asking the Minister to defer debate on the proposed amendments to this bill until next year. What will happen between now and February? My understanding is that almost nothing will happen because the department will not be in a position to implement the bill. It has effectively said that it will not be gazetting it for 12 months. There is nothing to be gained from rushing through this legislation, other than allowing some big holes to be missed by the Legislature. That is why The Greens support the deferral of the Committee stage of this bill.

We are not playing silly buggers with the Government or trying to prevent the passage of this legislation. We are making a good faith gesture to the Government and the other parties in this place in an attempt to get it right. I want to be clear about The Greens' concerns about local councils. This bill will effectively allow land to be identified as what the Minister calls "local land", and then for the Minister simply to transfer it to local councils with, as I read it, a set of criteria that may or may not be established under an order that may or may not be issued by the Minister in due course. Provided the local council agrees and there is no Aboriginal land claim, or, if there is, the land council agrees, it can be transferred to the local council, and that is it.

It exits the protections given to Crown land in New South Wales. It becomes entirely freehold land that is owned by the local council. Council can do what it likes with it. The Minister will say—and he is right—that only a small class of land will be handed over to councils as operational land. Land housing sewerage plants and waste facilities will be handed over as operational land, and the rest will be handed over as community land. Why is that distinction important? It is important because a council can sell operational land. It cannot sell community land. We should say, "That is okay. Potentially, vast tracts of land in New South Wales will be protected, even if handed over to councils, because most of that land will be transferred as community land, and while it is community land it cannot be sold by council. Rest assured, people of New South Wales, this large land transfer will not affect you because the land will be kept in public hands."

That is true up to a point. Any local council can commence an inquiry into any parcel of community land or a variety of parcels of community land. A council may have 10 parcels of community land. It can have a public inquiry. It can get someone to talk to the community about whether the land should be reclassified from community land to operational land and write a report on it. Let us pick somewhere at random, such as Wyong. Let us say that a future council in the Wyong area has that kind of public consultation. We know it has an agenda to sell the land it already owns as community land. If council has an inquiry, the community might round on it and say, "Do not reclassify these parks. You were given them by the State Government under this transfer. We love our parks. Do not dare to reclassify our parks as operational land and sell them off. We take our children there. We go walking there." Good councils will listen to that. They will say, "We have listened to the community. We will not reclassify the land. We will keep it as a park."

There is nothing in the Local Government Act 1993 to stop a council saying, "I do not agree with those submissions. We think they are a bunch of ratbags. Regardless of the submissions, we are going to reclassify the land as operational. We are going to sell it to developers." There goes the park; here comes a block of units. That is the truth. That is the prospect for large parts of Crown land that will be transferred to councils under the provisions of this bill. There are no further checks and balances. The land goes off to the council, and a good council will protect it but a bad council will not. This might surprise members in this Chamber, but New South Wales occasionally has bad councils. Has anyone been to Auburn recently? Has anyone seen the misery that has come from the rezoning of Canterbury? Has anyone had a look at councils behaving badly in New South Wales? I think there are some terrific councils in New South Wales. I would nominate my local council of Woollahra as a bloody good council. The City of Sydney is a great council. I love Cabonne Council. I used to love Tumbarumba Shire Council until the Government blew it up. There are some terrific councils around New South Wales, but there are some that one would not—

The Hon. Walt Secord: You did not mention Byron.

Mr DAVID SHOEBRIDGE: I note the interjection. I absolutely love Byron.

The Hon. Penny Sharpe: You did not mention Shellharbour.

Mr DAVID SHOEBRIDGE: I did not mention Shellharbour because there is Shoalhaven and Bellingen.

The Hon. Walt Secord: He did not mention those two councils.

DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! The Deputy Leader of the Opposition will come to order.

Mr DAVID SHOEBRIDGE: I take the Deputy Leader of the Opposition's point. I should mention those three terrific councils that are headed by directly elected Greens mayors. What a wonderful outcome that was: Byron, Bellingen and Shoalhaven. They are three fabulous councils. I love the Deputy Leader of the Opposition's acknowledgement of that. Our supporters, those who voted for The Greens on those councils, did so because they believe in checks and balances in government. They do not want to see large chunks of Crown land and public land handed over to any council without there being further constraint on the sale. The Greens have some amendments, which we will no doubt move sometime after midnight, that will put in place an arrangement that says once land is transferred to a local council then it cannot be reclassified as operational land without the consent of a Crown lands commissioner appointed under this bill.

We say that in doing that the Crown Lands Commissioner needs to look at the public interest—and that would be a check and balance. With that amendment in the bill we could support that kind of proposal for transfer to local councils. We would have some concerns but I acknowledge there would be some real benefit in transferring some land to local councils, but not so that the State Government can then walk away and divest itself of any responsibility. That is a recipe for disaster and exploitation.

I said earlier that this bill derogates from Rutledge. That is because one of the key principles that has been established in case after case, and most recently in the King Edward Park case, is that when land is set aside for a public purpose no land manager can then allow a private interest to take it over and steal the profits generated from that land. There can be occasions on which Crown land can be leased for a private purpose, provided it is satisfying the public purpose and the income that is generated is put back into the land to satisfy the public purpose for which it has been reserved.

One can give a trite example of Taronga Zoo. Taronga Zoo occupies a piece of public land which one must pay an entrance fee to get into, but a major public purpose is being satisfied there and the entrance fee is ploughed back into the zoo. This is not the time to have a Greens discussion about all the merits of the zoo, but there is an evident public purpose for the zoo and the money is reallocated to it. But what about a private function centre that squats on King Edward Park in Newcastle? That offends Rutledge. That was set aside by the Land and Environment Court as offending Rutledge but it is likely not to offend this bill. If someone is looking for a case study in why we cannot support the bill without amendment, there it is. It is not just that it is a function centre; it could be a casino, a block of flats or whatever development is approved. We need to retain and return those protections.

One of the key misses in this bill is the failure to put ecologically sustainable development up front. We do not want to reinvent the wheel on ecologically sustainable development. We want to adopt the definition that has been accepted now for two decades in this State. It is the subject of a number of cases and interpretations and picks up principles like intergenerational equity and the proportionality principle. Of course that should be a part of land management. We also believe that the Crown land management principles that exist in the current Act must be translated into this bill because they talk about some really important things such as protecting the public interest and protecting the environmental and social values of land. They would put some real content into the bill. Currently the bill is just a set of machinery provisions and does not inform Crown land managers about the kinds of principles they should be applying when they are looking at Crown land. So we say reinstate the Crown land management principles in this bill.

Finally, one of those environmental, social and economic assets that really is at peril with this legislation is travelling stock routes. Travelling stock routes in the west and the east of this State are not only vital for the economic interests of our agricultural sector in New South Wales; often, particularly in western New South Wales, those travelling stock routes are the last remaining vestiges of vegetation that used to cover vast flood lands. Those last remaining vestiges of vegetation are really linkages that run throughout western and eastern New South Wales—those little rivers of ecological density are extraordinary. What I find extraordinary is that there is no specific mention of them and no guaranteed protection of them in the bill. They are at risk. When that is added to the removal of the commons, the large scale risks to New South Wales of rushing this bill through without further investigation become clear.

There are things in the bill that are good—I acknowledge them—but there are so many risks in this bill. A good Minister will control it, but in the hands of a bad Minister this is a blueprint for sale, privatisation and private exploitation of the public estate of New South Wales, which is 42 per cent of New South Wales. That is why we cannot support it without substantial amendment. That is why I look forward to a pretty rugged exchange when we consider the bill in Committee. With those observations I will be interested to see how much of the public interest is protected by a majority of this House during the debate tonight.

The Hon. PENNY SHARPE (21:34): Here we are tonight after a review, a long consultation process, a parliamentary inquiry and many, many submissions that have wrestled with how to put in place the ideal system for the management of Crown lands in New South Wales. The Crown estate comprises 42 per cent of New South Wales and is made up of national parks, State forests and Crown land—approximately 34 million hectares of our State. Crown land is owned and managed by the State Government for the people of New South Wales and has an estimated value of \$11 billion. That may be the value in dollar terms but the contribution to the social, environmental and cultural wellbeing of New South Wales is not able to be quantified.

Crown land in our State includes parks, beaches, waterways and sportsgrounds. On this land sit local clubs, community halls, showgrounds, racecourses, holiday parks, golf courses, farms, access routes, grazing paddocks and stock routes. Crown land is the place where community is found and community is made. Crown lands are public lands and it is appropriate there has been this level of review, consultation and inquiry into how best to manage them. What is not appropriate is that after all of this work the bill is dumped into the Parliament

without the opportunity for Legislative Council to do its job and scrutinise the bill. It has also not given all of those trust holders, all of those people who are actively involved in the management of Crown lands, the opportunity to scrutinise it for themselves and to understand what it finally means.

I commend my colleague the Hon. Mick Veitch, who has worked assiduously through this bill while consulting with key stakeholders. The Hon. Mick Veitch has worked hard to get amendments drafted that will fulfil the recommendations of the parliamentary inquiry into Crown lands, but he is right when he called for a deferral of the bill to give all stakeholders a chance to examine the bill in detail before giving their consent. After five years there should be no haste. After five years of work one would hope that we can find consensus in this place about the ideal system that we want to establish to manage Crown lands in our State for we are the guardians of this land on behalf of the people of New South Wales.

This Government has shown itself to be looking for every opportunity to sell off public assets. It is a fundamental part of its ideology and it has been borne out by the sell-offs that have occurred and continue to occur across this State. There is so much of the fabric of New South Wales at stake, those of us on this side of the House cannot simply support a bill such as this without clear provisions in the bill that protect the public good, be that economic, cultural, social or environmental. This is what Labor will seek to achieve in this bill. We cannot and we will not support this bill in its current form. My colleague the Hon. Mick Veitch has gone through the detail of Labor's position in relation to this bill at length and I will not go through it again.

I want to bring into focus in this debate the importance of Crown lands to our environment and to our goals for sustainable management of land coupled with our need to preserve biodiversity. The most significant environmental impacts of this bill are better couched in terms of what the bill does not do and what the bill leaves out, rather than what the bill can actually contribute towards conserving the environmental values of public land. The management of Crown land is fundamental to the conservation and preservation of native ecosystems, habitat and threatened species. Crown land is a significant source of biodiversity protection in this State, not that that means very much to Government members because they are about to gut some of the most effective biodiversity protection laws in the nation. That is an issue for later this week, not tonight.

In parts of the State where land clearing has been extensive it is often Crown land and travelling stock routes that preserve precious communities and native vegetation and fauna, including threatened species, or provide otherwise unavailable linkages between protected areas. For urban areas, Crown land often contains important parcels of remnant vegetation. These are often the only substantial vegetation linkages within the urban environment because they have been Crown land for so long, and in some ways they have been left untouched relative to their surroundings. Of course, those opposite have proven themselves completely reckless when it comes to such linkages with the recent example of valuable and very rare critically endangered ironbark forests cleared for a temporary car park as part of WestConnex. This is an example where a specific plant community, of which precious little is left in the Sydney Basin, was destroyed without taking into consideration the diminishing of species within the urban context, let alone the obvious cost to biodiversity.

Crown land is the home for many environmentally significant areas. It encompasses just under 100,000 hectares of wetlands, including two Ramsar listed wetlands that provide habitat for at least 23 migratory bird species protected under international agreements. These include the Macquarie Marshes, the Gwydir wetlands and Lowbidgee floodplain. Of the 193 ecosystems that occur within Crown leases, 143 are endangered, vulnerable or poorly reserved. Crown lands also provide a habitat for at least 71 threatened plant species and 111 threatened fauna species. Many parts of the iconic Sydney Harbour foreshore reserves are also Crown reserves. These are not insignificant assets, however you choose to classify them.

In respect of past management practices, I remain concerned at the overwhelming focus on the economic management of the land as opposed to considering its environmental values. This was confirmed recently in the Auditor-General's report on Crown land. That report revealed that while the department administering Crown land has well defined indicators and targets for measuring economic and financial benefits, it does not have equivalent targets for social or environmental outcomes. I note that in the report the Auditor-General stated that the strategy for Crown land can be better balanced and that, currently, economic and financial outcomes are more prominent than social and environmental outcomes in the department's business plan.

This should not have been the case previously and it should not be the case in the future. However, the bill we have before us today will in fact worsen this state of affairs by stripping many of the current environmental protection provisions from the laws. The overtures of this Government about getting the balance right between social, economic and environmental factors was shown by that report to be nothing more than spin. We are now seeing its real intentions come to light with this bill. If I turn to the bill in detail, it becomes obvious that what we should really be worried about are the principles that have been left out of the new legislation.

The objects of the Crown Land Management Bill 2016 replace the objects of the current Crown Lands Act 1989. In the current laws, the objects specifically include provision for the management of Crown land, having regard to principles of Crown land management contained in this Act. The principles of Crown land management are within the current laws and they are important because they dictate the decision-making in relation to the management of Crown land. Currently, the principles of Crown land management are:

- (a) that environmental protection principles be observed in relation to the management administration of Crown land,
- (b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) can be conserved wherever possible,
- (c) the public use and enjoyment of appropriate Crown land be encouraged,
- (d) that, where appropriate, multiple use of Crown land be encouraged,
- (e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
- (f) that Crown land be occupied, used, sold, leased, licensed, or otherwise dealt with in the best interests of the State consistent with the above principles.

The two leading principles of Crown land management concern environmental protection and the conservation of natural resources. Those principles have been deleted in their entirety in this new bill. Immediately alarm bells should be ringing in this Chamber. How can such clear, unambiguous language about environmental protection and conservation be left out of the new bill? Has anything replaced it? The objects of the new bill present us with a form of words that include reference to the environment, which reads as follows:

... to require environmental, social, cultural heritage and economic considerations to be taken into account in decision-making about Crown land.

That is the extent of it. The situation is that we are to move away from applying tests that include environmental protection principles and the conservation of natural resources to the vague idea of environmental, social, cultural heritage and economic considerations. We know how well that has been going so far when we see the destruction of heritage all over this State, the loss of ecologically endangered communities and the failure at every turn to protect our biodiversity. It is not an acceptable level of detail for legislation that describes the management of 34 million hectares of public land. These changes represent stark and shocking omissions from the proposed laws.

It is made worse still because the recent Auditor-General's report chose to highlight the lack of environmental targets or performance measures in the current system of Crown land management in New South Wales. Yet we are presented with this bill and we find there is even less guidance on environmental considerations than in the current system. Overall, the references to the environmental conservation in this bill are cursory, at best. At worst, they no longer exist. It is another case study of the utter failure to listen by this Government and the active hostility within the Government to the environment, and need for protection and active consideration within our laws. Similarly with this bill, the objects of the current Western Lands Act 1901 makes specific provision for ensuring that:

... land in the Western Division is used in accordance with the principles of ecologically sustainable development ...

These principles are not only jargon. They comprise reportable principles such as intergenerational equity, the precautionary principle and the conservation of biological diversity and ecological integrity. Again, this has all been deleted from the new laws. This is important particularly for Western Division lands due to the fragility of the environment in that part of the State. Indeed, the Government's website identifies the important role of the current Western Lands Act in protecting this area of the State, saying:

The primary purpose of the Western Lands Act is to ensure the appropriate management of this fragile environment. By world standards, it is one of the oldest pieces of resource management legislation and demonstrates the environmental foresight of our early legislators.

"Environmental foresight" is sadly not a phrase anyone would associate with this Government. This bill seeks to encourage the conversion of Western Lands leases to freehold yet removes references to the principles of ecologically sustainable development in the consideration of these conversions. After looking at the Office of Environment and Heritage [OEH] land and soil capability assessment scheme mapping it is obvious that some of these leases will have soil capability limitations of severe to very severe. Many will not be compatible with cultivation. In addition, the OEH concedes that soil mapping data for the Western Division is of very poor quality in any case, so decisions to convert leases could be made under this legislation without really knowing how sensitive the local environment of each lease is.

To make matters worse for the environment in the Western Division, the bill notes that native vegetation legislation will govern the use of such land in consideration of any proposed cultivation when in fact the Government proposes to significantly erode the protections under that legislation through its biodiversity

conservation bill. So much previous Crown land management has been underpinned by the protections within the native vegetation legislation. As we know, that is set to go in the coming weeks. It is a truly bleak outlook. In fact, what we are witnessing is a tour de force of environmental vandalism by the Liberal Party and The Nationals. The question that must be asked in relation to what I have raised today is why? Why remove these safeguards for the protection and conservation of the environment and natural resources on Crown land unless the Government intends to avoid or contradict them? In his second reading speech, the Minister opined:

We have heard the community's voice calling for greater protection of environmental, cultural heritage and social values derived from the use of Crown land.

If that is true, the Minister must answer this question: Why are these matters not detailed in the bill? Why are we instead presented with a diluted, weakened version of the environmental protections in the current laws if the Government does not want to dilute and weaken the environment on public land? The Minister is likely to respond that the bill enables the Minister to create Crown land management rules, which may include environmental standards. That is another way of saying, "Trust me, I'll take care of this later." The Minister knows and we all know that this is not the purpose for which Parliament was created. It was never intended to be simply manipulated by the government of the day with significant details of State laws to be decided subsequently in regulation or codes. Unfortunately, that has been a feature of much of this Government's legislation.

It is simply unacceptable to give such wideranging discretionary powers to the Minister without parliamentary oversight and it is no replacement for the protections contained within the current laws. Unfortunately, there is more. Under the current laws and in recommendations from environment groups and the recent upper House inquiry into Crown land in New South Wales the Government was urged to undertake land assessments or land stocktakes and in doing so to consider the ecological value of the land. Indeed, in the Crown Lands Act assessment of the capabilities of land specifically includes environmental protection, nature conservation and water conservation among its purposes. But where is that in this bill? Nowhere. It has been deleted.

It is almost as if the Government went through the current laws looking for any specificity relating to conservation and ecological values and ensured that those provisions were erased from future considerations. The Minister will no doubt say that a stocktake is being undertaken and that these matters will be considered as part of the local land criteria he has promised. But we know this: The promised local land criteria are not in the bill. The bill provides for the Minister to simply publish in the *Government Gazette* his thoughts on what the criteria should be. Again, this is a complete gutting of the responsibilities of this Parliament in favour of handing the Minister the sole set of keys to environmental protection in vast tracts of land across the State. It is not good enough, and it is guaranteed to lead to worse outcomes for environmental conservation on public land.

Members opposite should be appalled at the way this bill concentrates such power in the hands of one Minister. Put simply, under this bill there are far fewer, less detailed and less binding requirements for decision-makers to protect or even consider the environmental values of Crown land. This makes it abundantly clear that the value placed on the environment has been moved drastically down the list of priorities for public land under the Baird Government. In no way does this bill listen to the community's concerns about the environment and in no way does this bill enhance the conservation of the environmental values of public land for generations into the future. This bill represented an opportunity for significant and visionary reforms in this area. It could have been a real legacy achievement. Sadly, this Minister and this Government have failed in that task.

I know that we will be considering deferral of the bill for further consideration. I urge members of the House to agree to that. While I am at the lectern and the Minister is at the table I raise one final issue: my concern about the bill being a Trojan horse for transferring land from places like Parramatta Park, Moore Park and Centennial Park to be vested in other entities to circumvent the current Acts that protect them from commercialisation or other uses. We have seen those sorts of things happen time and time again. I am sure that my colleague the Hon. Lynda Voltz will give some detailed examples. We cannot agree in any way, shape or form to those parks—

The Hon. Robert Brown: Throw Wentworth Park in there too, Penny.

The Hon. PENNY SHARPE: Wentworth Park is another example. The Opposition does not trust the Government on this matter. We know that the Minister for Sport has been running around promising indoor stadiums somewhere in the central business district. The only land around is parkland or Crown land. We want a guarantee from this Government that the bill is not a Trojan horse to enable the Government to flick land off to another entity so that it can be developed.

The Hon. ROBERT BROWN (21:50): This is a difficult piece of legislation for my party to put its position on. A number of speakers tonight have pointed to the fact that there has been a long process of public consultation, a public inquiry and a fairly long development period in drafting the Crown Land Management Bill

2016. Speakers have contrasted that with the fact that the bill is being rammed through Parliament. It is now 10 minutes to 10.00 p.m. and I guarantee that we will not be out of this place before midnight. Having listened to members' speeches and, taking out the requirement for Opposition and The Greens members to put forward their political positions, I find that there is almost an opportunity for a meeting of the minds. I heard Mr David Shoebridge's proposals and I have read some of the foreshadowed amendments. We have listened to the Hon. Paul Green and Reverend the Hon. Fred Nile outlining their positions, bearing in mind that the Hon. Paul Green headed the inquiry into Crown lands. So there is a lot of information on the table about options that the Government still has, even now.

So in my contribution I will put to the Minister a few points that encapsulate my nervousness and that of my party with respect to negotiations on the bill. I believe there will be plenty of opportunities to come very close to delivering a bill that may be workable. Not everybody will be happy; that is obvious from the floods of emails that we have received from members of the public. Let me get down to tin tacks. In my discussions with the Minister and his office it was pointed out to me that this is one of two bills. According to the Government, the second bill will be introduced sometime next year. I will not call it a cognate bill because that is not the correct term; I will call it a complementary bill. The Minister gave me a personal assurance privately—I will ask him to reiterate it in this House—that should the legislation get through tonight, in some form, amended or not, any problems that become apparent during the implementation phase will be addressed in the bill to be introduced later next year.

The second issue that I put on the table is the question of St Albans Common. I am sure the Minister has been informed that people in that area are not happy. I also understand that the Government is always cautious about excluding certain things from legislation and setting a precedent. But in this case I ask the Minister, in his reply and before we vote on the second reading motion and on the Hon. Mick Veitch's motion for a deferral, to explain exactly what the Minister proposes in relation to St Albans Common.

My constituents have issues. It seems to me that in this House the urban power elites always get plenty of play, but the moment someone mentions rifle ranges the reaction is, "Oh no, we cannot have those on our common." I inform the House that I have hunted hundreds of rabbits on commons all over the State. I have prospected and panned on commons all over the State as well.

The Hon. Mick Veitch: Successfully?

The Hon. ROBERT BROWN: I forget because I was very young at the time, but I have a few sapphires at home that testify to my success and I have shot plenty of rabbits. Members of the Shooters, Fishers and Farmers Party have made representations to various Ministers on behalf of fossickers, who have formed themselves into a peak body over the past couple of years on our suggestion, and they also have concerns about continued access to land. Concerns have also been expressed to me by the fishermen and fisher ladies I represent—I will refer to them as "fishers" because they do not like to be referred to as "anglers"—about the potential loss of access to bodies of water, such as streams, lakes and rivers, through empowerments that are currently being made through Crown land. I am not referring only to paper roads; I mean Crown land.

There is obviously concern about travelling stock routes, but the people who come to me for help, succour and advice are not those who are worried about ecological corridors throughout the country. They are worried about getting their stock from point A to point B, which is the primary purpose of travelling stock routes. I am not particularly concerned about deletion of ecologically sustainable development that has clear and very highly developed definitions for some horrible things such as the precautionary principle. The precautionary principle is a term that has been used since 1995 by the Labor Party and by The Greens to lock up land and marine reserves. It is as simple as that. The term "precautionary principle" is so misused that it should be struck from the *Macquarie Dictionary*.

I am in favour of this debate continuing to the Committee stage because, like Mr David Shoebridge, I believe it will be very entertaining. If we reach the Committee stage tonight, there may well be some room for the Government to ameliorate its position and perhaps even agree to a couple of amendments. I think that might be a good outcome. I would hate to walk out of this House tonight and still be worried about whether I have made the right decision. During this debate the Shooters, Fishers and Farmers Party has deferred to the Christian Democratic Party because the Hon. Paul Green, as a former mayor and councillor in local government, has considerable experience in Crown land matters.

The Shooters, Fishers and Farmers Party would like to support the Government if the Government will compromise, this legislation is passed and it is later implemented with a view to a supplementary bill being introduced next year. But I can do so only in the knowledge that all the groups I have mentioned and whom I represent will not come looking for me in the morning because I have let them down or because I have missed something. It is very easy to miss something in a bill that is two inches, or 50 millimetres, thick—especially when

such a bill is examined on short notice. Even though I might be prepared to compromise, as I hope the Government will be, I take this opportunity to say that the Government has not given the crossbench and the Opposition enough time to examine the bill. However, let us get through this debate tonight.

I will not vote for deferral of the debate, but whether I vote for the bill on the third reading will depend on how far we progress in achieving a reasonable compromise, given the Minister with whom we are dealing. Members talk about good Ministers and bad Ministers. I have been a member of this House when Labor and Liberal parties were in government—in fact, two Liberal governments and two different Premiers—and there were many types of Ministers for lands in each governing party. I feel I can look this Minister in the eye and he will not lie to me. I hope he never thinks that I lie to him. So I have trust in him. Mr Shoebridge was probably implying that this is a good Minister, but he is also correct in stating that we have had some shockers on both sides of this House in the past—some of whom have even fallen foul of the law. So we will not vote for the deferral, but we are yet to be convinced and we will pay attention to how close we can get to a compromise during the committee stage. There are amendments by The Greens and by the Christian Democrats and there may even be some amendments from the Government, if I read the mood right. Let us see where we go.

DEPUTY PRESIDENT (The Hon. Shayne Mallard): According to sessional orders proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

The Hon. Dr PETER PHELPS (22:00): I do not propose to make an extensive contribution but, given what the Hon. Mick Veitch said, I thought it was important to speak in relation to western lands. While I believe the Hon. Mick Veitch is sincere in his concerns, I do not think that there has been a consistency of thought given to this and, importantly, I think there is information that the Hon. Mick Veitch may not have seen but which has a strong bearing on the necessity or otherwise of retaining the Western Lands Act. Let us start with the basic situation. In 2013, General Purpose Standing Committee No. 5 looked at western lands management. The membership of that committee included the Hon. Robert Brown, the Hon. Luke Foley, the Hon. Peter Primrose, me and others. One of the recommendations that came out of the committee's report was:

For the sake of simplification of land tenure arrangements in the State, investigate the option of converting all remaining Western Land Leases into freehold title.

Why did we make that recommendation? We made that recommendation because the historical circumstance was that around 2002 there was a change to the Western Lands Act, which allowed for conversion of existing leaseholds to freeholds in a large majority of circumstances but not in all circumstances. So there was this remarkable situation where there was an inconsistency between literally one side of the fence and the other, depending on the particular land use that was being undertaken. That is the sort of inconsistency that is bad for planning and bad for surety within the community and that, ultimately, results in conflict within a community. How had that situation been allowed to occur? In 2008 the State Government looked at this matter and said in its review in 2008:

Of all issues raised in the Review, the conversion of leased lands to freehold appeared to be of the most interest to those parties and individuals making submissions. It is clearly evident that freeholding grazing leases is an issue with stakeholder groups, sometimes diametrically opposed.

The report goes on basically to say, "We are not going to change from the 2002 legislation at this stage." Where did the 2002 legislation come from? It came from the Kerin review. The Kerin review was done by former Labor Minister John Kerin and it made certain recommendations including the liberalisation of freeholding of previously existing leasehold land. But I concede that it did not go all the way. Why did it not go all the way? Fortunately, in 2013, we got to speak to the person who, in 2000, was the Western Divisions Lands Commissioner, Geoffrey Wise. What he said is worth reading onto the record because I believe it has important information which Labor may not recall but which is certainly relevant to the understanding of the input into the Kerin review. I will not break it up because I think it is important to read it in a block. Mr Wise said:

When I was the Western Division's Land Commissioner I was extremely heavily involved in the review of the Western Lands Act undertaken by John Kerin. Throughout the entire period of that review he—

that is, Kerin—

was hammering me saying, "Why don't we just freehold the lot?" That was about 2000. The determination about whether Western Lands leases were exempt from native title had not been made, so there was still uncertainty about whether native title existed over Western Lands leases. I just kept telling him he could not do it. Since then it has been determined that native title is extinguished on Western Lands leases, so that obstacle has been removed.

Let us get to the core of the situation. The reason Kerin did not recommend in his report the wholesale freeholding, which was clearly his intent, was that there was uncertainty over the nature of Aboriginal land claims through native title over existing western lands leases. If the subsequent decision that the leasing arrangement had

extinguished title was known back then, it is clear beyond doubt from Wise's evidence that they would have been included as a block—that is, all lands could have been freehold at that stage. The blocking point, as Wise makes out, was the fact that no determination had been made about the exemption or otherwise of native title over western lands leases. Wise continued:

I have spoken directly to previous Ministers to whom I was answerable and told them that one option they could always consider would be to freehold Western Lands leases. Probably about eight or 10 years ago the State Government made a decision to freehold a lot of other types of Crown land at a premium of about 2 per cent, from memory, but for whatever reason Western Lands leases were not part of that proposal. Over the past 15 years, virtually coinciding with when I took on the job and when the Labor Government came into power with Bob Carr as Premier, a huge amount of natural resource legislation has been introduced.

I have always argued that the Western Lands Act was probably the first natural resource legislation in Australia that used land administration levers to deliver natural resource outcomes. Until 1995 or thereabouts things like clearing and cultivation control were in the Western Lands Act before they were applicable anywhere else. Since those sorts of controls have become statewide, a lot of reasons for the Western Lands Act probably, it is somewhat redundant.

Again, Wise admits the situation was that the leases were a product of their time and that they were very good for their time. However, the argument for freeholding the entire set of leaseholdings is good, but was not actually enacted because Kerin did not know whether it would extinguish native title at that point. We now know that it did, so on that basis and the basis that there has been subsequent natural resource legislation enacted in this State—in my view and certainly in the view of Wise and anyone on the committee—I think that would make it redundant. There was some dissent about the recommendations from two members on that committee, the current Leader of the Opposition, Luke Foley, and Labor member of the Legislative Council Peter Primrose, but in the dissenting report there is no criticism of the recommendation that the move from leasehold to freehold be entered into.

I believe the Hon. Mick Veitch is sincere in his approach to this legislation. However, I do not believe that the historical chain of events gives any weight to the belief that we should still be holding out for the retention of the Western Lands Act, when clearly for at least the past 16 years the weight of opinion has been that if native title is already extinguished on that land, it should have gone to freehold at some point. I support this bill.

Dr MEHREEN FARUQI (22:08): I speak briefly in debate on the Crown Land Management Bill 2016 to support my colleague Mr David Shoebridge, who has very eloquently outlined the position of The Greens on this bill. It is quite clear that there are significant problems with the way Crown land is managed in this State. Especially given that Crown land makes up more than 40 per cent of the State and there are a significant number of environmental and community uses of Crown land, this bill needs to be as watertight as possible, but unfortunately it is far from that. Journalist Wendy Bacon has investigated several instances of alleged corruption involving Crown land—for example, the Paddington Bowling Club and the Talus Street Reserve in Willoughby. I have seen some concerning issues around Crown land, including the Short Street car park fiasco in Port Macquarie, which involves land on the foreshore of the Hastings River that Woolworths was looking at acquiring in a secret deal with the Government. Wendy Bacon states that through her investigations:

It was obvious ... that problems of mismanagement and corruption had existed for some time in the Crown Lands department. Instead of protecting the public interest in Crown land, private groups seeking profit-making opportunities have been favoured by those whose responsibility it was to protect our public lands.

I am worried that this bill will not address these concerns and may indeed exacerbate some of them. I understand the bill creates two management streams for Crown land, one through local councils and the other for general Crown lands. It vests a significant amount of control in the Minister and leaves Crown land subject to his whims. It sweeps away the important precedent established by the High Court decision in the case of Randwick council and Rutledge, which establishes that land held on trust for public recreation must remain open to the public generally as of right and not be a source of private profits unless all profits are reinvested in the trust property. Schedule 4.6 of the bill appears to allow for a significant transfer of land to be handed over to local councils, with no provision that the land must be kept for public use and community benefit. It is not hard to see how this provision can be abused, with the community losing out yet again. That is something that appears to be a trend with this Government.

We are losing green space at an almost unprecedented rate and under this bill this trend will continue and even escalate. The Nature Conservation Council has identified that Crown lands encompass 93,900 hectares of wetlands, including two Ramsar-listed wetlands, and provide habitat for at least 23 migratory bird species protected under international agreements. Of the 193 ecosystems that occur within Crown leases, 143 are endangered, vulnerable or poorly reserved. Crown land also forms the last vestiges of connectivity to link habitats such as the 700,000 hectares of travelling stock reserves or routes. Many of the Sydney Harbour foreshore reserves—surely some of the locations most vulnerable to commercialisation and development—are also Crown reserves. I do not need to remind the House that once we lose these precious assets they are gone forever. If they are transferred into private hands and if the Government's proposed land clearing laws are passed, we will see environmental carnage on an unprecedented scale.

This bill was an opportunity to include and implement ecologically sustainable development principles for the management of 35 million hectares of Crown land. The bill will make it even easier to sell off Crown lands without any assessment of social, environmental, cultural or economic values. What a missed opportunity. The Crown lands management system must be underpinned by ecologically sustainable development principles. I also wish to speak about the Western Division of New South Wales. The Western Division makes up almost half of this State and includes a significant amount of environmental resources such as the Barwon-Darling river system, which is part of the fourth-longest river system in the world and contains some of the most fragile ecosystems in the State. It is for this reason that almost all of this division falls under leaseholding or as Crown land and has done so for more than 100 years. This bill seeks to lower the level of protection for the Western Division and will definitely allow land in this division to be sold and developed. Hand in hand with the Baird Government's proposed land-clearing laws, I have deep concerns about the trashing of the environment that will occur.

While this bill is an improvement on the Crown lands legislation white paper, there are still too many concerns that need to be further debated and amended. These become even more critical, given the track record of this Government and its insatiable appetite to sell off everything, from public transport and electricity to our hospitals and now our Crown lands. The Baird Government is a glutton for privatisation to an extent that, I believe, would make even Margaret Thatcher blush. In its current form, this bill is a missed opportunity for an important reform to the way Crown lands are managed in New South Wales.

The Hon. ERNEST WONG (22:14): I join my Labor colleagues in raising concerns about the Crown Land Management Bill 2016 and the way this Government has attempted to ram this significant change to our public land laws through this Parliament. As my colleagues have noted, the scope of this bill is significant, with major impacts for New South Wales communities. It is arguably the most significant rewriting of our public land laws in generations. It is insulting to this House, to the upper House inquiry into Crown land and to New South Wales communities for the Minister to present this bill in such haste. The Government claims this is genuine reform. If this is true, it should have no trouble making that case and allowing the community to understand it. The Government's support of Labor's motion to refer the bill to committee for further review is a test of how much the Government is listening to the community.

My inbox, like those of other members, has been inundated with community concern about this bill. There are few issues that can ignite a community like a threat to community assets, and the Baird Government has ignited communities across the State. Indeed, those opposite have not only ignited communities but also united them, as diverse community groups from across the State have banded together to fight this bill. Above all, they want scrutiny, consultation and time. They do not want laws that have intergenerational effects to be rammed through in haste. They are right to want this consideration, because this bill will not just affect community assets in Sydney, St Albans or Scone. It will affect every single town and community across the State by changing legal protections of the public estate.

The scale of change that the Baird Government wishes to hide by denying more scrutiny of this bill is nothing if not audacious. Let us look, for example, at how this bill seeks to address the current unlawful uses of public reserves that the Auditor-General has identified. It proposes that it will address these unlawful uses, often for commercial gain and running over many years, by giving the Minister the power to make them retrospectively legal at the stroke of a pen. That is quite breathtaking. The Government may argue that there is a rationale and that there will be suitable safeguards for this new power but, surely, given the current climate of community scepticism about private uses of public lands, we should ensure that this change is not made in haste. We have already seen how unlawful commercial uses of public land have been exposed by the New South Wales Land and Environment Court. I acknowledge Reverend the Hon. Fred Nile's leadership in the case of King Edward Park, which is a prime recent example. These are serious issues relating to major contracts involving significant commercial interests and clear examples of mismanagement.

It is no wonder that community interest groups find the Government's proposed solution—that is, to ask Parliament to give the Minister the power to make what is unlawful lawful—questionable. Those opposite speak about this bill being the result of community consultation. The Minister happily talks of how many submissions this bill and its previous reviews and white papers received, but he is less forthcoming about the fact that around nine in 10 submissions were clearly in opposition to the central planks of the resulting bill. Communities across New South Wales are suspicious of this bill, and rightly so. The bill seeks to wipe away longstanding statute and common law interpretation of the purpose of public reserves. People are concerned that this paves the way for for-profit use of public lands. It would give the Minister and his delegates significant new powers to set aside public land not for a public purpose but for any purpose they deem fit.

This is a paradigm shift in public land regulation. I know those opposite will say that there is no power of sale, only licence and occupation. But there is a reason we say that possession is nine-tenths of the law—because it often is. Once a commercial operator gains occupation of a public reserve, it will exploit and seek to

expand in every way it can, whether by lease, licence or whatever means. That is not a criticism of commercial operators. After all, they are in business to make money. I have no problem with that. They are right to push every envelope. But it is the job of government to draw the line and hold the line to protect intergenerational public assets from being watered down. Unless we get the detail right, that is effectively what this bill could create: a watering down of public land protections that have been in place for generations.

It will result in the watering down of public land protections that have been in place for generations. To do that without due care and consideration would be a disservice to future New South Wales communities. It would be a denial of use to further generations of New South Wales families and communities of the public reserves that we have enjoyed. The Hon. Robert Brown spoke of private conversations with the Minister where he was assured that if the bill does not succeed in the implementation stage then the Government will introduce a bandaidd bill. Where does Parliament stop with regard to bandaidd bills?

I am not sure that every member was aware of the conversation, but it is not appropriate due diligence for legislators presenting bills to the Parliament. The bill may have merit and provide solutions that could be instituted but the problem lies with the way in which it has been introduced. Communities are demanding that the Government delay the bill to give them time to understand its detail. Upper House inquiry outcomes deserve more respect and I support the call by the Opposition on behalf of the community that the Government defer the bill or refer it to a committee.

The Hon. MARK PEARSON (22:20): The Animal Justice Party opposes the Crown Land Management Bill 2016. It attempts to strike down the sense of home and belonging that Australians have for this country. Home is not only the home they own or rent but almost half of the land in New South Wales that belongs to them. It belongs to the people of New South Wales. This bill will destroy the principle that Crown land belongs to the people of New South Wales. A previous member spoke of a child who wrote to the Queen and the Governor-General concerning the St Albans Common illustrating the community connection with the land. Indigenous people feel the connection to land, life, being, culture and heritage. The Government and Minister are acting ultra vires, outside the power vested in the Minister and Government by the people of New South Wales. Crown land includes native wildlife corridors and stock routes that supply water and an abundance of nutrition for animals. Presently, the community can leave home and visit protected and sacred places within the ownership of the State.

The Animal Justice Party admits that there are problems with the administration and protection of Crown land but this bill does not address that to ensure that Crown land is nourished and enriched. The bill does not reflect the principle that Crown land fosters a sense of heritage and connection. This bill will cause Crown land to become vulnerable to the whim and indiscretion of a manager that may or may not be appointed by the Minister for local government or by a council. There will be a lack of accountability. This bill goes against the very spirit of what this House should be doing to protect that sense of heritage and connection between the people of New South Wales, their sense of ownership, and their willingness and desire to ensure that their land is not vulnerable to the financial and other, sinister interests that will emerge if this bill is passed without even one, two or three amendments. For all these reasons, and because of this fundamental principle, the Animal Justice Party refuses to support and condemns the bill.

The Hon. WALT SECORD (22:25): As shadow Minister for the North Coast, shadow Minister for the Arts, and Deputy Leader of the Opposition, I make a contribution to debate on the Crown Land Management Bill 2016. I support my colleague the Hon. Mick Veitch, who led for the Labor Opposition on this bill. As he said in his speech, Crown land is everywhere and impacts on all our lives. In New South Wales, almost half—42 per cent—of all land is Crown land. We are talking about State forests, reserves, beaches, parks, sporting grounds, golf courses, and stock routes, which have been valued in the past at more than \$11 billion. I also lend my support to comments made by my colleague the Hon. Penny Sharpe, who responded in her capacity as Opposition spokesperson on the environment and who detailed her concerns about the bill. I also endorse the views of my colleagues the Hon. Courtney Houssos and the Hon. Ernest Wong.

I will make a short contribution because I wish to have my views on the legislation recorded. I will specifically refer to two pieces of land that have been drawn to my attention while undertaking my shadow ministerial duties in recent weeks. I refer to Suffolk Park at Byron Bay on the North Coast, and Bondi Park Reserve and Bondi Pavilion in Sydney's eastern suburbs. First, this legislation has been rushed into the Chamber to avoid accountability and scrutiny. The Baird Government hates accountability like Dracula hates sunlight. Despite the Minister's claims, this legislation has an underside that will lead to the creation of a real estate arm of the New South Wales Government.

The Opposition opposes this bill in its current form because it is all about selling Crown land and public assets. It will create two management streams for Crown land in New South Wales. It will also allow local government to sell off land through the creation of a category of local operational land. I ask members to imagine

what would have happened if councils like those that were controlled by the Liberal Party at Sutherland several years ago had been allowed to sell or dispose of public land unfettered. Local councils will argue that they have surplus land such as depots and wash bays. However, we all know that they cannot wait to get their hands on parks, reserves, sporting grounds—

The Hon. Catherine Cusack: You are so toxic.

The PRESIDENT: Order! The honourable member has the call.

The Hon. WALT SECORD: They cannot wait to get their hands on parks and places like Bondi Park reserve. The white-shoe brigade characters who used to hibernate on Sutherland Shire Council would sell off the beaches if they could. Members should make no mistake, this is about selling or privatising land.

The Hon. Catherine Cusack: Beaches.

The Hon. WALT SECORD: Mr President, I am being subjected to repeated—

The Hon. Catherine Cusack: Who'd sell the beaches?

The PRESIDENT: Order! It would assist if we did not have constant interjections. It would also assist if the honourable member took the same view this evening as he did during question time.

The Hon. WALT SECORD: I predict that there will be ramifications for parks like Centennial Park, the Domain, Wentworth Park, Moore Park, Hyde Park, and Parramatta Park as a result of the passage of this bill. It is a blueprint for sales and privatisation, and it makes Crown land vulnerable to the whims of a Minister or a local council. The overview of the bill states:

The objects of this Bill are:

- (a) to consolidate in one Act the statutory provisions dealing with the ownership, use and management of the Crown land of New South Wales, and
- (b) to repeal certain legislation consequentially.

By way of background, the aim is for the new Act to increase the current inventory of Crown land in New South Wales and bring it under one statutory regime. This includes:

- (a) any land vested in the Crown dedicated for a public purpose ...
- (b) any land in which an estate in fee simple is, or is taken to be, vested in a reserve trust (including land acquired by a reserve trust under section 101 of the Crown Lands Act 1989), but not including certain land vested by means of a Crown grant,
- (c) any land to which section 126 or 127 of the Crown Lands Act 1989 applies,
- (d) any common to which the Commons Management Act 1989 applies,
- (e) certain land to which the Trustees of Schools of Arts Enabling Act 1902 applies that is vested in the Crown or was formerly vested in the Crown,
- (f) any land in the Area as defined in the Hay Irrigation Act 1902,
- (g) the land comprised by the Orange Show Ground,
- (h) any land in the Area as defined in the Wentworth Irrigation Act 1890.

In addition to increasing the current inventory of Crown land in New South Wales, the legislation contains 15 proposals. They include removing reserve trusts into which land is vested and replacing reserve trust managers with Crown land managers; the designation of Crown land as land of State and local significance; voluntary vesting of locally significant Crown land to local government; allowing the Minister to issue management rules, new governance structures and conduct requirements; introducing community engagement strategies for certain dealings in Crown land; allowing the determination and redetermination of rents to be rationalised and simplified; and allowing the vesting of Crown land in another government agency, statutory body or the Commonwealth to be permissible without notification.

Further proposals include allowing local councils appointed as Crown land managers to manage the land in accordance with the Local Government Act 1993, instead of the Crown Lands Act 1989; giving the ability to transfer Crown land to local councils if it is deemed to be of local significance; removing land assessment requirements; removing statutory notification requirements for the sale and long-term lease of Crown land; allowing the vesting or transferring of native title interests to local councils and other bodies; allowing wider changes in the sale, use and leasing of Crown land in the Western Division; and providing for the requirement for the Minister to approve a 10-year strategic plan.

I will provide some background to this bill. In 2012 the Baird Government commissioned a review of Crown land in New South Wales, led by Mr Michael Carapiet. I declare that I know Mr Carapiet and his wife through my various attendances at community functions. As well as being a prominent former businessperson, he serves on a dozen or so corporate and government boards. He is a leader in the Armenian community. I have encountered him in my role as Deputy Chair of the New South Wales Parliamentary Friends of Armenia. As stated in the second reading speech, the aim of the Crown land management review was as follows:

... to determine how to improve the management of Crown land and therefore increase the economic, social, environmental and cultural heritage benefits and returns from Crown land to the community.

The Carapiet review made 36 recommendations. The key recommendation was that a consolidated Act be established to incorporate all the provisions of the numerous Acts that manage the ownership and use of Crown land in New South Wales. In 2014, in response to the review, the Baird Government released the Crown lands legislation white paper, which outlined the proposed legislative changes. The white paper received more than 600 submissions. In addition to the Crown lands management review and white paper, in September 2016 the Audit Office of New South Wales completed a report into the sale and leasing of Crown land. We are here today debating the Baird Government's response to those deliberations, reports and reviews. In his second reading speech the Minister for Primary Industries, and Minister for Lands and Water, the Hon. Niall Blair stated that two processes were taken into consideration in the development of the bill. He said:

The bill responds to and incorporates key findings from these processes. Both the review and the parliamentary inquiry have given this Government the opportunity to listen closely to the people of New South Wales.

The importance of this legislation is very clear. The Hon. Mick Veitch has indicated that this bill is important because it is the largest overhaul or rewrite since the 1860s of how government oversees the administration and control of Crown land in New South Wales. I support the call by the Hon. Mick Veitch for the bill to be deferred until February so that there can be proper community consultation on its contents. Failing that, I understand the Hon. Mick Veitch has more than 50 amendments including renaming Crown land as State land. On our side of politics, he and the Hon. Peter Primrose have demonstrated a profound understanding of Crown land. Reverend the Hon. Fred Nile has expressed concerns about its impact on Aboriginal land rights. There are occasions when Reverend the Hon. Fred Nile and I disagree, but I accept his commitment to Indigenous affairs as heartfelt and genuine.

As I said earlier, it is the view of the Opposition that there has been an unseemly underside to this bill—it is the backdoor way for the Baird Government to dispose of or sell Crown land in New South Wales. We are seeing this impact on the North Coast. Earlier today I asked a question without notice to the land Minister about the Baird Government's plan to sell off Suffolk Park, which I mentioned earlier. Earlier this month State and Federal Labor joined the growing community campaign to save Suffolk Park, one of Byron's few open spaces. Earlier this week I called on the State Government to stop the planned sale of 60 Beech Drive, Suffolk Park on the North Coast and transfer the responsibility to Byron Shire Council.

The State Government, through Property NSW, has indicated its longstanding intention to sell public land, and an auction has been set for 29 November. The site can be viewed on various real estate websites online. Currently it is used as a soccer field, community garden and community open space. The land has been kept vacant with a view to being used as a future school site, but I heard on ABC Radio Lismore this morning that the education department is claiming that it is now surplus and can be sold to the highest bidder. The land is worth millions and has been promoted for residential high-rise activity, but there is growing community opposition to the sale. I have already had discussions with Paul Spooner, Labor councillor of Byron Shire, and Justine Elliot, Federal member for Richmond, who both oppose the sale. Yesterday Justine Elliot spoke in Federal Parliament about the need to protect Beech Drive at Suffolk Park. She said:

This is a shameful deceit by a greedy Liberal-Nationals government. This is a government that will sell or privatise anything they can get their hands on. ... On the site there are currently sports fields, including a soccer ground and cricket nets. It is also the home of the Suffolk Park Football Club, and there is a community garden and children's playground. This is a community space that is widely used. ... I stand with the community in wanting to keep this land in public hands. I call on Premier Mike Baird ... to act urgently and stop the sale of public land at Suffolk Park.

The land is one of the last few remaining open spaces in Suffolk Park and it should remain in public hands. Unfortunately the Liberals and The Nationals want to flog off all of our community assets. Under Mike Baird and the Nationals everything has a price tag hanging off it. I note the intrusion this morning by the Hon. Ben Franklin in the Byron *Echonetdaily* and on 2LM and ABC North Coast. I watch this development with much interest. We shall see.

The Hon. Ben Franklin: Watch from the sidelines, Walt, as you always do.

The Hon. WALT SECORD: That is right. One only has to look at the activity of Waverley Council with respect to Bondi Pavilion. Imagine what will happen when the Minister's ability to curtail that council is

gone. Currently Bondi Pavilion is the subject of a green ban. However, it is under threat from a crass commercialisation proposal by the local Liberals. Last month I met with representatives of Save Bondi Pavilion to discuss ways to oppose the Liberals' plans to privatise the arts, culture and recreational centre. Built in 1929, the Bondi Pavilion is a national icon and is listed in the New South Wales State Heritage Register. It is a national treasure. For the record, Bondi Pavilion does not belong to the Waverley Liberals; it belongs to the entire country.

Whether it is at the State, Federal or local level, the Liberals and The Nationals want to privatise our State assets. The community is fed up with the Liberals and The Nationals privatising everything in the State, from electricity assets and hospitals to the Bondi Pavilion. That is why it has to stop here. The Bondi Pavilion is under serious threat. It is the subject of a \$38 million privatisation plan. Members would be aware that I asked two questions without notice in the Legislative Council to the Government and the Minister for Lands and Water, the Hon. Niall Blair, on 12 and 13 October. I also spoke at length on 18 October on the General Purpose Standing Committee No. 6 report into Crown land.

The community view on the Bondi Pavilion is simple. They want the Baird Government to say no to Waverley Council's plan to commercialise the top floor of the pavilion including the public balcony, they want the Baird Government to say no to Waverley Council's plan to demolish the working theatre plus art and pottery studios and they want the Baird Government to say no to Waverley Council's plan to destroy the legendary Bondi Pavilion music studios. In conclusion, I leave members with one observation: Do we really want to see the Liberals put a glass box on top of Bondi Pavilion? As locals have said, it will be a two-star Las Vegas hostel on steroids. That is what will see if this bill passes. I oppose the bill.

The Hon. Dr Peter Phelps: Point of order: My point of order is under Standing Order 197. I refer to more than 20 years of consistent rulings from President Willis, Deputy President Symonds, President Burgmann, President Primrose, you and numerous other Deputy Presidents in relation to applause and commentary from the public gallery. Given that Acting Deputy President Mallard earlier warned people in the gallery about applause and commentary, I ask you to consider whether it is time to clear the gallery because of repeated infringements of that earlier ruling.

Mr David Shoebridge: To the point of order: This is a democracy; we are elected representatives. We get a lot worse when we walk on the street, one way or another. In my view we must be a little robust. It is going to be a long night if members keep taking points of order because a couple of citizens have come to watch what we are doing, and occasionally do not like what we are doing but are not interfering with us. They are not stopping us doing our work. I think we should just get on with debating the bill and accept that we are subject to scrutiny by the public.

The Hon. Lynda Voltz: To the point of order: At the end of the day, it is for the President to decide whether to clear the public gallery. I note that at the moment there is no disruption. While I understand that points of order have been taken in the past and Presidents have made rulings, this debate has been progressing in a civil manner and I ask that it be allowed to proceed.

The PRESIDENT: It is indeed the fact that the standing orders require that there be no disturbance from the gallery. I do not consider the gallery to be acting in the terms of the standing order to which the Hon. Dr Peter Phelps referred and visitors are not creating a disturbance that is impeding the House. I ask people in the gallery to follow the rules of the public gallery and not to applaud any further during the debate.

The Hon. PETER PRIMROSE (22:41): I have a substantial speech on the Crown Land Management Bill 2016, having been a member of the excellent General Purpose Standing Committee No. 6 that inquired into this matter.

Reverend the Hon. Fred Nile: One or two hours?

The Hon. PETER PRIMROSE: It will take at least 20 minutes—indeed, it would have gone for far longer if the traditions of this House had not been usurped a couple of years ago. In relation to this matter, many of the points that I would like to make I believe have been made far more eloquently by my colleague the Hon. Mick Veitch in his opening address. I choose to focus on a couple of specific matters in relation to the development of the bill and a couple of items relating particularly to local government. From my conversations with local government mayors, councillors and officers I have found there is a great deal of goodwill towards the Crown Land Management Bill 2016. They want it to work, as indeed does the Opposition. But we have concerns, and foremost amongst them is the totally inadequate time we have been given to examine, consult and consider the wording of the bill that has been presented.

I question how two weeks can possibly be considered sufficient time for the various stakeholder groups to digest, seek and receive appropriate advice on this bill and then for the appropriate representations to have been made. For this reason alone, further time needs to be allowed for a bill of this importance to be considered properly.

This is important legislation. We have had an inquiry and we have enunciated a number of clear principles but words in law are important and need to be examined. For example, councils need the opportunity to consider referring them to appropriate officers—to people from whom they seek advice as stakeholders. That information needs to be returned to the councils to be deliberated properly and then given to us in the legislature. That is the appropriate thing to do, but they have been given two weeks. It is impossible, given the importance of this bill and the importance of words, for councils to have done that to the extent that they had hoped to do.

Equally, so much of this legislation is essentially—and I am afraid to say it—vacuous, as is increasingly the case with legislative drafting under this Government. Broad, sweeping statements are made in the bill, with assurances that subordinate legislation and departmental policies will fill in the gap some time in the future. The clear message in this legislation from the Minister is: Trust me. Other speakers have already indicated, and I share their view, that this Minister is a good Minister and can be trusted. However, we know that there have been Ministers in the past who were, and there will be Ministers in the future who may be, less likely to have the full trust of this House. For that reason, we must be concerned about the idea of "trust me", particularly when a member of the Cabinet may overrule a Minister, even the current Minister.

The Minister says, "Trust me. I and my Cabinet colleagues will do the right thing with consequential legislation. Trust me to do the right thing with the strategic plan. Trust me to do the right thing with the community consultation plan. Trust me to do the right thing with regulations." We also know that the Minister proposes—again—to introduce a whole other piece of legislation next year. We do not know what will be in it, we do not know when it will come, and we do not know what it will seek to achieve overall. But we do know that the Minister and this Government are again relying on the concept of "Trust us; we will do the right thing".

That is not transparent, it is not accountable and it is not how legislation should be done in a parliamentary democracy. While no modern legislation can be so fastidious as to prescribe all circumstances, this practice has gone too far. The Executive Government is effectively now routinely giving itself unfettered legislative powers in the best traditions of Henry VIII. I was a member of General Purpose Standing Committee No. 6 that inquired into Crown lands. As I mentioned earlier, the inquiry was wideranging and engaged with the diverse community groups who have views on the management of Crown lands. The committee was well chaired by the Hon. Paul Green and the recommendations that arose were largely by consent.

Therefore, I was disappointed to find on the day that our Crown lands inquiry report was handed down in this place the Minister introducing the bill that we now find ourselves discussing. Accordingly, how can it be said that the Minister and the Executive Government fully took account in this bill of the recommendations that were made by the committee after its deliberations when it did not have those recommendations? It is nonsensical. The committee's recommendations have, by definition, not been taken into full account. The Government will respond to the inquiry after the bill is voted on by this House. So much for considering the views of all stakeholders and showing due respect for the workings of a committee of this House.

When a complete rewriting of Crown lands legislation was proposed, the former Minister indicated that there would be an exposure draft. Of course, we now find there is no exposure draft. An exposure draft would have ensured that any unintended consequences, errors or issues could be ironed out before debate took place in this Chamber. Many stakeholder groups are asking the Minister to delay the bill so that there can be a detailed analysis of the extent of the proposed changes and also additional time necessary to raise issues with the Minister. Given the amount of Crown land in New South Wales and the variety of land that makes up the Crown estate, these are hardly unreasonable requests.

Discussions about broad policy are one thing; detailed examination of legislation and the possible implication for regulations is another thing altogether. It may well be that the Government proposes to have a review of this legislation after it has been operational let us say for 12 months. I have an even better proposal. Let us have a review of the bill over the Christmas period in the next three months before it becomes law. Let us give stakeholders and organisations such as local government the opportunity to do their jobs. Let us do our jobs and let the Executive carry out its functions appropriately in relation to this legislation.

There are three issues of concern to councils in this bill. They are cost shifting to councils, the role of titling and registration, and the vesting of land. The main concern is the likely cost shifting by the State Government onto councils. Currently, the State Government cost shifts around \$680 million every year onto councils. With the passage of this bill a number of councils have estimated that the cost will rise to \$1 billion annually. These unfunded responsibilities are paid for by every ratepayer in the State. Ratepayers foot the bill every time the State Government shifts more responsibility onto councils. Wollongong council, which has been in the news for various reasons recently, notes in a letter to the Minister relating to the vesting provisions of Crown land to councils as local land that the State Government is effectively shifting the responsibility, the cost and compensation of land claims from State to local government. Of particular concern is that councils will become the default Crown land manager and will need to develop draft plans of management.

The process for developing draft plans places substantial demands on the resources of councils to ensure that they are fulfilling the requirements under the bill. Councils believe the community input into plans of management is important. It is a responsibility that the councils are willing to undertake; however, with no increase in resources from the State to support councils undertaking community consultation it will put a severe strain on budgets and inevitably lead to cuts in other services. I ask the Minister to give the community and local government the time they need to properly assess and consider this important piece of legislation. Let this House of review do its job. I ask the Minister to adjourn the debate until February. This bill is important enough to make sure that it is done properly.

The Hon. LYNDIA VOLTZ (22:52): I speak in debate on the Crown Land Management Bill 2016. I will address two important sections of the bill in my capacity as the shadow Minister for Sport: division 4.3, which relates to the vesting of Crown land in other government agencies; and division 5.5, which relates to leases over Crown land. Division 4.3 enables the Minister to vest the same kinds of Crown land as can be vested in local councils in certain other government agencies but only if it would be in the public interest to do so. On the face of it that may not sound like a big deal. However, it creates certain problems for sporting and recreational facilities on Crown land. Many of our major sporting stadiums are located next to significant heritage parklands such as Parramatta Park, Centennial Park and Moore Park. The Sydney Cricket and Sports Ground, Parramatta stadium that is managed by Venues NSW, and Wollongong and Newcastle stadiums are all on Crown land. The problem is that those pieces of parkland are covered by their own Acts of Parliament. As far as I can see, this legislation does not make it clear which Act has supremacy.

It is important to consider Parramatta Park and the Parramatta stadium. The Government has submitted a development application—it has gone to tender and lease—to build Parramatta stadium on Crown land that belongs to Parramatta Park. The Parramatta Park legislation specifies that if any part of the land is to be leased there must be public notification and that the lessor must be clearly defined. The terms of the lease must be open to the public and the public must be able to comment. If the Government wants to take the land that is mentioned in the Parramatta Park Trust Act one would think it would need to bring legislation before this House before it submitted any development application or went through any tender process to start building a stadium. According to the Government's own website, construction on that stadium will begin during the Christmas period. We are in the last two weeks of parliamentary sittings this year, and so far no legislation has been put before this House that satisfies the requirements of the Parramatta Park Trust. However, we have before this House a piece of legislation that deals with Crown lands.

How are Parramatta Park Trust and Centennial Park and Moore Park Trust lands protected under this legislation? We know that the Government is intending to move the Parramatta Park Trust from that agency into Venues NSW in order to be able to build the stadium without meeting the requirements of the Parramatta Park Trust Act. This raises a number of serious concerns with regard to another piece of land that we all know well—the Wentworth Park Trust lands which also sit on Crown land. I have good faith in the Minister but I do not have good faith in every Minister because I know that not all Ministers approach land issues, business and the economy in the same way. Some Ministers place a greater emphasis on one part of the socio-economic structure of this over another. I have asked the Minister whether the indoor sports stadium, for which the Government is doing a feasibility study, will be built on Wentworth Park Trust Crown land. The trust administrator was removed and the Government appointed an administrator before the McHugh report was released.

The Minister for Sport undertook a feasibility study and identified Wentworth Park as one of the sites for a new stadium. Where does Wentworth Park stand under this legislation? We know—and the Minister for Sport said during estimates committee hearings—that the Government plans to build a new indoor sports stadium and that Wentworth Park is one of the sites at which it is looking. I have been approached by sporting organisations that have spoken to the Minister and they say that that is just one of the sites. I asked about the fallback position and they said that the other site was Moore Park golf course. Moore Park golf course is part of Centennial Park and Moore Park lands. This legislation allows the Minister to move lands to other government agencies so what is protecting the parklands that we thought were covered by Acts? Quite clearly Parramatta Park and the stadium issues have not been resolved in the legislative way in which we would expect them to be resolved.

The only current and operative legislation is the Crown Lands Act, and that is a significant problem. More particularly, while the Government has had the Parramatta City Council under administration, there has also been a draft memorandum of understanding between the City of Parramatta and the Parramatta Park Trust Act—between the Government's administrator of the Parramatta City Council and the Government's appointee at Parramatta Park—to do the Mays Hill Precinct Masterplan. That may sound all right to some people, but the contents of the Mays Hill Precinct Masterplan can be ascertained only by a search of 200 pages of council minutes because the elected councillors who know it are no longer in control of the council. The precinct is actually land that belongs to Parramatta Park. It is important heritage land that forms part of the grasslands and view corridors.

It previously was the site of a golf course, but that was because the parklands, which included the golf course, provided public open space.

When the Government decided to build over the Parramatta Memorial Swimming Centre it ignored the requirements of the Parramatta Park Trust Act in respect of leases and the behaviour of Ministers in control of land that has been set aside for public purposes. The Minister who issued a press release was not the Minister in control of Parramatta parklands but the Minister for Sport, who said, "I've identified a site on which to locate the swimming pool. We can whack it up on Mays Hill, which is good because it is near the CBD"—forgetting that Parramatta already had a pool near the central business district—"and it will be great because the council will now be able to build a new pool." Unfortunately, the council had already built a pool and it would cost the Parramatta ratepayers \$26 million to build a new pool.

The Government had just given away land on one of the State's most significant heritage sites, where some of the nation's earliest European buildings stood and the first New South Wales Government first presided, so that the size of the stadium could be increased, and it did so without any public consultation and notification. That is not satisfactory. We cannot trust the Government when it says it will look after Crown land. The reason I say that is because as the shadow Minister for Sport I also deal with sport and recreation camps, many of which occupy Crown land. On 25 August I asked the Minister in this House whether sport and recreation camps were covered by the Crown Lands Act and whether they would continue to be managed for the benefit of the people of New South Wales. When questioned, the Minister was fairly open and said that he was turning towards market options.

The Hon. Niall Blair: Which Minister?

The Hon. LYNDIA VOLTZ: Not the Minister for Primary Industries, and Minister for Lands and Water, who is at the table. If the Minister for Primary Industries was in charge of the sport and recreation camps none of this controversy surrounding changes to Crown land would be happening. That is why the Opposition cannot take every Minister at face value. But I digress.

The Hon. Niall Blair: You guys are killing my preselection.

The Hon. LYNDIA VOLTZ: I know and I feel really bad.

The Hon. Niall Blair: You have absolutely ruined my whole reputation. My party will hate me forever after all these comments.

The Hon. LYNDIA VOLTZ: Recently I said similar things about the Minister for Education—"If only it was you who would ever be doing this, but the reality is different"—and the Minister for Education felt the same as does the Minister for Lands and Water. I feel really bad for them. The Government announced that it will go to market options for sport and recreation camps. We know that the Myuna Bay, Point Wolstoncroft, Broken Bay, Lake Ainsworth and Milson Island camps make a profit but we also know that Lake Keepit, Lake Burrendong, Borambola and Jindabyne make a loss. I have documents in my possession that show exactly how much profit the sport and recreation camps make and how much they lose. Camps that are close to the city and beach locations keep regional camps going by cross-subsidisation. Any fool knows that in the Western Plains district and in regional areas of New South Wales there are not as many schoolchildren as there are in the city, there are not as many major children's hospitals as there are in the city that will take disabled children to camp, and schizophrenic fellowships do not visit Lake Keepit and Lake Burrendong as often as they visit city centres. Nevertheless, those camps are vitally important to the kids in regional communities.

Even though they are not as full as the city ones—particularly at places like Lake Burrendong, which when it is full of water is a beautiful place—we know the Minister has plans to lease those lands. The Minister wants to lease Borambola and instead of having it cross-subsidised he wants the lessee to pay him \$8,000 a year. At Broken Bay he wants the lessee to pay \$238,000 a year, at Lake Burrendong \$48,000 a year and at Myuna Bay \$228,000 a year. He wants them to pay for the privilege of leasing land that is a part of our education system and an important part of our community so that the Government can make a profit on them. We know when the bill goes through that camps in places such as Lake Burrendong, Lake Keepit, Borambola and Berry will struggle and will fall over.

If this bill goes through, what happens to those lands and those communities into the future? If the Hon. Niall Blair were looking after these sport and recreation camps I think I would be confident, but he is not. Ministers have different views. I have sat in this place with the Hon. Greg Pearce, and I do like Greg, but I am sure the Hon. Greg Pearce would take a very different view to that of the Hon. Niall Blair on these matters. I am sure the Hon. Greg Pearce will come in here and correct me—or he may not, as the case may be. There are huge problems in this bill. The problems that I foresee, because they are not covered in the bill, relate to issues around our very important heritage parklands and significant sporting structures.

The Minister may want to enlighten us because special reserve trusts are outlined in the bill, including the Luna Park Reserve Trust, the Sydney Cricket Ground trust and the Wagga Wagga Racecourse. But we do not see in the bill Newcastle stadium, Wollongong stadium, Parramatta Park and Randwick racecourse. If the Government were consistent, we would expect to see a whole raft of other entities in the bill. But they are not there, which is a matter of concern. The vesting of Crown lands to other government agencies for use outside the land's purpose, as we have seen already with Parramatta Park, is of significant concern and the reason the Opposition has so many issues with this piece of legislation.

The Hon. PAUL GREEN (23:07): I make a contribution to debate on the Crown Land Management Bill 2016. I thank all members for their contributions tonight, which have been diverse and historical.

The Hon. Lynda Voltz: We thank you too.

The Hon. PAUL GREEN: I appreciated your contribution, which raised important matters. The object of this bill is to consolidate into one Act the statutory provisions dealing with the ownership, use and management of Crown land in New South Wales and to repeal certain legislation consequently. Crown land covers approximately 42 per cent of the State and it is home to a variety of important natural features and facilities, such as parks, beaches, waterways and sportsgrounds. It is important that everyone has access to these lands and their facilities. The people of New South Wales highly value Crown land as a public asset, as was evidenced throughout our inquiry into Crown lands in many areas of New South Wales.

During the inquiry it became very apparent that the community values the social, cultural, environmental and even spiritual importance of Crown land, while the Government has tended to focus more on the economic outcomes. That has been shown since the beginning of the Crown Lands Act because Crown land has been a way for government, whether Labor or Liberal, to stimulate the State's economy. As time goes by and the management and use of Crown land changes, it is imperative that the community is meaningfully consulted on Crown land decisions. Managers of Crown land need to exercise their powers of care, use, control and management of Crown lands appropriately to ensure that Crown land is preserved and enhanced for future generations. Of course, consultation does not mean merely a public relations exercise. It must be genuine and it must be comprehensive. If one looks at the history of both the major parties when in government, it is clear that on occasion they pay lip service to achieve goals, rather than entering into genuine and comprehensive consultation on parcels of Crown land. We must be good stewards of land that has been entrusted to us.

In the twenty-first century Crown land needs to be managed in a way that is relevant and that is accountable to the people and establishes the necessary checks and balances relating to Crown land use. This management system must ensure that economic, social, cultural and environmental factors are taken into consideration when making any decisions around the usage and maintenance of Crown land. There are eight pieces of legislation that manage Crown land across New South Wales, and the Crown Land Management Bill effectively consolidates these pieces of legislation into one modern twenty-first century legislative framework. This bill is the first stage of a process of creating a new legislative review for Crown land by making provision for substantive matters concerning Crown land. The second stage of the process will involve making consequential amendments to legislation and further repeals if required. It is intended that a bill for that purpose will be introduced next year.

The bill being debated today is a result of the 2014 Crown Lands Management Review, which was followed by a Crown land legislation white paper. The white paper was exhibited for four months and received 600 submissions from various stakeholders, community groups and individuals. The paper set out all of the elements of proposed legislation and sought comments from community members about the proposed reforms. Earlier I met with the Hon. Rick Colless, who showed me a long report from the 2013 public lands inquiry, which shows that debate on public lands has been on the agenda for a while in different forms. That report contained 12 recommendations. As mentioned previously I chaired a parliamentary inquiry into Crown lands that received about 350 submissions, including a submission from the Government, and the Minister gave evidence to the inquiry regarding Crown land use in New South Wales. Hearings were held in the Shoalhaven, Dubbo, Ballina, Newcastle, Gosford and Sydney.

In their contributions to this debate, members have said that we appreciate the Minister with carriage for this legislation, the Minister for Primary Industries, and Minister for Lands and Water. Any criticism of this legislation does not reflect a personal attack on the Minister; however, members of this Chamber are aware that Ministers come and go and we want to make sure that future Ministers have the same level of integrity as the current Minister. To that end we want to ensure that legislation reinforces the integrity of Ministers in the distribution of duties in the Crown land portfolio. During the committee inquiry the Minister gave a clear indication on the direction of the content of this bill. I am pleased that the New South Wales Government and Minister Blair have addressed all relevant legislative recommendations in the committee's final report, and I will return to some of those recommendations shortly.

The Government has accepted the report of the Auditor-General. The Auditor-General found that the department is not currently managing the sale and lease of Crown land effectively. While acknowledging some recent changes, it was noted that concerted effort is needed to manage ongoing risk. That was also reflected in feedback I received from stakeholders during the inquiry process and today, when we met stakeholders. They said that there is concern about the resourcing of the department in order for the department to reach the standard that the Auditor-General suggested is required to meet transparency and operational requirements and therefore minimise ongoing risk. The Government has accepted the findings of the Auditor-General's report and six recommendations put forward by the Auditor-General. The Government has also agreed to implement a range of operational improvements as part of its response to the report.

We will see the evidence of that somewhere in the next budget where there will need to be an allocation for extra resources for that department, if it is going to pull out of that spin and get on track with the Auditor-General's recommendations. I acknowledge the processes and review mechanisms that the Government has undertaken in preparing and writing this bill. I turn now to the Government's response to and acceptance of the recommendations of the inquiry into Crown land. The Hon. Peter Primrose noted that it was a quick turnaround from the inquiry to the bill. It was always our intention to go to the public, which we did. We requested a response to 20 recommendations. And when one looks at the recommendations, one sees quite a few are adopted in the bill and other responses within the recommendations require operational issues to be dealt with. That is noted as well. Recommendation 1 was:

That the New South Wales Government consider additional legislative protections to ensure local land is retained as public land and managed in the public interest.

This bill allows the Minister to vest community land to local councils only where the council agrees to receive the vestment. The process of vestment will be voluntary and, of course, includes staged negotiations following a stocktake of each piece of land by the department. Only once this land has been identified as being primarily land of local community value can negotiations begin and land that is deemed state significant cannot be vested to a local council.

This part of the bill addressed recommendation 5 of the inquiry's report, calling on the Government to introduce a provision to classify showgrounds, traveling stock routes and reserves, and scout and girl guide halls as State land. The bill assumes that all Crown land is State land retained by the State unless the Minister is satisfied that that land is suitable for local use. Having been contacted by many constituents and concerned residents who are worried that the vestment will result in a sell-off of community land by local councils, I have brought that concern to the Minister and I will get some feedback on that as well in his second reading reply speech. The Government has also assured me that no Crown land managed by local councils can be sold by local councils. All community land must be managed in line with community-focused objectives under a plan of management. Alternatively, land can be vested to councils as operational.

Two scenarios exist where vested land may be operational. Firstly, where the land is already utilised for operational purposes such as work depots, water towers and waste treatment plants. Secondly, land may be vested as operational when the current land use needs to continue. For example, where long-term residential accommodation or a cemetery has been constructed on vested land. In both these situations it is ultimately in the public interest for the local council to retain the land and not to sell it, as the services the land provides are necessary and support the community. This bill instils broad powers in the Minister where covenants can be placed on land titles in order to restrict how the land is used and managed in the future.

I am pleased that the Government has chosen to ensure that the Crown land is voluntarily vested to local councils. Further, the bill provides for local councils to now retain all income from the land transfer, ensuring that vestment of land is not a cost-shifting exercise, which is a great concern in local government. That was recommendation 4 in the Crown lands report. The Hon. Peter Primrose, the shadow Minister for Local Government, noted that. Rather, local councils can be assured that they have the necessary resources they need to manage transferred land. That is important. More than half a billion dollars has been cost-shifted to local government and local governments need a hand up and not another rod for their backs. The ability to retain some of the income from their lands would be of assistance in that regard.

Recommendations 2 and 3 of the inquiry called on the Government to develop a strategic plan into how Crown land will be managed, maintained and resourced under the new legislative framework and also to introduce the appointment of a Crown Lands Commissioner. In this bill the Government has committed to preparing a strategic plan that will go on to consultation that will be in line with the Community Engagement Strategy. We have some amendments to strengthen, but we will talk about those in the Committee of the Whole.

The introduction of a Crown land commissioner was recommended to oversee the implementation and the management of new Crown land legislation. The Government has agreed to this recommendation, and we

applaud that. It will be great to have a commissioner who can oversee the implementation, and investigate and report on anything in relation to the administration of this bill, including its imitation and management. I think that is another level of transparency. I think it is a great move, and I thank the Government for absorbing that. I note the Hon. Mick Veitch would like to see that in the long term. I think there might be an opportunity, if the right person is in that role and performing their duties well, to extend that portfolio. I think having a commissioner at the helm will take a lot of pain out of the process for the community as well.

Recommendation 6 calls on the Government to develop stronger consultation methods based upon plans of management that currently operate in the Local Government Act 1993, including models of plans of management for differing classes of land. This bill will require reserves managed by local councils to have plans of management that follow community consultation requirements under the Local Government Act. I think most people agree that the Local Government Act has a strong community consultation process. While we would like the Government to reach for that across the board, it has a different methodology in terms of the community engagement strategy. For reserves that are managed by other groups, group consultation requirements will be set out in the new community engagement strategy, which will ensure that an appropriate level and method of engagement with the community is achieved regarding decisions that affect the enjoyment of Crown land. The aim of the strategy, once implemented, is to ensure that meaningful community involvement has taken place. Once again, there are amendments to that effect.

This bill also addressed recommendation 7, calling on the Department of Industry–Lands to develop guidelines to ensure plans of management and leases of Crown land are flexible enough to allow for small community oriented commercial activities that operate for the benefit of both the community and manager/lessor of the land. We are seeing a lot more creative dining services—pop-up diners, cafeteria vans—for instance. I do not know too many mums and dads who are not at netball or soccer on Saturday and Sunday, and in winter when there is a chill in the air one turns around to see a line as long as in Disneyland to get a coffee. It is fantastic that small businesses are providing services to local groups. Some of the sporting groups get a cut of the profits, which is a great way to utilise these innovative pop-up dining services.

This bill introduces increased flexibility that recognises commercial activities can operate from Crown reserves where appropriate. It will provide flexibility under management plans. It will also allow for greater freedom in granting and setting terms of leases and licences to allow such operations in effect in harmonising lease and licensing arrangements. I am aware that some stakeholders were concerned that someone with a licence or a lessee could sublease and go to the bank. I have brought that to the attention of the Minister and will get a comment on that in the summing-up speech. This bill also ensures that lessees and licensors can continue to access rebates and waivers, which is important. When government was starting to restrict lessees in Crown lands or public buildings, those who were going to suffer included those providing Meals on Wheels. That is the last thing we want for our communities. We want those wonderful services to be able to pay a peppercorn rate of \$1 to provide that much-needed service to a vulnerable part of our community.

The final recommendation, which I believe is very important, is that the bill recognises the fact of prior and continuing Aboriginal custodianship of Crown land and operates together with the Aboriginal Land Rights Act 1983.

There was representation from the NSW Aboriginal Land Council through Roy Ah-See and the team. The Christian Democratic Party will move an amendment to deal with that particular concern. I commented when I tabled the Crown Land report that throughout the inquiry it became increasingly evident that the traditional custodians of the land are not adequately consulted by the Government on important Crown land decisions. The Christian Democratic Party will ensure they are part of the decision-making process. To date they have not been part of the local land pilot program and are often not consulted on local environment plans by councils, particularly if it concerns the use of land upon which they are making a claim.

Lands transferred to the Aboriginal people under land claims are often shackled by environmental zoning, making it difficult for them to manage the land for cultural or environmental reasons or for economic benefit. To alleviate Aboriginal disadvantage and support economic development it is of vital importance that a process be introduced to allow land granted under Aboriginal land claims to be used for economic, social and cultural opportunities. Aboriginal people need a seat at the table and control of cultivating economically viable land opportunities.

This bill explicitly recognises and supports Aboriginal land rights, native title rights and Aboriginal people's involvement in the management of Crown lands. It includes an object to facilitate the use of Crown land by Aboriginal people and recognises the spiritual, social, cultural, economic and environmental importance of land to Aboriginal people. It looks to enable the co-management of reserved Crown land. The bill recognises Aboriginal land native title prescribed by body corporates as appropriate to Crown land managers. It provides for

opportunity to ensure the reserve managers recognise the role of Aboriginal people in the management of the reserve and the special significance of the land to the Aboriginal people.

This bill increases and facilitates the use of Crown land by the Aboriginal people. Outside of the inquiry into Crown lands, the Crown Lands Management Bill being debated today seeks to improve management arrangements for Crown reserves by simplifying the system of governance while facilitating community involvement in the management of lands. The bill makes provision for the conversion of certain western land leases to freehold ownership responsibly managing the increase into rural productivity with environmental protections.

This legislation has been in existence since 1890 and over the past decades has been chopped and changed. This is a further opportunity to trim and prune, and realise the best outcome for the people of New South Wales. I thank the Hon. Robert Brown. As the member noted, the Christian Democratic Party had taken the lead on this bill, given its experience of local government. The bill does not go as far as others would like. Crossbench members take part and with stakeholder input, doing the best they can with what they have, come up with a win-win-win. This bill will deliver improvement in the future.

Reverend the Hon. FRED NILE (23:28): I congratulate the Hon. Paul Green on his work on the Crown Land Management Bill 2016. In due course the Christian Democratic Party will move 13 amendments that the Government has accepted. The Christian Democratic Party has always taken a close interest in the right of Aboriginal people, through their land councils, to use the claim system. As members know, I was involved with the original Aboriginal Land Rights Act 1983. I strongly supported that legislation. It was introduced by the Labor Government and strongly opposed by the Coalition. The Christian Democratic Party will move amendments that relate to St Albans common and the impact of this bill on areas called a common.

The common at St Albans was granted by Queen Victoria, and thus is historical. I am pleased that the Government has foreshadowed that it will accept the Christian Democratic Party amendments that will prevent the bill having an impact on commons. Obviously, its operation will be reviewed, and I am pleased that the Hon. Paul Green has been able to negotiate that with the Minister. I also congratulate the Minister on his cooperation. As I said, the legislation protects the right of Aboriginal land councils to claim land through legitimate processes.

The Hon. SHAOQUETT MOSELMANE (23:30): I move:

That the question be amended by omitting "be now read a second time", and inserting instead "That this debate be now adjourned until the first sitting day in February 2017".

The PRESIDENT: The question is that the debate be now adjourned until the first sitting day in 2017.

The House divided.

Ayes 17
Noes 21
Majority 4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Secord, Mr W
Veitch, Mr M

NOES

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S

Mason-Cox, Mr M
Pearce, Mr G

Blair, Mr N
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Phelps, Dr P

Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Khan, Mr T
Mallard, Mr S

Nile, Reverend F
Taylor, Ms B

PAIRS

Houssos, Ms C

Ajaka, Mr J

Motion negatived.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (23:38): In reply: I thank honourable members for their contributions to the debate. In particular, I thank Mr David Shoebridge, Dr Mehreen Faruqi, the Hon. Robert Brown, the Hon. Paul Green, the Hon. Dr Peter Phelps and Reverend the Hon. Fred Nile for their contributions to debate on this important bill. I reserve particular thanks for all Labor members including the Hon. Penny Sharpe, the Hon. Courtney Houssos, the Hon. Walt Secord, the Hon. Ernest Wong and the Hon. Lynda Voltz, but especially the Hon. Mick Veitch. The Hon. Mick Veitch started off in such a sombre manner, with a weighty tone and apparent meaningfulness but, to paraphrase *Macbeth*, he was "full of sound and fury" but said nothing. At one point I had to pinch myself to make sure I was not dreaming because it appeared as though I was being lectured by Labor on Crown lands administration. If one were to believe Labor members all good things under Crown land started under them and all bad things under this Government. The facts tell a somewhat different story.

There are countless examples of Labor's mismanagement of Crown lands, a number of which have been examined by ICAC, but in the interests of time I will focus on just one. The Labor Government sold The Drip, iconic and environmentally significant land, to a Chinese coal company for \$3 a hectare after promising the community it would be considered for inclusion in the nearby Goulburn River National Park. It was a dodgy deal and a breach of the community's trust—one that we reversed in government with the gorge area now added to the national park. That is one of the reasons we are in this place tonight looking at reform in this area.

I will not rehash my second reading speech but, briefly, the Crown Land Management Bill introduces a package of significant reforms to the management of Crown land in New South Wales. The bill provides for a new, modern and fit-for-purpose framework to govern Crown land. It also delivers certainty and clarity to the New South Wales public. Members have talked at great length about what the Government is trying to achieve and I encourage members to refer to my second reading speech for more detail in that regard.

I will commence by responding to the concerns raised by the Hon. Mick Veitch. In response to the Hon. Mick Veitch's comments about the public interest, Crown land management is all about the public interest. This bill is all about protecting and managing the land for the benefit of the people of New South Wales. Every aspect of this bill is tailored toward ensuring that the public interest is considered in the management of land that covers almost 42 per cent of this State. The Hon. Mick Veitch also commented on the ability of trusts to continue to manage dedicated or reserved Crown land. This bill will not remove any trusts. In fact, every trust will become an incorporated Crown land manager. The current system is overly complicated. This bill will simplify and strengthen the reserve management system. The bill will ensure community members continue to play an important role in managing Crown reserves across New South Wales on behalf of their local community and the people of this State.

The Hon. Mick Veitch also commented on local government management of Crown land. For decades local councils have managed public community land under dual legislative frameworks, the Local Government Act 1993 and the Crown Lands Act 1989. This duplication results in inefficiencies, poor management practices and confusion. To address this the bill provides for the council to manage Crown land as if it were under the Local Government Act. This does not change the ownership of the land; it remains Crown land. The Local Government Act provides strong, transparent and consultative processes for managing community land.

The Hon. Mick Veitch also mentioned notification periods under the community engagement strategy. This bill moves away from a tick and flick approach and implements measures to ensure genuine engagement occurs with the community. Government members have listened to the community's feedback from the submissions to the white paper and the parliamentary inquiry. One key message from those processes was the call for better community engagement. The new community engagement strategy is a cornerstone of the bill that will ensure there is more meaningful engagement with the public. Unlike under the current legislation, a broad range of dealings and actions will be subject to community engagement including on sales, vestings, leases and licences, plans of management, revocations and changes to reserves. Engagement could occur when a proposal is first put forward, before a decision is made, at the decision point and following the decision. It will consider specified notification periods to workshops, social media, traditional newspaper advertisements and much more.

The Hon. Robert Brown: Point of order: At least four members in this House need to hear what the Minister is saying. I cannot hear him with the amount of background noise. Mr President, I ask you to call the House to order.

The PRESIDENT: Indeed there is quite a degree of audible conversation around the Chamber. If members need to have conversations within the Chamber, they should not be audible. The Minister has the call.

The Hon. NIALL BLAIR: This will ensure that the people of New South Wales will have a say on decisions that affect them. It moves far from the limited provisions in the existing legislation and demonstrates this Government's commitment to genuine engagement with the community. The Government has also committed to engaging with the community on the development of the strategy itself which will be in place when the full bill commences. In response to the comments of the Hon. Mick Veitch relating to the new provisions for vesting in other government agencies, I reiterate that there are existing powers in the Crown Lands Act 1989 to move land to other agencies. I would have expected the Hon. Mick Veitch to have supported the differences between these existing powers and the new additional vesting power. The first difference is that under the vesting provision the agency does not need to pay for the land. This gives the Government more flexibility in allowing for the provision of essential public services such as schools and hospitals in appropriate circumstances. It means that health and education do not have to pay market rates for securing land for these essential services.

The second difference is that the new provision contains safeguards to ensure that vesting in other agencies takes place only in appropriate circumstances. The provision requires that the Minister must be satisfied that vesting that land is in the public interest or the agency to whom it will be vested is an appropriate owner and manager of the land. This is in addition to the requirement that all decisions to transfer land under the bill must take into account environmental, social, cultural heritage and economic considerations. Finally, all transfers and vestings will be subject to the provisions of the new community engagement strategy which is a leap forward in community involvement in decisions on Crown land dealings. As I previously explained, the strategy means that the community will be engaged when decisions to take land out of the Crown estate affect their use and enjoyment of the land.

The Hon. Mick Veitch raised a point relating to commons. I take this opportunity to clarify what is provided for in the bill. Commons are an important historical use of Crown land and this bill ensures that this use can continue for the benefit of commoners and the public. Commons will not be abolished but will be brought within the broader Crown reserve system while ensuring that commoners continue to have rights to use and enjoy their commons. I acknowledge that concerns have been expressed in recent days about how this bill will affect commons, including the historic St Albans Common. As with all reforms of this magnitude, I acknowledge there is need for further engagement with stakeholders to ensure the implications of the new bill are clearly understood. To enable this to occur I will be supporting amendments that will be moved by the Hon. Paul Green to remove changes to the commons from this bill. This will enable engagement before changes to commons are introduced through a consequential bill next year.

I now turn to the points raised by the Hon. Paul Green about the commercialisation of Crown land and the Rutledge principles, an issue raised also by Mr David Shoebridge. The bill does not change the current position relating to the use of Crown reserves. The commercial use of Crown reserves continues to be permissible in certain circumstances subject to express protections. The importance of allowing commercial uses on Crown land was recognised by the parliamentary inquiry which specifically recommended provisions to ensure that small-scale operations which support family businesses and local employment could continue. Commercial uses are not permitted under the bill where the commercial use would materially harm the use of the land for which it has been reserved or where the commercial use is not in the public interest.

In addition, any proposed leases or licences which seek to authorise commercial use, or changes to reserve purposes to allow for commercial use, will be subject to the community engagement strategy if they potentially impact the community's current use and enjoyment of that reserve. This bill gives effect to the principles from the Rutledge case mentioned by the Hon. Paul Green and Mr David Shoebridge. It clarifies that reserves for public recreation can be used for commercial purposes. This supports current commercial uses of Crown reserves for public recreation such as kiosks and cafes. It does not by itself enable any new commercial uses. Commercial use of Crown land is strictly regulated—unauthorised uses are not allowed. All sublettings of Crown land must also be consistent with these principles.

There is no escaping the important protections for the use of Crown land enshrined in the bill. Further, the bill provides that the proceeds of commercial operations on reserves must be applied for a permitted purpose for the land. This means any profits are reinvested in the reserves and cannot be used for private profit. Questions have also been asked about council management and ownership of land, and how councils must deal with additional costs. I can provide strong assurances in relation to these issues. The bill retains the current powers for the Minister to appoint councils as Crown land managers. The bill makes clear that all vestings will be by

agreement with the council and the council will be entitled to all proceeds from the land vested in them. Councils will be able to assess each parcel of land and ensure that it has the ability and capacity to manage it before it takes ownership.

Finally, in relation to the Hon. Paul Green's comments on the community engagement strategy, I am proud to confirm that the bill clearly provides that certain obligations under the strategy will be mandatory, meaning that there will be legal redress if those provisions are not complied with. As the strategy must be in place from the commencement of the full bill, the community can be confident that there will be genuine engagement on the Crown land dealings and actions that affect them. In relation to the point raised by Mr David Shoebridge on vesting land in councils, I clarify that there are numerous protections in the bill that ensure that land vested in councils is used appropriately and for the benefit of the local community. Local land vested in councils will transfer as community land under the Local Government Act 1993 in most circumstances. The Act provides that community land cannot be sold by councils and all community land must be managed in accordance with clear community focus objectives under a plan of management. There will only be limited scenarios when land may be vested as operational land.

The bill also provides the Minister with powers to put covenants on title to land to restrict how the land is used and managed in the future. Any land vested to councils must be agreed with the council, with the local Aboriginal land council in certain circumstances and by the Minister. The Hon. Penny Sharpe, Mr David Shoebridge and others raised concerns about the removal of the Crown land principles. I have had a number of different conversations about this, and I acknowledge the strong preference to include those principles in the bill. Finally, the Hon. Robert Brown stated correctly that there will be a further opportunity for the House to debate and consider a consequential bill. As an example, matters relating to Crown roads will be considered as part of the consequential bill, including access for fishing, fossicking and recreation.

The bill will ensure that we have a robust and modern framework to effectively manage the Crown estate now and in the future. It is the culmination of a detailed review process that started with the Crown Land Management Review and which has evolved to include the recent and timely parliamentary inquiry into Crown land. The bill delivers on the commitment by this Government to effectively and genuinely consult with the community about Crown land decisions that affect their use of the land. It provides for strong compliance and enforcement provisions to ensure that we have the powers and tools to protect Crown land and to remediate any damage. Importantly, it ensures that any decision on Crown land considers the environmental, social, cultural and economic impacts on the land.

There is a choice before the House tonight. We can continue to manage our valuable Crown estate using outdated and complex legislation that is no longer fit for purpose and is a source of frustration to many, or we can recognise the bill as a timely piece of legislation. The bill has been based on a long and consultative reform process that has been shaped by the views of the community and will deliver a framework that will fundamentally improve the management of Crown land. Ultimately, it will ensure that the Crown estate continues to provide significant benefits to the people of this State. The New South Wales Liberal-Nationals Government is committed to protecting and preserving our important Crown land for future generations.

The last point I must address is this argument from Labor that we are somehow rushing this legislation through. Labor's logic is flawed. On the one hand, it agrees with the comprehensive process that we have undertaken, the detailed Crown land review, the comprehensive Crown land legislation white paper and, more recently, the parliamentary inquiry into Crown land. I appeared at that parliamentary inquiry on not one but two occasions and provided significant detail on large parts of the proposed bill. The Auditor-General has also written a comprehensive report into the sale and leasing of Crown land. On the other hand, Labor makes the illogical claim that this legislation, which has been developed to be entirely responsive to those open, transparent, rigorous and consultative processes, is somehow now being rushed. It is an absurd claim. Over the past three years there has been extraordinary scrutiny of the management of Crown lands in New South Wales and this legislation is responsive to that scrutiny. It is time to stop looking backwards. Let us look to the future, pass this legislation through Parliament and get on with implementing this critical reform. I commend the bill to the House.

The PRESIDENT: The question is that this bill be now read a second time, to which the Hon. Mick Veitch has moved an amendment. I now put the amendment of the Hon. Mick Veitch.

The House divided.

Ayes17
Noes21
Majority.....4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Donnelly, Mr G (teller)
Graham, Mr J
Pearson, Mr M

Secord, Mr W
Veitch, Mr M

NOES

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S

Mason-Cox, Mr M
Pearce, Mr G

Blair, Mr N
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Phelps, Dr P

Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Khan, Mr T
Mallard, Mr S

Nile, Reverend F
Taylor, Ms B

PAIRS

Houssos, Ms C

Ajaka, Mr J

Amendment negatived.

The PRESIDENT: The question is that this bill be now read a second time.

The House divided.

The PRESIDENT: By leave, the bells will ring for one minute.

Ayes26
Noes12
Majority..... 14

AYES

Amato, Mr L
Brown, Mr R
Colless, Mr R
Faruqi, Dr M
Gallacher, Mr M
Khan, Mr T

Mallard, Mr S
Nile, Reverend F
Shoebridge, Mr D

Barham, Ms J
Buckingham, Mr J
Cusack, Ms C
Field, Mr J
Gay, Mr D
MacDonald, Mr S

Mason-Cox, Mr M
Pearce, Mr G
Taylor, Ms B

Blair, Mr N
Clarke, Mr D
Farlow, Mr S
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Phelps, Dr P

NOES

Donnelly, Mr G (teller)
Moselmane, Mr S
(teller)
Searle, Mr A
Veitch, Mr M

Graham, Mr J
Pearson, Mr M

Secord, Mr W
Voltz, Ms L

Mookhey, Mr D
Primrose, Mr P

Sharpe, Ms P
Wong, Mr E

PAIRS

Ajaka, Mr J

Houssos, Ms C

Motion agreed to.**In Committee**

The CHAIR: There being no objection, the Committee will deal with the bill as a whole. I indicate to the Chamber the amendments before the Chair: The Greens amendments on sheet C2016-105C; Opposition amendments on sheet C2016-108B; Government amendments on sheet C2016-114A; Christian Democratic Party amendments on sheet C2016-111A; and a Greens amendment on sheet C2016-112. The Greens amendment No. 1 on C2016-105C is the same as Opposition amendment No. 1 on C2016-108B.

Mr DAVID SHOEBRIDGE (00:09): By leave: I move The Greens amendments Nos 1 and 3 on sheet 2016-105C in globo:

No. 1 **Ecologically sustainable development**

Page 2, clause 1.3 (c), line 22. Insert "in accordance with the principles of economically sustainable development" after "Crown land".

No. 3 **Ecologically sustainable development**

Page 3, clause 1.4 (1). Insert after line 46:

ecologically sustainable development has the same meaning as in section 6 of the *Protection of the Environment Administration Act 1991*.

These amendments taken together would insert "ecologically sustainable development" as one of the principles of the bill. In moving these amendments I seek leave to delete "economically" in amendment No. 1 and to replace it with "ecologically", which is obviously consistent with the heading.

Leave granted.

The purpose of these amendments is to establish the principles of ecologically sustainable development into the management and operation of Crown land in New South Wales. I accept that the objects that have been inserted into this bill contain a kind of near acknowledgement of ecologically sustainable development—a kind of poor man's ecologically sustainable development—because clause 1.3 (c) provides that one of the objects of this Act is to require environmental, social, cultural, heritage and economic considerations to be taken into account in decision-making about Crown land.

If one stands on one leg and squints and looks at it on a dark evening, that is a rough approximation of ecologically sustainable development. It includes the additional provision of cultural heritage, which we think is good because issues such as Aboriginal heritage—which is also picked up by clause 1.3 (e) in the objects of the Act—is a positive step forward. But what it misses is all of that essential learning about what ecologically sustainable development is, the precautionary principle and intergenerational equity. There is a series of decisions in the Land and Environment Court, in the Court of Appeal and in other jurisdictions that helps inform a decision-maker about ecologically sustainable development.

We have not tried to reinvent the wheel about what ecologically sustainable development is. We think there is real benefit in having a consistent approach to ecologically sustainable development across legislation in New South Wales, which is why we have consciously picked up the longstanding definition of ecologically sustainable development that is found in the Protection of the Environment Administration Act 1991. It has been there for a couple of decades and it is slowly becoming better understood by the courts. It will improve the decision-making, it will protect our environment and it will ensure that when we are making decisions we have that great three-legged stool, which is a certain basis upon which to make decisions. We look at all three considerations—environmental, economic and social—when we are making decisions about Crown land and we ensure that we protect this asset for the environment and for generations to come. That is why we move these amendments.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:12): The member used many of my arguments, although in a cynical way, to say that the current objects of the Act are to ensure that the environmental, social and economic considerations are considered in an integrated way to ensure the best outcomes for the management of Crown land. It is not considered necessary to import the definition of ecologically sustainable development into the objects of this Act because the balancing of these considerations underpin the principles of ecologically sustainable development. This Government is committed

to ensuring that Crown land is managed in a sustainable way so it can benefit future generations. The Government opposes The Greens amendments Nos 1 and 3.

The Hon. PENNY SHARPE (00:13): I support the Greens amendments Nos 1 and 3. Labor has similar amendments that deal with ecologically sustainable development. This amendment is aimed squarely at reinstating the principles of environmental conservation that the Government proposes to remove from the current laws with this bill. Ecologically sustainable development [ESD] comprises a set of well-known and well-defined principles that have been used previously in numerous New South Wales legislative instruments including the Western Lands Act 1901 that is to be repealed by this bill and, most notably, the Protection of the Environment and Administration Act 1991 that is so often referenced in subsequent laws. ESD is defined in the Protection of the Environment and Administration Act with key concepts, which are the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity, and improved valuation, pricing and incentive mechanisms that include the polluter-pays principle. Together these principles provide a framework for making decisions based on a long-term view of the resources available, taking into account the needs of future generations and ensuring there are robust mechanisms for protecting our shared assets.

Australia has a national strategy for ecologically sustainable development that defines ecologically sustainable development as "using, conserving and enhancing the community's resources so that ecological processes on which life depends are maintained and the total quality of life now and in the future can be increased". The principles of ESD have been used in numerous pieces of legislation already. The Greens' amendments, which are the same as Labor's amendments, are not seeking to do anything new or bring in a radical change. We are seeking to make clear in all of our legislation what we mean by ecologically sustainable development. Let us not forget that there have been discussions and an enormous fight about planning legislation that the Minister for Planning, Rob Stokes, has replaced to remove ecologically sustainable development from some planning considerations. The Government is once again trying to remove ESD in this legislation. These amendments do not represent a radical proposal as ESD has been in the Act for a long time. These amendments give direction to very well-known legal principles that have been tested in the courts. These amendments show that we are serious about sustainability and should be supported.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 1 and 3 on sheet 2016-105C. The question is that the amendments be agreed to.

The Committee divided.

Ayes17
Noes20
Majority.....3

AYES

Barham, Ms J (teller)
Faruqi, Dr M (teller)
Mookhey, Mr D
Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Donnelly, Mr G
Graham, Mr J
Pearson, Mr M
Secord, Mr W
Veitch, Mr M

NOES

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S

Mason-Cox, Mr M
Phelps, Dr P

Blair, Mr N
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Taylor, Ms B

Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Harwin, Mr D
Mallard, Mr S
Pearce, Mr G

PAIRS

Houssos, Ms C

Ajaka, Mr J

Amendments negatived.

The CHAIR: Opposition amendment No. 1 has lapsed. We will now turn to the Government amendments on sheet C2016-114A.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:27): By leave: I move Government amendments Nos 1 and 2 on sheet C2016-114A in globo:

No. 1 **Principles of Crown land management**

Page 2, clause 1.3. Insert at the end of line 29:

; and

- (f) to provide for the management of Crown land having regard to the principles of Crown land management.

No. 2 **Principles of Crown land management**

Page 2, clause 1.4. Insert after line 29:

1.4 Principles of Crown land management

For the purposes of this Act, the *principles of Crown land management* are:

- (a) that environmental protection principles be observed in relation to the management and administration of Crown land; and
- (b) that the natural resources of Crown land (including water, soil, flora, fauna and scenic quality) be conserved wherever possible; and
- (c) that public use and enjoyment of appropriate Crown land be encouraged; and
- (d) that, where appropriate, multiple use of Crown land be encouraged; and
- (e) that, where appropriate, Crown land should be used and managed in such a way that both the land and its resources are sustained in perpetuity, and
- (f) that Crown land be occupied, used, sold, leased, licensed or otherwise dealt with in the best interests of the State consistent with the above principles.

The Government proposes to reintroduce an object of the bill to have regard to the principles of Crown land management in the management of Crown land. The Crown land management principles currently under the Crown Lands Act 1989 will continue as the principles under the bill. The Government appreciates that carrying forward the Crown land management principles will provide comfort to those who have raised concerns regarding the ongoing protection of Crown land. The Government believes its amendments will provide appropriately for the Crown land management principles to continue as part of the framework for the management of Crown land.

Mr DAVID SHOEBRIDGE (00:28): The Greens support the two Government amendments. We have had a lot of consultation with stakeholders, with Ostinga in Newcastle, with the Crown Land Our Land group, with John Owens on Talus and others. One of the key issues they have been pressing from day one is that the bill as currently drafted is entirely process focused. No fundamental principles on how to manage Crown land have been inserted in the bill. That is why the first set of amendments The Greens circulated reinstated those exact principles of Crown land management. As the Government has included those amendments with these two amendments The Greens will not move the amendments to be inserted in part 12 of the Act. The Greens have had discussions with the Government about reinstating principles of Crown land management. The Government proposes to reference the principles in the objects and insert them in part 1 of the Act, which is a better outcome than inserting it in part 12.

Ms Jan Barham: Do not tell them that.

Mr DAVID SHOEBRIDGE: I acknowledge that interjection. I acknowledge it is a better outcome. When The Greens crafted the amendments it was acknowledged that there may be a better spot to place them in the bill, and the objects and part 1 is an improvement. The Greens did not win the debate concerning ecologically sustainable development [ESD], but the reinstatement of the principles of Crown land will include provisions that take it a little closer to ESD principles. The environmental protection principles have been reinstated with regard to the management and administration of Crown land. That is unambiguously good.

The natural resources of Crown land, including water, soil, flora, fauna and scenic quality must be conserved wherever possible. Crown lands should be used and managed in such a way that the land and its resources are sustained in perpetuity. These are good principles and should not have been stripped from the original bill. The Greens will not argue that matter. I commend the Minister and the Government to the extent that it is reinstating the principles in the objects of the bill. The Greens support the amendment.

The Hon. MICK VEITCH (00:31): This replicates proposed Opposition amendment No. 5 relating to placing principles back into the new Act. It is incremental change. The Government has listened to the debate and the views of a number of members reflecting stakeholder consultation following the second reading of the bill. This amendment reflects stakeholder representation. It is good that the Government has listened and the Opposition will support the amendment.

The Hon. PAUL GREEN (00:31): The Hon. Robert Brown spoke of a symbiotic relationship. The Minister has embraced stakeholder views and listened to the community. The Christian Democratic Party commends the amendment to the House.

The CHAIR: The Government has moved amendments Nos 1 and 2 on sheet C2016-114A. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR: The Greens amendment No. 2 is the same as the Christian Democratic Party amendment No. 1 and Opposition amendment No. 2.

Mr DAVID SHOEBRIDGE (00:32): By leave: I move The Greens amendments Nos 2 and 39 to 45 on sheet C2016-105C in globo:

No. 2 Retention of commons

Page 3, clause 1.4 (1), line 29. Omit all words on that line.

No. 39 Retention of commons

Page 190, Schedule 7, lines 34–36. Omit all words on those lines.

No. 40 Retention of commons

Page 192, Schedule 7, line 43. Omit all words on that line.

No. 41 Retention of commons

Pages 198 and 199, Schedule 7, line 5 on page 198 to line 2 on page 199. Omit all words on those lines.

No. 42 Retention of commons

Page 200, Schedule 7, lines 1–36. Omit all words on those lines.

No. 43 Retention of commons

Page 205, Schedule 7, line 25. Omit "Council, and". Insert instead "Council."

No. 44 Retention of commons

Page 205, Schedule 7, lines 26 and 27. Omit all words on those lines.

No. 45 Retention of commons

Page 208, Schedule 8, line 3. Omit all words on that line.

There has been real concern raised across the State about the removal of commons. There are longstanding arrangements whereby public land is shared amongst communities. The proposal was to remove that practice with the stroke of a pen. The most effective campaign to retain commons has come out of St Albans. Everyone has an invitation to attend the St Albans writers festival in September 2017, which will hopefully be held on the commons. It is a fabulous part of New South Wales that was originally set aside as the food bowl of the State soon after settlement/invasion. I commend the St Albans community for its campaign and for raising the bar of the debate.

However, it is not only St Albans Common that is affected; there are commons across the State. Some of them are extraordinarily well-managed and prized community assets, such as those in the Lower Hunter and in other parts of regional New South Wales. Not all commons are well managed; some of them have real management challenges and they suffer from the well-stated tragedy of the commons. However, where they work, they work fabulously, and they provide a common good. It is great to stand with people who call themselves "commoners" in protecting their right to that title. I commend the amendments to the Committee.

The Hon. MICK VEITCH (00:35): I support the amendments moved by The Greens in relation to commons. I place on the record the fact that I have two uncles who were commoners. They were trustees of the North Gundagai Common and the South Gundagai Common. There was a great deal of debate within the family about which common was the best. Given that family history, I have an understanding of how commons operate. A significant number of people signed the St Albans Common petition.

Mr David Shoebridge: Almost 6,000.

The Hon. MICK VEITCH: That is a wonderful effort in such a short time. It has clearly influenced members of this place in their decision-making about retaining commons as they stand. Observing that campaign will assist other commons across New South Wales. The Opposition supports The Greens' amendments, which means that the Opposition's amendments will be withdrawn.

The CHAIR: They lapse.

The Hon. MICK VEITCH: I am not sure what impact that will have on the Christian Democratic Party amendments.

The CHAIR: It means precisely the same.

The Hon. MICK VEITCH: I therefore suggest that all members support The Greens' amendments.

The Hon. ROBERT BROWN (00:36): Mr Chair, can you repeat your last piece of advice?

The CHAIR: A number of amendments are identical. The convention of the Chamber is that the amendments first lodged are put first. Therefore, the identical amendments which have been lodged but which have not been put lapse.

The Hon. ROBERT BROWN: I now understand. The Committee has before it three excellent sets of amendments. Of course, the best are the Christian Democratic Party amendments. But given that The Greens' amendments were lodged first, naturally the Shooters, Fishers and Farmers Party will support them.

The Hon. PAUL GREEN (00:37): I acknowledge the Chair's explanation about the lodgement of amendments. Obviously many members have had representations about this issue from their constituents. Given our membership of this place, we can pull up the Government on certain issues, and on this occasion it was able to come to the party. The Greens have an amazing ability to produce amendments before anyone else, and full credit to them for that. The Christian Democratic Party will support those amendments given the representations from St Albans. The Opposition lodged the same amendments as mine, and it would appear that, unusually, we are as one on this issue and, as a result, the community will be the winner.

The CHAIR: I am sorry if this has caught everybody on the run.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:38): This is democracy in action. The role of this Chamber is to achieve the right outcome. There is a decision to be made on a group of amendments that have been proposed by members of all parties in this Chamber. As members of the House of review, we are here to achieve an outcome. The Government was originally in a position to support the amendments proposed by the Christian Democratic Party, because of the work that the Hon. Paul Green has done with stakeholders and in chairing the upper House inquiry into Crown land.

In the initial discussions that I had with the Hon. Paul Green I indicated that the Government would support his amendments. The procedure is that if amendments are the same they are moved in the order that they are received. Ultimately, we are here to achieve outcomes and we are the House of review. We find that members of The Greens, the Opposition and the Christian Democratic Party, supported by the Shooters, Fishers and Farmers Party, all want the same outcome. The Government is happy to support The Greens amendments. We originally hoped that the Christian Democratic Party would move its amendments, but we achieve the same result by supporting the amendments moved by The Greens.

Mr DAVID SHOEBRIDGE (00:40): This is one of the occasions when this Chamber works as a House of review. We have all sat down and come to the same conclusion. We have been driven there by the community. I commend the community for its work. However they are labelled, these amendments will protect commons across New South Wales. They are good amendments, and we commend them to the Chamber.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:41): It would be remiss of me not to mention the role that the local member, Mr Dominic Perrottet, has played in this matter. He raised with my office the issue of St Albans Common in particular. I failed to mention that in my contribution. I wanted to make sure that that acknowledgement was not lost.

The CHAIR: Is there anyone else who needs to be congratulated?

The Hon. Mick Veitch: Is the Chair feeling left out?

The CHAIR: Yes, I am. Mr David Shoebridge has moved The Greens amendments Nos 2, 39, 40, 41, 42, 43, 44 and 45 appearing on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR: In due course, if there needs to be further clarification we can go through which amendments have lapsed. The parallel amendments that were proposed by the Hon. Paul Green and by the Opposition have lapsed. We now move to Opposition amendment No. 3 on sheet C2016-108B.

The Hon. MICK VEITCH (00:42): I move Opposition amendment No. 3 on sheet C2016-108B:

No. 3 **Crown land can be referred to as State land**

Page 9, Division 1.3. Insert after line 4:

1.10 Crown land may be referred to as State land

- (1) Crown land may be referred to as State land.
- (2) Accordingly, any reference in this Act (or another Act or any statutory instrument or document) to Crown land as defined in this Act is taken to include a reference to State land.

The bill represents a perfect opportunity to modernise the terminology used in public land management in New South Wales. That is why the Opposition is moving that "Crown land", which reflects an old-fashioned, outdated concept where public land is vested in the British monarchy, should be referred to as "State land". The Office of Parliamentary Counsel has had insufficient time to adequately address the use of the term "State land" in a more considered way in the Opposition's amendments, so this is a bit of a blunt instrument.

The use of the term "State land" will enable us to more accurately denote public land in New South Wales, owned by the people and overseen on their behalf by the New South Wales Government. It will reflect public land ownership across the three levels: local government land, State Government land and Commonwealth land. Land titling now refers to Crown land as being in the name of New South Wales. The Act should be updated in a similar way. If we are to move beyond 1788 and the stain of terra nullius, this is a step in the right direction. I challenge the Minister, with his republican sympathies, to support the Opposition and ensure that public land, owned by the people of New South Wales, is referred to more appropriately in the twenty-first century. I commend the amendment to the House.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:44): The Opposition's amendment is unnecessary and confusing. There is land owned by other agencies that is not Crown land but is land of the State. This amendment does not further the protection of Crown land in any way. Crown land as a concept is enshrined in law in New South Wales. To change the reference "Crown land" to "State land" could have far-reaching and unintended consequences. Just because those opposite have a problem with the monarchy does not mean that they should bring unnecessary bias and extra confusion into the debate.

The Hon. ROBERT BROWN (00:44): To say I am outraged is an understatement. Fancy bringing the monarchist-republican argument into something like this. The head of State of this country is Queen Elizabeth and the term "Crown land" is most appropriate. We oppose the amendment.

Mr DAVID SHOE BRIDGE (00:45): I started my contribution in the second reading debate with a letter to the Queen, although I did not draft it. The Greens do not support this amendment, not because we have some love affair with the Crown but because we do not believe the change to "State land" is at all useful. If the Opposition was moving to classify it all as public land, which clearly shows where the land should be held—by the people of New South Wales, not by the government of the day—we would probably be on board. But we think the idea of changing the term to "State land" is potentially dangerous and suggests it might be handed over to future Minister Secord or something like that—a very dangerous prospect.

There has been a successful statewide campaign about protecting Crown land. More than ever before people are aware of Crown land but they do not associate it with the queen of the day or the king of the day as we might get at some point; they associate it with public land. When we see Crown land, we see public land. To the extent that the Minister says throwing in this proposed new term of "State land" will create confusion, I think it will probably take us backwards.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendment No. 3 appearing on sheet C2016-108B. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOE BRIDGE (00:47): I move The Greens amendment No. 4 on sheet C2016-105C:

No. 4 **Reservation for public purposes**

Page 11, clause 2.8 (1), line 28. Insert "public requirements or other public" after "more".

We believe this is an important amendment to clause 2.8 of the bill which deals with the ability of the Minister to reserve Crown land. The introduction to clause 2.8 currently provides that:

The Minister may, by notice published in the Gazette, reserve Crown land for use for one or more purposes specified in the notice.

It is said to be a translation from the existing provisions in the Crown Lands Act, but there is a key difference. Existing provisions in the current Crown Lands Act provide that the Minister may only reserve Crown land for use for one or more public requirements or other public purposes, not just one or more purposes. By removing that reference to public requirements or other public purposes we are potentially seeing land in New South Wales exposed to private exploitation. We see the removal of the obligation to reserve it for a public requirement or a public purpose as intentional. We think the current law which provides those checks by saying that when the Minister reserves land it has to be for a public requirement or a public purpose is a good law—it is an excellent principle and we want to retain it. That is why we move the amendment to put it back in this bill.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:49): The Government opposes The Greens amendment No. 4 as it unnecessarily restricts when land can be reserved. The current Act provides that land can be reserved from sale, lease or licence and not only for public purposes. The reservation of land is an important tool in the management of Crown land and should not be unduly restricted. Additional safeguards have been introduced in this bill. These ensure that land can only be reserved if the Minister is satisfied that the use of the land is consistent with one or more of the objects of the Act or it is in the public interest. These are entirely appropriate safeguards and will ensure that Crown land will continue to be reserved for the benefit of the people of New South Wales. Therefore, the Government opposes the amendment

The Hon. MICK VEITCH (00:50): For the sake of brevity, the arguments put forward by Mr David Shoebridge were quite compelling and so the Opposition will support The Greens amendment.

The CHAIR: Mr David Shoebridge has moved The Greens amendment No. 4 on sheet C2016-105C. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (00:50): I seek leave to move The Greens amendments Nos, 5, 15, 16, 27, 32 to 35 and 38 on sheet C2016-105C in globo.

The CHAIR: I invite you not move The Greens amendment No. 23 in that tranche because that is a fairly complicated amendment involving a number of Opposition amendments and, indeed, another one of your own.

Mr David Shoebridge: Amendment No. 23 is a note.

The CHAIR: It is involved in a number of alternative amendments so it would be best not to move that one.

Mr DAVID SHOEBRIDGE (00:50): By leave: I move The Greens amendments Nos 5, 15, 16, 27, 32 to 35 and 38 on sheet 2016-105C in globo:

No. 5 **Note about compliance with community engagement strategy**

Page 12, Division 2.4. Insert after line 10:

Note. The alteration or removal of a purpose for which Crown land is dedicated or reserved must comply with the requirements of any applicable community engagement strategy.

No. 15 **Note about compliance with community engagement strategy**

Page 33, Division 3.6. Insert after line 18:

Note. The preparation of a plan of management under this Division must comply with the requirements of any applicable community engagement strategy.

No. 16 **Note about compliance with community engagement strategy**

Page 39, Division 4.2. Insert after line 34:

The vesting of land under this Division must comply with the requirements of any applicable community engagement strategy.

No. 27 **Note about compliance with community engagement strategy**

Page 47, Division 5.4. Insert after line 30:

Note. The sale of Crown land (except if required or permitted under the *Aboriginal Land Rights Act 1983*) must comply with the requirements of any applicable community engagement strategy.

No. 32 **Note about compliance with community engagement strategy**

Page 49, Division 5.5. Insert after line 35:

Note. The granting of a lease over Crown land (except a purchasable lease) must comply with the requirements of any applicable community engagement strategy.

No. 33 **Note about compliance with community engagement strategy**

Page 50, Division 5.6. Insert after line 23:

Note. The granting of a licence over Crown land must comply with the requirements of any applicable community engagement strategy.

No. 34 **Note about compliance with community engagement strategy**

Page 53, Division 5.7. Insert after line 1:

Note. The granting of a special purpose holding over Crown land (except a purchasable lease) must comply with the requirements of any applicable community engagement strategy.

No. 35 **Note about compliance with community engagement strategy**

Page 56, Division 5.8. Insert after line 30:

Note. The granting of an enclosure permit over Crown land must comply with the requirements of any applicable community engagement strategy.

No. 38 **Note about compliance with community engagement strategy**

Page 117, Division 12.4. Insert after line 35:

Note. The preparation of a State strategic plan for Crown land must comply with the requirements of any applicable community engagement strategy.

These amendments insert a note at the end of all those provisions relating to dealings and empowering officials, largely, to engage in dealings with public land, whether it be a lease, a sale or the like, stating that the alteration or removal of a purpose for which Crown land is dedicated or reserved must comply with the requirements of any applicable community engagement strategy. The note does not change the substance of the bill in any way; it simply says that we hope these community engagement strategies will be important and will inform decision-makers. It is a reference point. Every time an official has to deal with land in any way to alter or remove a purpose for which the Crown land is designated, it says to them that they have to comply with the applicable community engagement strategy. Often public officials will be very familiar with one or two sections of a bill and will deal with them on a daily basis but they are probably divorced from an understanding of the entirety of the bill. This note will direct them to comply with a community engagement strategy. That is the reason The Greens have moved these amendments.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:53): The Government opposes The Greens amendments Nos 5, 15, 16, 27, 32, 33, 34, 35 and 38 as it believes they would add unnecessary complexity to the legislation and are not needed. Division 5.4 of the bill makes clear the dealings that will be covered by the community engagement strategy. It is not necessary to duplicate this through the use of notes in the bill. It is more about implementation and making sure that the centrepiece, which is the community engagement strategy, is implemented correctly. Therefore, these amendments are unnecessary and are opposed by the Government.

The Hon. MICK VEITCH (00:53): One of the significant arms of this legislation is the community engagement strategy. This is a significant opportunity to strengthen the provisions in the bill. The Minister said that these amendments will add complexity to the operation of the legislation but I think he is missing the intent of the amendments moved by Mr David Shoebridge.

This amendment is about supporting and strengthening the community engagement strategy and the notes would assist in its implementation. We are keen to see that the community engagement strategy has a significant role in the administration of Crown land in the future. On that basis, we support strengthening that provision with the amendments of Mr David Shoebridge.

Mr DAVID SHOEBRIDGE (00:54): The Minister says not to worry, that clause 5.4 is clear enough and that public officials will be able to work out whether the particular provision they have is picked up by an obligation to engage with the community and to follow a community engagement strategy. I do not know if the Minister has read clause 5.4, which states:

In this Division:

dealings or other action affecting Crown land use means each of the following:

- (a) the alteration or removal of a purpose for which Crown land is dedicated or reserved,
- (b) the selling, transferring or vesting of Crown land under this Act ...
- (c) the granting of leases (except purchasable leases), licences or permits over Crown land,

- (d) the preparation of plans of management ...
- (e) the preparation of a State strategic plan for Crown land.

Then there is a list of the responsible persons for dealings:

- (a) the Minister,
- (b) the Secretary,
- (c) a non-council manager,
- (d) the Ministerial Corporation,
- (e) an employee of the Department involved in administering this Act,
- (f) any other person of a kind prescribed by the regulations.

Those dealings are then scattered through at least 11 separate provisions in the bill. We are not proposing to change the substance of anything. We are simply saying that when a bureaucrat has the power to engage in one of the dealings, there is a notation at the bottom that says, "Follow the Government's community engagement strategy." We have faith in the Government and we are investing in the community engagement strategies. We are not inserting a new obligation. We are making it easier for the officials who have to deal with a 208-page bill to work out what they should be doing when dealing with Crown land and whether or not they should be complying with a community engagement strategy. We are investing good faith in the community engagement strategy of the Government. I do not believe that most bureaucrats will be able to read clause 5.4 and work out whether the particular provision they have is picked up by the beautiful, succinct definition of "dealings or other action affecting Crown land use". We are trying genuinely to deal in a bona fide way with the proposal of the Government about community engagement strategies.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (00:57): Throughout the second reading debate a comment was made about the size of the bill. There is a lot of information in this bill. Clause 5.4 talks about the trigger of the community engagement strategy, which the Government has said is a cornerstone of this legislation. I reiterate that it is about its implementation, and those who are responsible for implementing such provisions are well versed in reading legislation and understanding their obligations, a part of which is implementation. Providing a note to remind them to do certain things adds to the complexity and size of the bill. Where do we stop? Do we remind them to make sure that they read twice, sign once, and those sorts of things? The clause is about making sure that the provision is implemented correctly. Clause 5.4 provides the figures and the rest is about adequate implementation by those who are well versed in interpreting and implementing such legislation.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 5, 15, 16, 27, 32 to 35 and 38 on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments negatived.

Mr DAVID SHOEBRIDGE (00:59): By leave: I move The Greens amendments Nos 6, 10, 12 and 36 on sheet C2016-105C in globo:

- No. 6 **Special provisions for Minister to grant relevant interests**
Page 12, clause 2.12, line 18. Omit "sections 2.18 and". Insert instead "section".
- No. 10 **Special provisions for Minister to grant relevant interests**
Pages 13 and 14, clause 2.18, line 35 on page 13 to line 34 on page 14. Omit all words on those lines.
- No. 12 **Special provisions for Minister to grant relevant interests**
Page 16, clause 2.20 (7), line 6. Omit "Sections 2.18 and 2.19 do". Insert instead "Section 2.19 does".
- No. 36 **Special provisions for Minister to grant relevant interests**
Page 65, clause 5.58 (3), lines 26–28. Omit all words on those lines.

Amendments Nos 6, 12 and 36 are consequential on amendment No. 10, which seeks to effectively delete clause 2.18 of the bill. We want to delete clause 2.18 because it gives special powers to the Minister, as it says in the heading. It is not hiding its light under a bushel. It says in bald terms:

Despite any other provision of this Act, the Minister may grant a lease, licence, permit, easement or right of way over dedicated or reserved Crown land for any of the following purposes...

The first purpose is "any facility or infrastructure". There is no public or private distinction; it is any facility or infrastructure. The second purpose is "any other purpose the Minister thinks fit". What is the point of the other 207 pages of the bill if the Minister is empowered to do whatever the Minister thinks fit for whatever purpose the

Minister wants? That is the argument. It is fundamentally clear that if a bill is to regulate the way in which Crown land is used for public purposes and include environmental, social and economic protections those kinds of blanket special powers should not be granted to the Minister. It is offensive to the rest of the bill and it is for those reasons that we move these amendments.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:01): The Government opposes the amendments moved by The Greens. Clause 2.18 of the bill replicates an existing provision in the Crown Lands Act 1989, which is section 34A. That existing provision allows the Minister to grant interest over reserved or dedicated land. It is an important provision as it gives the Minister the flexibility to determine what activities can occur on the land and reflects the fact that the State remains the owner of the Crown land. The provision builds in necessary and appropriate safeguards, including consultation requirements and the need for the Minister to be satisfied that it is in the public interest. The power can therefore only be exercised where it is appropriate. A practical example of the application of the provision is the ability to grant licences for telecommunications towers, which are necessary pieces of infrastructure that benefit the people of New South Wales. For those reasons the amendments are opposed.

The Hon. MICK VEITCH (01:02): The Opposition will not be supporting The Greens amendments in this instance, mainly because the clause they seek to delete replicates section 34A of the existing Act. Along with the protections provided in this bill, we want that provision to be retained.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 6, 10, 12 and 36 on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments negated.

Mr DAVID SHOEBRIDGE (01:03): By leave: I move The Greens amendments Nos 7 and 8 on sheet C2016-105C in globo:

No. 7 Additional purposes for dedicated or reserved Crown land

Page 12, clause 2.14 (2) (b), lines 28 and 29. Omit all words on those lines. Insert instead:

(b) is compatible with the purposes (the *existing purposes*) for which it is dedicated or reserved.

No. 8 Additional purposes for dedicated or reserved Crown land

Page 12, clause 2.14 (3), lines 31 and 32. Omit "would not be likely to materially harm its use for an existing purpose". Insert instead "is compatible with the existing purposes".

This might feel a bit like groundhog day because we have had this debate in this House before about whether additional or ancillary uses of Crown land should be compatible with the purposes for which the land has been reserved or whether the test should be that an activity is not likely to materially harm its use. I will give an example. A proposed offensive use such as a fireworks factory in the middle of a parcel of land that is set aside as a park would be not compatible with the existing purposes and would materially harm it. That probably satisfies both tests.

But where land is set aside as a park, and it is proposed that a racetrack be put in one corner of the park, the Government may well say, "It is only a quarter of the park; what is the problem? Three-quarters of the park is still available for the public; that will not materially harm its use." Most Crown lands campaigners, and people concerned about public land would say, "A racetrack is incompatible with a public park; you cannot have the two on a parcel of land that has been reserved for public recreation." I am pointing out the distinction between "compatibility" and "material harm".

The Government wants to be able to have a use on land that is set aside for public recreation or for a public purpose that is not compatible with the public recreation or public purpose. They want to say, "We can have that use provided it does not materially harm the outcome." It can harm it a bit, and it can be incompatible, but the Government will still be able to use it in that way. The Greens say that once land has been set aside for a public purpose, such as public recreation, it should not be possible to use that land in a way that is not compatible with that. That has been the state of the law in New South Wales for about 50 years, and we think it should be retained.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:06): The Government opposes The Greens amendments as they would fundamentally change the test applied when considering additional uses for reserved or dedicated land. The current test operates so that additional purposes will not be allowed where they would be likely to materially harm the purposes for which the land was dedicated or reserved. This safeguard operates to protect the integrity of the reserved purpose, and provides an appropriate balance when considering additional purposes. The proposed amendment would unnecessarily restrict additional purposes on Crown land. In addition, it could have the effect of invalidating existing uses such as

grazing licences. These are entirely appropriate uses of the land that can occur without harming the reserved purpose.

The Hon. MICK VEITCH (01:06): This matter was given a fair bit of consideration a couple of years ago during the multiple lease legislation that arose from the Goomallee decision. At the time I expressed some concerns about the definition of "materially harm". I am still not satisfied or comfortable with the explanation that was provided by the Government at the time. However, it is my understanding that this clause allows contemporising, as time goes by, because the purposes for which land was set aside 100 years ago have changed over time. I am sympathetic with some of the points put forward by Mr David Shoebridge in this debate but my concern is that if these amendments were adopted issues would arise in the ongoing management of the new Act and that some issues may arise for things such as the grazing leases. The Opposition has given consideration to this matter in the past and I am not persuaded to support the amendments.

Mr DAVID SHOEBRIDGE (01:08): I believe the Government's concerns that grazing leases or other uses that may be seen as incompatible would be invalidated are not valid. There is a raft of savings and transitional provisions which mean that any changes that have occurred as a result of this Act do not invalidate any current lease or licence. There is a raft of savings provisions to that effect. I am sure the Minister has been briefed and has been told that that is what he should say. That is, unfortunately, not consistent with his own bill, which contains that raft of savings provisions which expressly say that any of the changes brought about by this bill do not invalidate any licences or leases or the like. This is about going forward and making sure that any uses are compatible with the purposes for which the land was set aside. That is the test we want.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:09): Part of the Government's reason for opposing this amendment is not just about the existing use but also about the provision or the ability to renew or provide new licences in the future.

The CHAIR: Mr David Shoebridge has moved The Greens amendment Nos 7 and 8 on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments negatived.

Mr DAVID SHOEBRIDGE (01:10): I move The Greens amendment No. 9 on sheet C2016-105C:

No. 9 **Use of profits from dedicated or reserved Crown land**

Page 13, clause 2.17. Insert after line 33:

- (2) However, any profits made from using dedicated or reserved Crown land for commercial purposes, or charging fees for the use of the land, must be applied for the public purposes for which the land is dedicated or reserved.

The amendment will insert an additional provision in part 2 division 2.4 clause 2.17 of the bill, which currently allows for the "dedication or reservation of Crown land under this Part for a purpose that permits or requires its use by members of the public" but then expressly provides that it does not "prevent the holder of a holding over the land from using it for commercial purposes, or ... prevent the person responsible for the ... management of the land from charging fees for the use"; nor does it "entitle members of the public to have unrestricted access to the land". Basically clause 2.17 says that there are circumstances in which land that has been set aside, dedicated or reserved as Crown land can be used by private interests and fees can be charged for getting onto the land. That is not a revolutionary provision.

A significant number of private operations take place on Crown land where a fee is charged to get onto the land. There are public purposes and public operators of land who charge a fee to get onto Crown land. For example, almost every political party would have paid a fee to hold a meeting in a town hall at one point. It happens. However, the current law states—and it has been reiterated time and time again in the courts—that the fees paid for access to Crown land have to be reinvested in that land and have to go back to the land. That is what Greens amendment No. 9 will do. It states:

However, any profits made from using dedicated or reserved Crown land for commercial purposes, or charging fees for the use of the land, must be applied for the public purposes for which the land is dedicated or reserved.

The Greens amendment No. 9 reinstates that principle, which The Greens contend is an essential principle. The Government would say, "Members of the public of New South Wales, don't you worry about that because we have popped in clause 3.16." Part 3 division 3.3 clause 3.16 (1) of the bill states:

The net amount of the proceeds of dedicated or reserved Crown land managed by a Crown land manager must be applied by the manager for a permitted purpose for the land.

The Government would say, "Don't you worry—3.16 says that the net proceeds have to be spent on the land." If clause 3.16 ended there, I would agree with the Government. I would say, "That's okay; 3.16 does the job. It says

that the net proceeds have to be applied back to the land". But when we read on from clause 3.16, which is meant to be a protective measure, we get to nasty 3.16 (4), which states that the obligation to return the net proceeds back to the land has exceptions "to the extent that any of the following provide differently".

Clause 3.16 (1) provides legislative protection that ensures that revenue from fees and charges will be reinvested in Crown land, which is all well and good, unless a contrary intention is expressed in the manager's appointment instrument or the Crown land management rules—neither of which ever comes before the Parliament—or the regulations, or a plan of management under division 3.6 for the land. In other words, the revenue must be invested in the land unless in an instrument of appointment the Minister, or the Minister's delegate, decides that the money can be applied to a private purpose. Or the Crown land management rules, which will never come back before Parliament, can say that in those circumstances it can all go off for a private purpose. The protection in clause 3.16 has a lot of holes in it; in fact, one could drive a series of B-doubles through the exceptions that are found in clause 3.16 (4). That is why we want the absolute provision inserted in clause 2.17.

The Hon. MICK VEITCH (01:14): One of the problems I have with this amendment is the way it is worded. It says that it must be applied for the public purpose for which the land is dedicated or reserved. I seek clarification because what that may do is if a council is a local land manager and it wants to move the money around to cross-subsidise other Crown land under its jurisdiction that may not be an income-earning parcel of Crown land, it may not allow the council to move it across—

Mr David Shoebridge: There are other provisions in the bill that allow that to happen.

The Hon. MICK VEITCH: So this will not impede the capacity of, for instance, a local government area to cross-subsidise the operation of other Crown land or Crown land parcels?

Mr DAVID SHOEBRIDGE (01:15): It is a valid question because a number of councils have said, "This is an income-producing parcel of land, but we would like to use the income we get from that to fix up the park next door which is not income producing." This does not in any way derogate from the other provisions in this bill, which are good provisions and expressly say that the money that is put aside for one piece of Crown land can be used for another piece of Crown land that is being managed by the council or by the Crown land manager; they operate together. Not only is it not intended but it expressly does not derogate from that power to use the money from parcel A on parcel B.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:16): The Government opposes this amendment for similar reasons to those raised by the Hon. Mick Veitch. We believe that the way the bill is drafted at the moment can be contradictory and confusing in the way that funds may be able to be allocated. Mr Shoebridge said that I probably would stand up and say the amendment is not necessary because it duplicates the effect of clause 3.16, which ensures that the net proceeds from dedicated reserve land managed by a Crown land manager will be applied for the purpose of the making of improvements to land or for the purpose for which the land was dedicated or reserved. Clause 3.16 also allows rules or other instruments to tailor where and how the proceeds should be applied. For example, the Minister could specify that money should be spent on maintenance or training. For those reasons, and also for some of the reasons given by the Opposition, we oppose the amendment.

The Hon. PAUL GREEN (01:17): This is one of the important issues that we took evidence on. There is sometimes cross-subsidisation, and I know in the case of Shoalhaven some of the class 1 businesses that were tourist parks on Crown land that made megabucks cross-subsidised the asset maintenance of other reserves across the city. I would go one step further: There should be the ability to cross-subsidise because with some of those tourist parks the money could never be used for, say, local surf lifesaving, which was on the beach across from the tourist park. Some of the profits from the Crown land should be able to be used for surf lifesaving or for a scouts group. Likewise, if telecommunications are on a park or a sportsground, they should be able to get some compensation for that service being there and use it for their sports group. We are not of the view that we should shrink this possibility to cross-subsidise things that are right and helpful to the community.

Mr DAVID SHOEBRIDGE (01:19): I do not know how much plainer I can be. This amendment does not take away from the other provisions in the bill that allow for exactly the same thing to happen. There are black-and-white provisions in the bill saying that money that goes to one parcel of land can for the first time, following the passage of this bill, be used for other parcels of land. This amendment does not in any way derogate from that power but is entirely consistent with it. The amendment simply says that the money being gathered from a parcel of land goes into a pool of money and cannot be siphoned off for private interest. That is all this amendment does and yet we are having a bizarre argument about a straw man that is not raised by this amendment.

The CHAIR: Mr David Shoebridge has moved amendment No. 9 appearing on sheet C2016-105C. The question is that the amendment be agreed to.

Amendment negated.

The CHAIR: We now move to The Greens amendment No. 11 appearing on sheet C2016-105C, which is the same as Opposition amendment No. 4 appearing on sheet C2016-108B. The Greens amendment was received first and if it succeeds the Opposition amendment will lapse.

Mr DAVID SHOEBRIDGE (01:21): Mr Chair, would it be possible for the Hon. Paul Green to move Christian Democratic Party amendment No. 10 appearing on sheet C2016-111A? The Greens amendment concerns the same matter, which is proposed section 32 (5), dealing in the same language with any land claim within the meaning of the Aboriginal Land Rights Act. The Greens would not want the negating of our amendment to make the Christian Democratic Party amendment fall over. It might be appropriate for the Hon. Paul Green to move the Christian Democratic Party amendment No. 10.

The CHAIR: It is not a problem for the Hon. Paul Green to move Christian Democratic Party amendment No. 10.

The Hon. PAUL GREEN (01:22): I move Christian Democratic Party amendment No. 10 on sheet C2016-111A:

No. 10 **Validation of secondary interests**

Page 204, Schedule 7. Insert after line 12:

32 Continuation of validation of certain secondary interests

- (1) Without limiting section 30 of the *Interpretation Act 1987*, each of the following remains unaffected by the repeal of the *Crown Lands Act 1989*:
 - (a) any validation by clause 59 of Schedule 8 (the *former validation clause*) to the *Crown Lands Act 1989* of an existing secondary interest (as defined by that clause);
 - (b) any conclusive presumption in respect of those interests provided by the former validation clause;
 - (c) the application of section 104A (Saving of native title rights and interests etc) of the *Native Title (New South Wales) Act 1994* to the validation of any interest by operation of section 34AA of the *Crown Lands Act 1989* and the former validation clause.
- (2) The power of the Minister under section 2.19 to validate a secondary interest as referred to in that section extends to an existing secondary interest (as defined by the former validation clause).
- (3) A reference in section 2.19 to the use of Crown land in accordance with the secondary interest before its validation under that section extends to use and occupation before the commencement of that section.
- (4) This clause extends to the operation of section 2.19 in its application to Crown land managers because of section 3.17.
- (5) However, this clause continues not to affect:
 - (a) any decision of a court made before the commencement of section 34AA of the *Crown Lands Act 1989*; or
 - (b) any land claim (within the meaning of the *Aboriginal Land Rights Act 1983*) made before 9 November 2012 (the date of the decision in *Minister Administering the Crown Lands Act v New South Wales Aboriginal Land Council (Goomallee Claim)* [2012] NSWCA 358).

We received representations from the Aboriginal Land Council about the shared interests in protecting land according to the Goomallee Claim. This amendment replicates that decision to preserve that interest and goodwill.

Mr DAVID SHOEBRIDGE (01:23): I have not yet moved The Greens amendment No. 11 on sheet C2016-105C because I was hoping that the Minister would clarify on the record whether the Christian Democratic Party [CDP] amendment No 10 on sheet C2016-111A effectively does what our amendment No. 11 does. In the past few hours I have received the CDP amendments, and I note that No.11 proposes a new clause for the continuation of certain secondary interests, but there is a preamble before getting to the provision about the Goomallee Claim. I am having difficulty working out whether the preamble limits in some way the operation of proposed clause 32 (5) (b) so that it has lesser coverage than that contained in The Greens amendment.

I have to be clear about it. We just want to make sure that, with the passage of the Christian Democratic Party amendments, the provisions that are found in section 2.19 about "secondary interests" do not affect any land claim within the meaning of the Aboriginal Land Rights Act that was made before 9 November 2012, which is the Goomallee decision. We want to make sure that that is the effect of the CDP amendment. If that is the effect

of the CDP amendment, we will not move our amendment and we will be satisfied with the CDP amendment. But we would appreciate that clarification on the record from the Minister.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:25): I will start by addressing the amendment that has been moved. The Government accepts the savings and transitional amendment. The amendment will reassure the NSW Aboriginal Land Council and the local Aboriginal land councils of the ongoing effect of clause 59 of schedule 8 to the Crown Lands Act 1989. The Government believes this is a more appropriate response than the foreshadowed amendment of the honourable member. I am advised that I can give the assurances he seeks—that is the same effect. In doing so, I congratulate and thank the NSW Aboriginal Land Council for the way that it has approached this issue, the ongoing engagement that it has had with all members, including the Hon. Paul Green and other members in the Chamber, and also the direct discussions that I have had with my office on these matters. I know that this amendment, moved by the Christian Democratic Party, will be of great comfort to the council, and the Government is pleased to support it.

The Hon. MICK VEITCH (01:26): We support the amendment moved by the Christian Democratic Party [CDP] on the basis of the assurances just provided to the Chamber by the Minister. We had similar concerns to Mr David Shoebridge, hence we had a similar amendment that we will not be proceeding with if this amendment is accepted by the Chamber. The NSW Aboriginal Land Council spoke to us on a number of occasions about its concerns regarding the operation of this Act and the impact it may have on the Goomallee decision. The assurances that the Minister has given provide the comfort we require, so we will support the CDP amendment.

Mr DAVID SHOEBRIDGE (01:27): We are satisfied with the Minister's assurance. It has obviously been provided to him by his departmental officers who have drafted this amendment—sorry, the CDP, which drafted the amendment—

The Hon. Paul Green: Parliamentary Counsel.

Mr DAVID SHOEBRIDGE: The Parliamentary Counsel. We told the Aboriginal land council that we just want to get a result; we do not care who moves the amendment. That is our position.

The Hon. PAUL GREEN (01:27): I thank members. I know that the NSW Aboriginal Land Council went to all stakeholders, as it should, and it is a privilege for us to confirm the commitment of our party to that wonderful group.

The CHAIR: The Hon. Paul Green has moved Christian Democratic Party amendment No. 10, which appears on sheet C2016-111A. The question is that the amendment be agreed to.

Amendment agreed to.

Mr DAVID SHOEBRIDGE (01:27): We will not be proceeding with The Greens amendments Nos 13 or 14 because those principles of Crown land management have now been adopted in the objects.

The CHAIR: Neither Mr David Shoebridge nor the Hon. Mick Veitch are moving their respective amendments Nos 11 and 4. We are now up to Opposition amendment No. 6.

The Hon. MICK VEITCH (01:29): I move Opposition amendment No. 6 on sheet C2016-108B, relating to the application of Government Information (Public Access) Act to Crown land managers:

No. 6 **Application of GIPA to Crown land managers**

Page 21, clause 3.3. Insert after line 36:

- (7) A Crown land manager is taken to be an agency for the purposes of the *Government Information (Public Access) Act 2009*, but only in relation to information in records it holds in its capacity as a Crown land manager.

It is pretty self-explanatory, but there is a reason for us to move this amendment. Recently we were advised after making a GIPA application for some information relating to a trust that the trust is not covered by GIPA, which we are challenging. However, to make it absolutely clear in this new legislation: "A Crown land manager is taken to be an agency for the purposes of the GIPA Act 2009, but only in relation to information in records it holds in its capacity as a Crown land manager." It is self-explanatory and we think it would make it very clear for all involved—not just for us in opposition but for those opposite when they are back in opposition and making all the GIPA applications I am certain they will make.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:30): The Government opposes this amendment. This is unnecessary red tape. There are appropriate oversights already in place for Crown land managers. In appropriate circumstances the Minister can require records to be provided to the Minister, and therefore it is unnecessary.

Mr DAVID SHOEBRIDGE (01:30): I do not think the point is about the Minister getting the records, with all due respect to the Minister. I think it is about members of the public and other political players getting the records. That is why The Greens support the amendment.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendment No. 6 appearing on sheet C2016-108B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR: I ask members of the Opposition behind the Hon. Mick Veitch to keep their voices down. It is very difficult to hear when there is cross-chatter.

The Hon. Mick Veitch: They've got my back.

The CHAIR: I do not think they do, actually.

The Hon. MICK VEITCH (01:35): I seek leave to move Opposition amendments Nos 7, 8 and 20 on sheet C2016-108B in globo.

The CHAIR: Mr David Shoebridge might also have to move The Greens amendment No. 1 on sheet C2016-110, because they conflict. If the Opposition's amendment is agreed to, The Greens amendment will lapse. Otherwise, I will put The Greens amendment.

The Hon. MICK VEITCH: By leave: I move Opposition amendments Nos 7, 8 and 20 on sheet C2016-108B in globo:

No. 7 **Local councils subject to community engagement strategies**

Page 24, clause 3.13 (2) (e), line 20. Omit "for managers except local councils—".

No. 8 **Functions of local councils managing dedicated or reserved Crown land**

Pages 27–30, Division 3.4, line 8 on page 27 to line 14 on page 30. Omit all words on those lines.

Insert instead:

Division 3.4 Crown land managed by councils

Note. Part 8 includes provisions that are applicable to council managers concerning the management of land over which there may be native title rights and interests.

3.20 Application of Division

- (1) This Division applies in relation to any local council that is a Crown land manager of dedicated or reserved Crown land (a *council manager*).
Note. See Division 4.2 in relation to the powers and other functions of councils in which Crown land is vested under that Division.
- (2) This Division applies despite anything in the *Local Government Act 1993*.
- (3) A council manager of dedicated or reserved Crown land has the authority to exercise functions of the Minister in relation to the land only in the way permitted by this Division for the category of manager to which the council manager has been assigned.
- (4) Any authority to exercise a function of the Minister in relation to dedicated or reserved Crown land conferred on its council manager by this Division does not authorise the manager:
 - (a) to purchase or take a lease of, or acquire the benefit of an easement in respect of, any land (whether or not adjoining the dedicated or reserved Crown land) unless it is required by the manager for use in connection with the dedicated or reserved Crown land; or
 - (b) to do anything that contravenes:
 - (i) any limitations or other restrictions specified by the provisions of the manager's appointment instrument; or
 - (ii) the regulations; or
 - (iii) any applicable Crown land management rules; or
 - (iv) any applicable plan of management under Division 3.6.
- (5) The exercise of a function of the Minister in relation to dedicated or reserved Crown land by its council manager authorised by this Division has the same effect as if it had been duly done by the Minister under this Act.

3.21 Categories of council managers

- (1) The authority of a council manager to exercise functions of the Minister in connection with dedicated or reserved Crown land depends on whether the manager has been assigned as a category 1 or category 2 manager.
- (2) A council manager may be assigned (or reassigned) to a particular category of manager by:
 - (a) the manager's appointment instrument; or
 - (b) a notice published in the Gazette; or
 - (c) the regulations.
- (3) Any notice or regulation for the purposes of subsection (2) may assign a council manager specifically or by class.
- (4) If a council manager's appointment instrument and the regulations (or a notice published in the Gazette) assign the manager to different categories, the assignment made by the appointment instrument is to prevail unless the regulations (or notice) exclude the operation of this subsection.
- (5) A council manager is taken to be assigned as a category 2 manager if the manager has not been assigned to a particular category of manager under subsection (2).

3.22 Exercise of functions by category 1 council managers

- (1) A council manager of dedicated or reserved Crown land assigned to category 1 may, with the written consent of the Minister, exercise any of the functions of the Minister over the land.
- (2) Despite subsection (1), the council manager is not required to obtain the Minister's consent for the exercise of any of the following functions of the Minister:
 - (a) granting a lease or licence or an easement in connection with any such lease or licence (a *related easement*) if:
 - (i) the manager has been authorised by the Minister, by written notice, to grant the lease, licence or related easement without the Minister's consent; and
 - (ii) the lease, licence or related easement is granted in accordance with the Minister's authorisation; and
 - (iii) the manager complies with the requirements of the Minister's authorisation and the provisions of this section,
 - (b) making minor changes to leases or licences under section 3.24, (c) any other kind of functions authorised by the manager's appointment instrument, the regulations or an applicable plan of management under Division 3.6.
- (3) The Minister's authorisation:
 - (a) may relate to any specified dedicated or reserved Crown land (or class of dedicated or reserved Crown land) for which the council manager is the manager or generally to all dedicated or reserved Crown land for which it has been appointed as the Crown land manager; and
 - (b) may specify the circumstances in which a lease, licence or related easement may be granted by the council manager without the Minister's consent; and
 - (c) may apply generally in relation to the council manager or may be limited in its application by reference to specified exceptions or factors; and
 - (d) is subject to any terms and conditions that the Minister considers appropriate.
- (4) Without limiting subsection (3), the Minister may, in authorising a council manager to grant leases, licences or related easements without the Minister's consent:
 - (a) specify the purposes, and the terms and conditions, of any such lease, licence or easement; and
 - (b) limit the term of any such lease, licence or easement; and
 - (c) require the manager to follow certain procedures in relation to the granting of any such lease, licence or easement, including procedures for public notice and consultation, procedures for tendering and procedures for dealing with objections to the proposed lease, licence or easement, and
 - (d) require the manager to provide the Minister with such information as may be required by the Minister before or after any such lease, licence or easement is granted; and

- (e) require the manager to submit any proposal for such a lease, licence or easement to the Minister before it is granted; and
 - (f) require the reserve trust to indemnify the Crown against any liability or claim for compensation that may arise as a result of the granting of any such lease, licence or easement.
- (5) A council manager must, within 14 days of granting a lease, licence or related easement in accordance with the Minister's authorisation under this section, notify the Minister of the grant and the terms of the lease, licence or easement.
- (6) The Minister may, in making any decision in relation to an authorisation under this section, take into account such matters as the Minister thinks appropriate, including the performance of the local council concerned in managing:
- (a) the affairs of the council or any other Crown land that the council is managing or has previously managed; or
 - (b) any public land within the meaning of the *Local Government Act 1993*.
- (7) The Minister may, for the purposes of this section, request any information about a council, including information about a council's performance, from the Minister administering the *Local Government Act 1993* and that Minister is authorised to provide any such information.
- (8) Nothing in this section authorises a council manager to sell or mortgage land, or to grant a lease, licence or related easement for a term exceeding 21 years, without the consent of the Minister.
- (9) An authorisation by the Minister under this section may be varied or revoked by the Minister at any time by written notice given to the local council concerned.
- (10) Any lease, licence or easement granted by a council:
- (a) without the Minister's consent; or
 - (b) otherwise than in accordance with the Minister's authorisation or this section, has no effect except in such cases as the Minister may determine.
- (11) For the purposes of the *Residential (Land Lease) Communities Act 2013*, a lease or licence granted by a council manager as provided by this section is taken to be a lease or licence to which the Minister has given consent.

3.23 Exercise of functions by category 2 council managers

- (1) A council manager of dedicated or reserved Crown land assigned to category 2 may, with the written consent of the Minister, exercise any of the functions of the Minister over the land.
- (2) Despite subsection (1), the council manager is not required to obtain the Minister's consent for the exercise of any of the following functions of the Minister:
- (a) granting leases or licences for a term of 10 years or less (including any option for the grant of a further term);
 - (b) granting easements in connection with these leases or licences;
 - (c) making minor changes to leases or licences under section 3.24;
 - (d) any other kind of functions authorised by the manager's appointment instrument, the regulations or an applicable plan of management under Division 3.6.
- (3) A council manager that grants a lease or licence for a term of more than one year without the Minister's written consent must give the Minister written notice of the grant of the lease or licence within 14 days after it is granted. A failure to comply with this subsection does not, however, affect the validity of the lease or licence.
- (4) A council manager must indemnify the State against any liability that the manager may incur as a result of the manager granting a lease or licence (including any easements granted in connection with them) unless the manager sought and obtained the written consent of the Minister before granting it.

3.24 Minor changes to leases or licences do not require Ministerial consent

- (1) A council manager may make minor changes to leases or licences that the manager (or a previous manager) has granted over dedicated or reserved Crown land under the manager's management.
- (2) A *minor change* to a lease or licence over dedicated or reserved Crown land is a change that does not result in a change to any of the following:
- (a) the rent payable for the lease or licence,

- (b) the term for which the lease or licence will be in force (including any option to renew),
- (c) provisions relating to insurance,
- (d) provisions relating to native title rights and interests or claims under the *Aboriginal Land Rights Act 1983*,
- (e) provisions relating to the holder making good any damage to the land or structures on it,
- (f) provisions relating to works undertaken by the holder for which consent is required,
- (g) provisions relating to the termination or revocation of the lease or licence.

3.25 Community advisory groups

- (1) The Minister may direct some or all council managers to establish community advisory groups for dedicated or reserved Crown land under their management.
- (2) The regulations may make provision for or with respect to the following:
 - (a) the giving of directions to establish community advisory groups,
 - (b) the membership, procedures and functions of community advisory groups.

3.26 Annual reports

- (1) As soon as practicable after 30 June (but on or before 31 October) of each year, a council manager must provide the Minister with a report (an **annual report**) on the manager's management operations for the period ending on 30 June in that year.
- (2) The annual report must contain the information and other matters that may be prescribed by the regulations.
- (3) Without limiting subsection (2), the regulations may make provision for or with respect to the following:
 - (a) the form of annual reports,
 - (b) reviews to be conducted for inclusion in annual reports (including, for example, reviews of governance and financial management),
 - (c) financial auditing requirements,
 - (d) information for inclusion in annual reports about the financial position of council managers and their exercise of functions (for example, dealings with land under the management of council managers),
 - (e) the publication of annual reports to enable public access,
 - (f) directions by the Minister concerning any of these matters.
- (4) Without limiting section 42 of the *Interpretation Act 1987*, the regulations may impose different reporting obligations on council managers by reference to the category of council manager to which they are assigned under section 3.21.
- (5) The *Annual Reports (Departments) Act 1985* and *Annual Reports (Statutory Bodies) Act 1984* do not apply to annual reports by council managers concerning the exercise of their functions as Crown land managers.

3.27 Record keeping

- (1) A council manager must:
 - (a) keep any records (including accounting records) in accordance with the regulations, and
 - (b) provide the Minister or an authorised officer with these records (or copies of or extracts from these records) for inspection and copying if directed to do so or as required by the regulations.
- (2) Without limiting subsection (1), the regulations may make provision for or with respect to the following:
 - (a) the form in which records are to be kept,
 - (b) the inspection of records (including by members of the public),
 - (c) the retention of records by persons who have ceased to be council managers,
 - (d) exemptions from the requirement to keep records.

Page 46, clause 5.4, line 10. Omit "non-council manager". Insert instead "Crown land manager".

The Opposition moves these amendments in globo to ensure the municipal lands and the Crown lands legislation remain central to the management of Crown land in New South Wales. Attempts to move responsibility to the Local Government Act 1993 and the Minister for Local Government are not in the broader public interest. The Opposition supports efforts to distinguish local and State significant land on the proviso that it is not forced onto councils and that necessary checks and balances are in place to assess the land for its environmental, social and cultural values. The Minister for Local Government and his bureaucracy are not there for their land management expertise.

Labor is concerned that this is more about NSW Crown Lands washing its hands of Crown lands wherever it can. These amendments aim to ensure that until such time as land is vested with local government it remains Crown land overseen by Crown lands legislation and the Crown land Minister is administering it. Opposition amendment No. 7 provides for councils as managers of Crown land to be able to prepare a plan of management under the Crown lands legislation. Amendments Nos 8 and 20 will include local councils as managers of Crown land under the Act. This enables councils to continue to be managers of Crown land and ensure Crown land is managed under the Crown lands legislation and that the Minister for Lands and Water is the ultimate arbiter of all matters concerning Crown land.

The CHAIR: Before I call upon the Minister, I call on Mr David Shoebridge to move The Greens amendments Nos 1 and 4 on sheet C2016-110.

Mr DAVID SHOEBRIDGE (01:34): By leave: I move The Greens amendments Nos 1 and 4 on sheet C2016-110 in globo:

No. 1 Modification of application of Local Government Act 1993 to council managers

Page 27, clause 3.20 (3), lines 17–19. Omit all words on those lines.

No. 4 Modification of Act by savings and transitional regulations

Page 190, Schedule 7, lines 9–12. Omit all words on those lines.

Both of The Greens amendments relate to provisions in the bill. The first is clause 3.20 and the second is in the transitional provisions. Clause 3.20 allows the Government to rewrite the Local Government Act through regulations made under the Crown Lands Act. The Greens cannot work out why the Crown lands Minister should have the ability to rewrite the Local Government Act by way of regulations, yet that is what clause 3.20 does. To the extent the Minister is dealing with provisions of the Local Government Act that relate to a council manager as defined under division 3.4 the regulations may make provision for or with respect to the modification of the provisions of the Local Government Act 1993. The Minister can rewrite the Local Government Act using regulations under the Crown Lands Act. The Greens say that is offensive to the basic idea that the words of the Parliament supersede any actions of the executive. That applies to the ability proposed in schedule 7 to allow the regulations to make provisions despite any specified provisions in the Act.

The transitional regulations can rewrite the provisions of the Act. There has been an increasing tendency of late to use Henry VIII clauses in government legislation. The most abusive case is in relation to the 2012 workers compensation amendments where there was debate in the Parliament about the provisions of the Act but a Henry VIII clause was attached that stated regardless of what occurred in Parliament the Government could rewrite the Act through regulations. It occurs twice in this bill. The Greens are philosophically opposed to Henry VIII clauses that allow statutes to be rewritten by regulation. For those reasons The Greens move these amendments. For the reasons set out by the Hon. Mick Veitch The Greens support Opposition amendments that seek to put flesh on the bones and protection in place concerning dealings that council land managers have on Crown land.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:37): The Government opposes the Opposition amendments. The Crown land review and the white paper submissions showed overwhelming support for councils to manage Crown land under the Local Government Act. It reduces duplication, cuts red tape and enables councils to focus their resources to manage Crown land in the best possible way. To accept this amendment would be a retrograde step that enshrines the status quo to the detriment of Crown land. The Government opposes The Greens amendments. It prevents clarification of the application of the Local Government Act.

The Local Government Act provides a detailed framework and protections for Crown land to be managed by local councils as community land for the benefit of the public. It is necessary to have a regulation making power to modify the application of the Local Government Act 1993. A regulation may assist to clarify the application of the Local Government Act to the Crown land or to the Crown Land Management Bill. As Crown land managers councils will always be required to meet the statutory responsibilities of the Crown Land

Management Bill and comply with any applicable Crown land management rules, appointment instrument and plans of management.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendments Nos 7, 8 and 20 appearing on sheet C2016-108B. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR: Mr David Shoebridge has moved The Greens' amendments Nos 1 and 4 appearing on sheet C2016-110. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. MICK VEITCH (01:40): I seek leave to move Opposition amendments Nos 9, 10, 21 and 22 appearing on sheet C2016-108B in globo.

The CHAIR: There is a Christian Democratic Party amendment, but that does not cause a problem for the Hon. Mick Veitch. I will call on the Hon. Paul Green to move his amendment at the same time. Leave is granted for the Hon. Mick Veitch to move his amendments.

The Hon. MICK VEITCH: By leave: I move Opposition amendments Nos 9, 10, 21 and 22 appearing on sheet C2016-108B in globo:

No. 9 Community engagement for plans of management

Page 34, clause 3.35, lines 24 and 25. Omit all words on those lines. Insert instead:

A draft plan of management cannot be adopted under this Division unless:

- (a) a community engagement strategy has been approved by the Minister that applies to the plan; and
- (b) the strategy includes provisions of the kind referred to in section 5.6 (1) (d); and
- (c) the applicable Crown land manager has undertaken the community engagement required by the strategy.

Note. Section 5.6 (1) (d) requires a community engagement strategy for draft plans of management to include provisions for a minimum period of 28 days for public exhibition of draft plans and a minimum period of 42 days for submissions to be made after that exhibition.

No. 10 Community engagement for plans of management

Page 34, clause 3.36 (2), lines 29 and 30. Omit "If community engagement was required to be undertaken on the draft plan of management, the". Insert instead "The".

No. 21 Public consultation for community engagement strategies

Page 46, clause 5.5. Insert after line 21:

- (4) Before approving or amending a community engagement strategy, the Minister must:
 - (a) publicly exhibit a copy of the proposed strategy or amendment for a period of at least 28 days; and
 - (b) allow submissions to be made about the proposed strategy or amendment for a period of at least 42 days after the exhibition; and
 - (c) take into account any submissions that are duly made.

No. 22 Sale or lease of Crown land requires community engagement

Page 46, clause 5.6 (1). Insert after line 32:

- (d) for the sale of Crown land or its lease for a term of more than 5 years:
 - (i) a minimum period of 28 days for the public exhibition of a notice of the proposed sale or lease; and
 - (ii) a minimum period of 42 days for submissions to be made after that exhibition; and
 - (iii) a requirement that any submissions that were duly made during the submission period be taken into account before the sale or lease;

These amendments provide for guarantees of notification in relation to plans of management and other dealings in Crown land, such as sale and leasing. The Government has taken a "trust us" approach, which moves beyond its typical ploy of referring matters to regulation. The community engagement strategy will not be subject to the

oversight of Parliament, nor will it be a disallowable instrument. The Opposition's amendments require, as a minimum, notification and submission time frames that are equivalent to those in plans of management under the Local Government Act; that is, at least 28 days notification with least 42 days to make a submission. This is consistent with information obtained during the General Purpose Standing Committee No. 6 inquiry chaired by the Hon. Paul Green.

Amendment No. 10 clears up sloppy drafting probably created by the eleventh-hour changes made by the Government. There is a possibility that a community engagement strategy may not be required for a plan of management denoted by the phrase "if a community engagement strategy was required". A community engagement strategy is mandatory for plans of management, and the bill should provide for statutory minimum consultation periods. Amendment No. 21, apart from including statutory minimum consultation time frames, importantly requires the Minister to consider submissions. This small but tremendously important step has been omitted from the bill. I commend the amendments to the Committee.

The CHAIR: I will now call on the Hon. Paul Green before I call on anyone else, because he may wish to move Christian Democratic Party amendment No. 4.

The Hon. PAUL GREEN (01:43): I move Christian Democratic Party amendment No. 4 appearing on sheet C2016-11A:

No. 4 **Public consultation for community engagement strategies**

Page 46, clause 5.5. Insert after line 21:

- (4) Before approving or amending a community engagement strategy, the Minister must:
 - (a) publicly exhibit a copy of the proposed strategy or amendment for a period of at least 28 days along with any other explanatory material that the Minister considers appropriate or necessary; and
 - (b) allow submissions to be made about the proposed strategy or amendment during the exhibition period.

I understand that the community engagement strategy will put in place a framework for engagement with the community on decisions affecting Crown land. It would determine when the community should engage on certain decisions about Crown land. The existing Crown Lands Act 1989 requires public notification of certain decisions on Crown land through advertisements in local newspapers and in the *Government Gazette*. While notifications are not always effective engagement, they play an important role in certain decisions and in making some members of the community aware of those decisions. For that reason the Christian Democratic Party proposes that the bill be amended to require the notification period to be included in the community engagement strategy. This will make sure that, where appropriate, the community is still notified of important decisions through advertisements in newspapers and in the *Government Gazette*.

The CHAIR: Before the Minister responds, I invite Mr David Shoebridge to move The Greens amendment No. 26 on sheet C2016-105C. That amendment proposes a different time for engagement.

Mr DAVID SHOEBRIDGE (01:45): I move The Greens amendment No. 26 on sheet C2016-105C:

No. 26 **Content of community engagement strategies**

Page 46, clause 5.6 (1). Insert after line 34:

- (e) a minimum period of at least 42 days for the community engagement concerned;
- (f) a requirement that any submissions that were duly made during the community engagement period must be taken into account before a dealing or other action affecting Crown land to which the strategy applies is undertaken;
- (g) a requirement that written reasons be made publicly available for any final decision about a dealing or other action affecting Crown land to which the strategy applies.

This amendment would put in place a couple of mandatory minimums.

The CHAIR: The Hon. Mick Veitch's amendment No. 22 proposes an insertion on page 46, in clause 5.6.

Mr DAVID SHOEBRIDGE: That is where The Greens amendment proposes an insertion.

The CHAIR: The Greens amendment proposes an insertion after line 34. The Opposition amendment proposes an insertion after line 32.

Mr DAVID SHOEBRIDGE: The effect of the Hon. Mick Veitch's amendment would be to have a minimum of 28 days' notice of a sale. The effect of our amendment would be to have a minimum of 42 days' notice for all community engagements, which would include sale, so they would be inconsistent.

The CHAIR: All right.

Mr DAVID SHOEBRIDGE: The community engagement strategy is a positive change proposed by this bill. The concern for the public is that the rhetoric of the Minister is not incorporated in the provisions of the bill. The hope is that the rhetoric will be met with community engagement strategies that live up to it, but there is nothing in the bill to make that happen. The Greens amendment puts in place three additional minimums that we say should be included in community engagement strategies. The first is a minimum period of at least 42 days for community engagement. As the Hon. Paul Green would remember, a number of concerns were raised in the parliamentary inquiry, from the fishing community in particular, who were concerned about the closure of Crown roads. They said that they did not have enough time to find out where the roads were and what the effect of closure would be on access to streams. This issue affects not only the fishing community but also the bushwalking community and other members of the public. If Crown roads, unmade roads, are shut, that can stop them from accessing public reserves, streams, walking tracks and the like. That is why The Greens say that a minimum of 42 days would be appropriate.

There is also a requirement that any submissions made during the community engagement period need to be taken into account when the Government is making decisions. We say that there surely could not be opposition to including an obligation on the decision-maker to take into account the submissions. We included that requirement because members of the New South Wales community have, time and again, made submissions on an issue that are then roundly ignored by decision-makers. The Greens want to make sure that consideration of submissions is there in black and white. The third requirement is that the reasons for a sale or lease of land be made publicly available.

A requirement to give reasons improves the quality of decision-making. That is our experience. It is the ordinary human experience that if someone has to justify why they are doing something they tend to make better decisions. That is why we propose all three provisions as part of this amendment. The Greens support the Opposition's amendments. We are crossing over each other. We think 42 days are better than 28. We think our additional provisions are better. We understand that if the Opposition amendment is agreed to ours will fail. We will achieve some of what we want through the Opposition amendment. I do not think they are inconsistent but we also support the Christian Democratic Party's amendment if the Opposition amendments are not agreed to. The Christian Democratic Party's amendment is basically an obligation to consult on the consultation.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (01:50): The Government agrees with the Christian Democratic Party amendment in relation to the Crown lands. The community engagement strategy is an important and timely reform to the management of Crown land. It will enhance community engagement and involvement in decisions on Crown land. Concerns have been raised in relation to the public's involvement in the development of the community engagement strategy. The Government is genuinely committed to engaging the community in the development of the strategy. This amendment will make this engagement a legislative requirement. The Government therefore supports this amendment. The Crown Lands Act previously focused only on notifications through advertisements in local newspapers and the *Government Gazette*. This has been an ineffective way of communicating decisions on Crown land.

I believe the community engagement strategy will be able to address the issues raised by other members. The Christian Democratic Party amendment enshrines that in legislation. The proposals put forward by the Opposition and The Greens send us back to a one-size-fits-all approach. That is no longer appropriate as it does not provide for meaningful engagement with the broader community. The community engagement strategy is the cornerstone of this new legislation. It provides a new direction in engagement and will enable targeted and tailored engagement on decisions about Crown land. This is an important and significant step as it will ensure greater transparency over the management of Crown land. That is the reason the Government is supporting the Christian Democratic Party amendment and opposing the other amendments being moved.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendments Nos 9, 10 and 21 on sheet C2016-108B. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR: The Hon. Paul Green has moved Christian Democratic Party amendment No. 4 on sheet C2016-111A. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR: Mr David Shoebridge has moved The Greens amendment No. 26 on sheet C2016-105C. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendment No. 22 on sheet C2016-108B. The question is that the amendment be agreed.

Amendment negatived.

Mr DAVID SHOEBRIDGE (01:54): By leave: I move The Greens amendments Nos 17 to 20 on sheet 2016-105C in globo:

No. 17 Local land criteria—specified in Act (Alternative A)

Page 40, clause 4.6 (1) (d), lines 15 and 16. Omit all words on those lines. Insert instead:

- (d) the Minister is satisfied, having regard to the characteristics specified in subsection (2), that the land is suitable for local use.

No. 18 Local land criteria—specified in Act (Alternative A)

Page 40, clause 4.6 (2), lines 17 and 18. Omit all words on those lines. Insert instead:

- (2) Transferable Crown land is suitable for local use if it has the following characteristics:
 - (a) the land provides, or has the demonstrated potential to provide, a public good that is predominantly for the people of the local government area or immediately adjacent local government areas in a way that is consistent with any applicable environmental planning instruments; and
 - (b) the use of the land is consistent with the functions of local government or the land has the potential to be used for identified activities consistent with the functions of local government in a way that is consistent with any applicable environmental planning instruments; and
 - (c) the land is managed, or has the identified potential to be managed, as a community asset by local government or some other not for profit body; and
 - (d) the transfer of the land is consistent with protecting any social, environmental, cultural heritage or economic values identified under a relevant audit of the land; and
 - (e) any other kind of characteristic prescribed by the regulations.

No. 19 Local land criteria—specified in the regulations (Alternative B)

Page 40, clause 4.6 (1) (d), lines 15 and 16. Omit all words on those lines. Insert instead:

- (d) the Minister is satisfied, having regard to the criteria prescribed by the regulations, that the land is suitable for local use.

No. 20 Local land criteria—specified in the regulations (Alternative B)

Page 40, clause 4.6 (2), lines 17 and 18. Omit all words on those lines. Insert instead:

- (2) The regulations may make provisions for or with respect to the criteria to be applied in determining whether transferable Crown land is suitable for local use.
- (3) To avoid doubt, transferable Crown land cannot be transferred under this Division unless regulations for the purposes of subsection (2) are in force at the time.

These amendments are drafted in the alternative, that is, amendments Nos 17 and 18 are alternative to amendments Nos 19 and 20. This is about ensuring that the bill contains expressed local land criteria that actually guide or direct the Minister when making decisions about working out what parcels of land will be potentially transferred from being Crown land, owned by the State of New South Wales or the public of New South Wales, to local land invested as freehold in local council. The bill was accompanied by a bunch of nice glossy brochures, as happens in the spirit of the twenty-first century. We get a bill with a whole lot of glossies attached to it which say, "This is a lovely bill and a beautiful aroma will rise from the ground in New South Wales as soon as this bill is passed."

A provision in one of the glossies stated the criteria the Government is looking at for local land. It basically set out what is in The Greens amendment No. 18. It stated that the Crown land that will be subject to being vested in councils as local land is land that provides or has a demonstrated potential to provide a public good, predominantly for the people of that local government area; that the use of the land is consistent with the functions of local government or has the potential to be used for activities that are consistent with the functions of local government, and those functions have been identified; and that it is land that is managed or has the identified potential to be managed as a community asset by local government. The Greens thought the glossy

brochure contained not a bad set of criteria. The obvious question was, Why is it in the brochure and not in the bill? When we consulted with stakeholders they asked the same question. We agreed with them and, rather than have it in a glossy brochure which has no force of law, we put in the bill.

We also include those additional provisions where the transfer of the land is consistent with protecting any social, environmental, cultural heritage or economic values identified under a relevant audit of the land, if one is undertaken, which picks up the objects of the bill. The Greens did not want to be proscriptive here entirely. We thought that there could be such other characteristics as are prescribed by the regulation if they become apparent over time. Our first point was that the local land criteria should be established in the bill; that the glossies should have the force of law and we thought we would improve the bill. We anticipated resistance to that.

The Hon. Duncan Gay: You're a sceptic.

Mr DAVID SHOEBRIDGE: I note the Minister's concern that we were sceptics. Whilst many people are simply persuaded that the Government will live up to what is in the glossy brochures others are more sceptical and prefer to have it in the legislation. The Greens anticipated some opposition so we thought of our alternative model, which has been on the table for a while now. Currently in clause 4.6 the local land criteria can be established by an order of the Minister.

There is no obligation for an order to be issued and, of course, an order of the Minister is not subject to any oversight by this House. It is not a disallowable instrument; whatever the Minister wants, the Minister gets. This Minister might set out some criteria and another Minister will set out another set of criteria. Therefore, we should elevate the local land criteria from being an order to a regulation so it will have some democratic oversight, which is what our second amendment does.

Effectively, the second amendment has been recrafted with a Christian Democratic Party [CDP] amendment which broadly does the same. It does not work to the full extent of The Greens amendment, which says that no vesting in a local council can happen until the criteria are established in the regulations, which is missing from the CDP amendment. Otherwise, the CDP amendment essentially replicates The Greens amendments Nos 19 and 20. We ask that amendment Nos 17 and 18 be put first. If they are defeated, we ask that amendments Nos 19 and 20 be put. If they are defeated, we will support the CDP amendments.

The CHAIR: You are prescient. I call on the Hon. Paul Green to move CDP amendments Nos 2 and 3. Subject to what any other member has to say, the proposal put forward by Mr David Shoebridge will be the one that I adopt.

The Hon. PAUL GREEN (02:00): By leave: I move Christian Democratic Party amendments Nos 2 and 3 on sheet C2016-111A in globo:

No. 2 Local land criteria

Page 40, clause 4.6 (1) (d), lines 15 and 16. Omit all words on those lines. Insert instead:

- (d) the Minister is satisfied, after taking into account the criteria prescribed or identified by regulations made for the purposes of subsection (2), that the land is suitable for local use.

No. 3 Local land criteria

Page 40, clause 4.6 (2), lines 17 and 18. Omit all words on those lines. Insert instead:

- (2) the regulations may make provisions for or with respect to the criteria to be applied in determining whether transferable Crown land is suitable for local use.

In terms of the local land criteria to be prescribed by regulations, the Christian Democratic Party proposes that they be enshrined in the supporting regulation. The bill assumes all Crown land is State land. I am advised that the State land is of significance to all people of New South Wales. However, the bill also allows for the land to be divested to local councils where the land is considered to be suitable for local use in accordance with the local land criteria. The bill allows for the local land criteria to be gazetted by the Minister.

I propose that this provision be amended. Instead, I propose that the local land criteria be prescribed in the regulations. Enshrining the local land criteria in the regulations will allow for transparency in the process and will also allow the community to identify clearly what the criteria are and where they can be found. It will also allow for appropriate scrutiny and oversight of the criteria, which is important given the significance of Crown land to the State. Including them in the regulation will allow for sufficient flexibility should the criteria need to be amended over time. It will also allow the criteria to be responsive to the needs and expectations of the community.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:02): I will start with The Greens amendments Nos 17 and 18. The Government opposes those amendments.

The criteria are intended to be dynamic and responsive to changes of the day. The inclusions of the criteria in the bill will unnecessarily restrict the refinement of the criteria over time. For that reason, we believe that we are faced with two options: the Christian Democratic Party option of putting criteria in the regulation, or The Greens option of putting criteria in the regulation. The Government will support the Christian Democratic Party amendment, which will make it clear that the Minister must have regard to the local land criteria.

In addition, the Christian Democratic Party amendment will provide for local land criteria to be prescribed by regulations. The Government considers this amendment to be a positive addition to the bill. It will provide comfort to the broader community that the local land criteria will be subject to appropriate scrutiny and oversight. The local land criteria are intended to be dynamic and responsive to changes of the day. However, the inclusion of the criteria in the regulations will ensure greater transparency around the process, which is similar to what Mr Shoebridge was asking for. The Government supports the option proposed by the Christian Democratic Party.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 17 and 18 on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 19 and 20 on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR: The Hon. Paul Green has moved Christian Democratic Party amendments Nos 2 and 3 on sheet C2016-111A. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. MICK VEITCH (02:05): I move Opposition amendment No. 13 on sheet C2016-108B:

No. 13 **Vesting of Crown land in local councils must be as community land**

Page 40, clause 4.8, lines 29–40. Omit all words on those lines. Insert instead:

Transferable Crown land vested in a local council under this Division is taken to have been acquired by the council as community land under the *Local Government Act 1993* on its vesting.

The amendment as it reads is pretty straightforward. I commend the amendment to the Committee.

The Hon. NIAL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:06): The Government opposes this Opposition amendment, which will prevent councils from continuing to use land as it is currently used. There are appropriate safeguards to ensure that only genuinely operational land continues as operational land. The Local Government Act contains safeguards to ensure that land vested in councils is not inappropriately reclassified as operational.

Mr DAVID SHOEBRIDGE (02:06): In the course of the inquiry local government made a series of submissions to us saying that they wanted some land to come across as operational and they needed it to be operational. For example, if there was a sewerage works on land that went to the council it could not come across as community land because the sewerage works would be inconsistent with that. They said the same about some of their waste depots. I understand the intent of the amendment but in this case we cannot support it because it would make the use inconsistent with community land.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendment No. 13 on sheet C2016-108B. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (02:07): I move The Greens amendment No. 21 on sheet C2016-105C:

No. 21 **Reclassification as operational land of Crown land vested in local councils**

Page 40, Division 4.2. Insert after line 40:

4.9 Local council cannot reclassify vested community land without consent of Crown land commissioner

- (1) This section applies to land vested under this Division that is taken under section 4.8 to have been acquired by a local council as community land.
- (2) The local council cannot reclassify the land as operational land under the *Local Government Act 1993* unless a Crown land commissioner has given written consent for the reclassification.

- (3) A Crown land commissioner may give written consent for the reclassification of the land as operational land only if the Commissioner considers that the reclassification is in the public interest.
- (4) Before determining whether to give written consent, the Crown land commissioner must:
 - (a) consult with the local council and any other persons or bodies that the commissioner considers appropriate; and
 - (b) cause a notice to be published in the Gazette stating that written submissions may be lodged with the commissioner about the proposed reclassification not later than 28 days after the notice is published; and
 - (c) consider any submissions that were duly made.
- (5) The Crown land commissioner must provide written reasons to a local council for giving, or refusing to give, written consent for a reclassification.

This is one of the amendments that we see as crucial to The Greens' support for this bill. Clause 4.6 provides that unspecified amounts of land can be transferred to councils as local land. Once land goes into the hands of a council the council can do what it likes with it in terms of reclassifying it from community to operational. I think I said in my contribution to the second reading debate that good councils will keep community land as a community land. However, a malign council can go through the processes under the Local Government Act to reclassify community land as operational land despite the wishes of the local community.

In those circumstances a poor council would get a consultant to have a public inquiry. The consultant would take submissions. Even if 99 per cent of the submissions said, "Don't reclassify the land, we want to keep our parks as parks," the council would be in a position to ignore the submissions and reclassify the land as operational. The council could then rezone the land, flog it off, and make a quick buck, which would result in a park being covered in residential development. If members do not think that would happen I think they have ignored the reality of history in New South Wales for the past 225 years. I note that MacArthur is over there, as well.

The Hon. Duncan Gay: I will be up there soon, I hope.

Mr DAVID SHOEBRIDGE: Virginia will beat you, I hope. There have been two centuries of this kind of land grabbing by those who have the ear of the Government in this State, and this is opening up a whole new tranche to do that. What is the protection proposed by The Greens? The Greens proposed what we thought was a pretty balanced protection. We were not getting rid of the ability to transfer Crown lands to local councils. One of the options that was on the table was simply to say no. As members of a party that fundamentally believes in local government and grass roots democracy, we believe that having local assets held by the level of government that is closest to the people can provide real benefits.

A good council, using community land for a positive purpose, can often get better value out of that land than if the land was managed by the Commonwealth Government or a State Government if it is local land for a local purpose. So we can understand the philosophy behind transferring it, but The Greens believe that once land is transferred to council as community land it should not be reclassified as operational land unless a Crown Land Commissioner has given written consent to the reclassification.

The Greens say that in determining whether or not to give written consent to the classification the commission needs to consider whether or not that reclassification is in the public interest. It needs to consult with the local council and the other bodies it thinks appropriate, and it needs to consider any submissions that are made to it. This is giving the commissioner a job to do. Buried at the end of this bill is a provision that allows the Minister to create Crown land commissioners but no real work has been given to the commissioners. I know that that was a response to the inquiry that was chaired by the Hon. Paul Green.

People think that having Crown land commissioners is a good step, but they have to have some work to do. This would give them some work to do. I gave examples of the behaviour of the former Wyong council and the former Auburn council, which treated public assets as if they were a gift of the council to be squeezed out for maximum profit regardless of the views of the local community. If you had a council behaving badly like that there would be that essential check and balance of the Crown Land Commissioner, who would be checking for the public interest and would not allow the reclassification to happen.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:12): The Government opposes the amendment as it is unnecessary, would add significant red tape and effectively create two categories of council land. The result of this amendment would be that land that has once been Crown land but is now owned by councils would have additional constraints placed on it. It would be managed differently to other land owned by council. The additional constraints are unnecessary and overly

cumbersome. The Local Government Act provides sufficient safeguards around the use of council-owned land. It is not the intention of the Government to undermine those safeguards.

The Hon. MICK VEITCH (02:13): The Opposition will support The Greens amendment for the very good reasons articulated in the contribution of Mr David Shoebridge.

Mr DAVID SHOEBRIDGE (02:13): This amendment does not in any way change the way in which the land is managed. The land will still be managed as community land when it is community land; this just prevents it from being reclassified as operational without there being a check and balance. The Minister said that this amendment would put additional constraints in the bill. Too right it does! The proposed provisions of the Government bill just remove all the constraints. The contribution that the Minister just gave will come back and haunt this Government when councils—a minority of councils—do behave badly. They will behave badly; that is the lesson of the past in New South Wales.

The Hon. Penny Sharpe: Port Stephens Council.

Mr DAVID SHOEBRIDGE: People who ignore the past will commit the same errors in the future. I heard the Hon. Penny Sharpe utter sotto voce behind me, "Port Stephens Council". I will conclude my contribution on that note: Just think of the Port Stephens Council.

The CHAIR: Mr David Shoebridge has moved The Greens amendment No. 21 on sheet C2016-105C. The question is that the amendment be agreed to.

The Committee divided.

Ayes 16
Noes 20
Majority 4

AYES

Barham, Ms J
Faruqi, Dr M (teller)
Mookhey, Mr D
Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Buckingham, Mr J
Field, Mr J (teller)
Moselmane, Mr S
Secord, Mr W
Veitch, Mr M

Donnelly, Mr G
Graham, Mr J
Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

NOES

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S

Mason-Cox, Mr M
Phelps, Dr P

Blair, Mr N
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Taylor, Ms B

Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
Harwin, Mr D
Mallard, Mr S
Pearce, Mr G

PAIRS

Houssos, Ms C

Ajaka, Mr J

Amendment negatived.

Mr DAVID SHOEBRIDGE (02:24): I move The Greens amendment No. 22 on sheet C2016-105C:

No. 22 **Income generated by Crown land vested in local councils**

Page 41, clause 4.9 (7), line 45. Insert "except for any part of that income that is required to be paid into the Public Reserves Management Fund" after "its vesting".

In the course of the General Purpose Standing Committee inquiry into Crown lands we took pretty compelling evidence from local councils in western and southern New South Wales, particularly from councils appearing before the committee at a hearing in Dubbo. They said, "If you are thinking about handing over Crown land to

councils and allowing the income generated from Crown land to be given to the council that gets that land, do not forget us." They said this because the councils on the coastal strip of New South Wales could get Crown land assets that will be income producing, such as caravan parks and land close to the beach on which a kiosk operates. Crown land in the eastern strip of the State is extremely economically valuable and is likely to generate income. However, councils in the west of the State know that the Crown land surrounding places like Bourke, Brewarrina or Dubbo is not going to turn a dollar. Largely these councils have to pay for the upkeep of such land.

The Hon. Greg Donnelly: Point of order: There is too much background noise in the Chamber, making it difficult to hear the member who has the call.

The CHAIR: Order! Members who wish to have private conversations will do so outside the Chamber.

Mr DAVID SHOEBRIDGE: The management of this land costs the councils. They have to remove car wrecks and rubbish from it, they have to fence it, they have to police it and they have to weed it. These councils know that there are not a lot of income-producing assets in the western part of New South Wales that they are likely to get their hands on as a result of this legislation. But, to the extent that income-producing Crown land in the east of the State moves from the State Government to the local councils in that part of the State, there will be no opportunity to take some of that income from that Crown land and reallocate it equitably around the State. The way that the reallocation has traditionally been done is that the income from Crown land across the State is put into a common pool such as the Public Reserves Management Fund.

The proposals in this bill for local land to be transferred to local councils only when councils want it will mean that councils in the eastern part of the State, which recognise land they can make a buck out of, will say they would like that land. This will mean that income-producing land will go from being held by the State, where the income can be redistributed through the Public Reserves Management Fund to help councils in western New South Wales with financial difficulties, and instead be concentrated in the hands of councils on the eastern side of the State, which are likely to be more economically advantaged in the first place. That would mean a further impoverishment of councils in the west of the State, which would be unable to fund the ongoing management of Crown land in that region.

The Greens amendment proposes a provision to allow, when land is handed to a local council, any part of that income to be taken from the council and put into the Public Reserves Management Fund so it can be applied equitably around New South Wales. As a Greens member of Parliament moving this amendment, I make it clear that most of our supporters in New South Wales—not all of them as we are getting a growing number of supporters in western New South Wales—are residents of the eastern coastal strip. If I were only looking at our narrow self-interest in terms of The Greens' voter base, I would say that we should keep the income in the eastern strip of the State.

Any one of us who has been to western New South Wales realises that councils in that part of the State need a fair shake. Any one of us who has read the bill will realise the potential inequity in concentrating the income from those income-producing assets in the eastern third of the State only in the councils that are lucky enough to have valuable land that they can get transferred to them. I believe the Government will not support this amendment, and I find that depressing, to be honest, and short-sighted. I know that we have had the local councils come to us and say, "We want every dollar to come to us as a local council." Of course they are going to say that. Councils will say, "We do not want any money to be siphoned off for another purpose". But we are the State Parliament and we have to look at getting an equitable outcome. For those reasons we move The Greens amendment No. 22.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:29): The Government opposes the amendment. I understand that the purpose of the amendment is to ensure that income can still be generated for the Public Reserves Management Fund. However, this clause is about vesting land in councils. A council will be the owner of the land and it is appropriate that, as the owner of the land, they should be able to retain any income that they make from the land. To provide otherwise would operate as a big disincentive to councils to take on land. It needs to be clear that councils, as owners of the land, will be entitled to retain income generated from land that they own. This is consistent with the recommendations from the parliamentary inquiry into Crown land where a concern was raised about cost shifting and about councils feeling that they would therefore not be able to maintain that land as a result. I must, however, point out that the Public Reserves Management Fund will continue to operate for the benefit of Crown land managers who rely on grants to help them maintain dedicated and reserve land.

The Hon. MICK VEITCH (02:30): We support The Greens amendment No. 22. I was on the upper House inquiry that the Minister and Mr David Shoebridge spoke about. I recall the testimony provided to us out at Dubbo but, as someone who lives west of the dividing range, I am concerned about the inequity that will be created between the coastal councils east of the dividing range and some of the western councils. It is an issue

about the cross-subsidisation and the capacity to assist those councils. Everyone can see that the economic incentives about which the Minister spoke, are greater for the coastal councils than for councils west of the dividing range. I think, in some way, we have to ensure that those councils are not disadvantaged because of the geography. We support the amendment.

The CHAIR: Mr David Shoebridge has moved The Greens amendment No. 22 on sheet C2006-105C. The question is that the amendment be agreed to.

Amendment negated.

The Hon. MICK VEITCH (02:32): I move Opposition amendment No. 14 on sheet C2016-108B.

No. 14 **Re-vesting of former Crown land if local council seeks to reclassify land as operational land**

Page 42, Division 4.2. Insert after line 9:

4.10 Land vested under this Division to be re-vested in the Crown in certain circumstances

- (1) The Minister must, by notice published in the Gazette, declare that any land previously vested in a local council under this Division ceases to be vested in the council if the Minister considers that:
 - (a) the local council has classified, or has commenced to take the steps required under the *Local Government Act 1993* to classify, the land as operational land; or
 - (b) the land is of State significance.
- (2) Land that is declared under this section to cease to be vested in a local council becomes Crown land.
Note. See section 1.9 (When land becomes Crown land because of this Act).
- (3) Without limiting section 1.9 (10), no compensation is payable to the local council for any direct or indirect loss or damage to it resulting from a declaration under this section.

In my second reading contribution I spoke about the situation where—I note that the Hon. Duncan Gay is in the Chamber—at some stage in the future the Hon. Duncan Gay is going to retire. The good folk of Crookwell are going to say, "We should name a local park after the Hon. Duncan Gay". If that park had been vested in the council and at some stage the government of the day wants to then make the Duncan Gay park in Crookwell State significant, this amendment allows that block of land to be re-vested to the State so it can be made State significant. This legislation creates a dynamic two-way street where land can come back as Crown land if the community or the Minister deem it so. In the future, there may well be circumstances where land that will be vested with councils under this legislation may need to come back and be reclassified as State significant. That is what this amendment is trying to do.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:23): As entertaining and as tempting as the example that the member has given is—and as much as I would hate to think that I would ever be in the way of providing the ability for the Duncan Gay park to be dedicated in the township of Crookwell—

The Hon. Mick Veitch: And then made State significant.

The Hon. NIALL BLAIR: —and then made State significant, we will be opposing the amendment. The Local Government Act contains safeguards to ensure that land vested in councils is not inappropriately reclassified as "operational". Revesting of land would be a retrograde step that misses the due and proper processes under the Local Government Act. It could also deprive the local community of vital operational facilities without any monetary compensation. Therefore, we oppose the amendment.

Mr DAVID SHOEBRIDGE (02:34): The Greens support the Opposition's amendment. We quite like the idea of the Duncan Gay wind park, celebrating those beautiful wind turbines on the hills outside Crookwell which return income to the people of Crookwell and have made it a much more economically viable part of the State through the wonderful provision of renewable energy. We would like to see the Duncan Gay wind park established and protected for the ongoing interest of future generations. That is what the Opposition amendment would allow.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendment No. 14 on C2016-108B. The question is that the amendment be agreed to.

Amendment negated.

The CHAIR: We now move to a bundle of Opposition amendments Nos 11, 15 to 18 and 23 and perhaps The Greens amendment No. 1.

The Hon. MICK VEITCH (02:36): By leave: I move Opposition amendments Nos 11, 15 to 18 and 23 on sheet C2016-108B in globo:

No. 11 Vesting of Crown land in other government agencies (Alternative A)

Page 38, Part 4, line 5. Omit "and certain other government agencies".

No. 15 Vesting of Crown land in other government agencies (Alternative A)

Pages 42 and 43, Division 4.3, line 17 on page 42 to line 43 on page 43. Omit all words on those lines.

No. 16 Vesting of Crown land in other government agencies (Alternative B)

Page 42, clause 4.12 (a) (i), line 35. Omit "or". Insert instead "and".

No. 17 Vesting of Crown land in other government agencies (Alternative B)

Page 42, clause 4.12. Insert after line 44:

(2) A government agency vesting notice cannot be published unless:

- (a) a community engagement strategy has been approved by the Minister that applies to the plan; and
- (b) the strategy includes provisions of the kind referred to in section 5.6 (1) (d); and
- (c) the Minister has undertaken the community engagement required by the strategy.

Note. Section 5.6 (1) (d) requires a community engagement strategy for vesting transferable Crown land under this Division to include provisions for a minimum period of 28 days for public exhibition of draft plans and a minimum period of 42 days for submissions to be made after that exhibition.

No. 18 Vesting of Crown land only after assessment of certain values undertaken

Page 42, clause 4.12. Insert after line 44:

(2) A government agency vesting notice cannot be published unless:

- (a) the Minister has caused an assessment of the environmental, social and cultural values of the transferable Crown land concerned to be undertaken; and
- (b) a report of the results of that assessment is published in the Gazette at least 14 days before the government agency vesting notice is published.

No. 23 Vesting of Crown land in other government agencies (Alternative B)

Page 46, clause 5.6 (1). Insert after line 32:

(d) for vesting transferable Crown land under Division 4.3:

- (i) a minimum period of 28 days for the public exhibition of a proposed government agency vesting notice; and
- (ii) a minimum period of 42 days for submissions to be made after that exhibition; and
- (iii) a requirement that any submissions that were duly made during the submission period be taken into account before the notice is published,

Amendments Nos 11, 15 and 23 throw out the entire division dealing with vestings of Crown land to other government agencies. If the Government's claims are true, there are other ways of giving effect to this, namely through the sale of land, and currently there are checks and balances against abuse of these powers. The Opposition will ensure that these checks and balances will be retained as statutory minimum periods of notification and consultation regarding the sale of Crown land in subsequent amendments. Groups like the Law Society of NSW and many community groups are very concerned by the wide-reaching powers of these new provisions, which were not flagged in the explanatory note. I seriously doubt the Minister was aware of this legislative sleight of hand. As I said in my speech in the second reading debate, this division is scandalous and shoddy and it should be removed.

Amendments Nos 16, 17 and 18 are required to put further checks and balances in place over the vesting of Crown land with other government agencies. Importantly, it redresses an inconsistency in the bill. In the explanatory note regarding division 4.3, it requires the Minister to be satisfied that the vesting is in the public interest and the recipient agency is a capable and appropriate entity to hold land. Yet in the body of the bill, "and"

is replaced with "or". This amendment replaces "or" with "and". Again I ask: was the Minister aware of this internal inconsistency within the bill? There should be consistency here, and it is imperative that the Minister be satisfied that the vesting is in the public interest. Again, without a definition of public interest, the Opposition is concerned that this Government will have a broader definition of public interest that will enable it to divest Crown land at whim. I commend the amendments to the House.

The CHAIR: We are presently dealing with Opposition amendments Nos 11, 15 to 18 and 23. I anticipate that Mr Shoebridge will move The Greens amendment No. 23.

Mr DAVID SHOEBRIDGE (02:39): I move The Greens amendment No. 23 on sheet C2016-105C:

No. 23 **Note about compliance with community engagement strategy**

Page 42, Division 4.3. Insert after line 17:

Note. The vesting of land under this Division must comply with the requirements of any applicable community engagement strategy.

This amendment deals with the notation provision with regard to the community engagement principles. This debate occurred earlier and I will not repeat it. The Greens support Opposition amendments that protect and limit the circumstances in which land can be vested to a government agency. It is largely a power that is present in the Crown Lands Act. Anyone who has read the bill would realise that. The Greens speak of moving forward with the proper protections in place. The Greens are concerned that Crown land will be vested to government agencies such as UrbanGrowth NSW. To give an example, if a piece of land such as Wentworth Park was handed to UrbanGrowth NSW all the protections under the Crown Lands Act would be lost. I did not accede to the conspiracy theory surrounding Wentworth Park as underpinning the greyhound legislation as I think it was fanciful. Having said that, it is important to protect places such as Wentworth Park. That is what the Opposition amendments do and that is why The Greens support them.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:41): I begin with The Greens amendment. The Government addressed the issue of noting and opposes it for the same reasons that it was opposed earlier. The Opposition amendments were dealt with during the second reading debate. The amendments are unnecessary as there are appropriate safeguards in the legislation. The bulk of the provisions are duplicative and therefore unnecessary. The bill makes clear what dealings or actions must be included in the community engagement strategy, vesting or transfer of Crown land, and that Crown land managers must comply with the strategy.

In addition, the provisions in the bill will ensure that environmental, social and cultural heritage considerations are taken into account in decision-making. The legislation continues the existing ability to move land to other government agencies. Division 4.3 enables the Minister to divest land in another government agency, in which case no money need change hands. This power has been included to give more flexibility in the provision of public services such as schools and hospitals in appropriate circumstances. The provision includes appropriate safeguards to ensure that the Minister must be satisfied the vesting is in the public interest and the agency is an appropriate manager. The Government opposes the amendments.

The CHAIR: The Opposition has moved amendments Nos 11 and 15 appearing on sheet C2016-108B. The question is that the amendments be agreed to.

The Committee divided.

Ayes16
Noes20
Majority.....4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Secord, Mr W
Veitch, Mr M

Donnelly, Mr G (teller)
Graham, Mr J
Primrose, Mr P

Sharpe, Ms P
Voltz, Ms L

NOES

Amato, Mr L

Blair, Mr N

Brown, Mr R

NOES

Clarke, Mr D
Farlow, Mr S
Gay, Mr D
MacDonald, Mr S

Mason-Cox, Mr M
Phelps, Dr P

Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Taylor, Ms B

Cusack, Ms C
Gallacher, Mr M
Harwin, Mr D
Mallard, Mr S

Pearson, Mr M

PAIRS

Houssos, Ms C

Ajaka, Mr J

Amendments negated.

The CHAIR: Mr David Shoebridge has moved The Greens amendment No. 23 on sheet C2016-105C. The question is that the amendment be agreed to.

Amendment negated.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendments Nos 16 to 18 and 23 on sheet C2016-108B. The question is that the amendments be agreed to.

Amendments negated.

Mr DAVID SHOEBRIDGE (02:51): By leave: I move The Greens amendments Nos 24, 25 and 37 on sheet C2016-105C in globo:

No. 24 **Audit of Crown land**

Page 44, Part 5. Insert after line 7:

The sale, transfer, vesting, leasing or licensing of certain Crown land will not be permitted unless an audit of social, environmental, cultural heritage and economic values is first conducted.

No. 25 **Audit of Crown land**

Page 45, Part 5. Insert after line 17:

Division 5.2 Audit of Crown land**5.3 Crown land must be audited before certain dealings can occur**

- (1) Auditable Crown land must be audited to assess its social, environmental, cultural heritage and economic values before any of the following dealings with the land (the *proposed dealing*) are undertaken:
 - (a) the sale or transfer of the land to, or the vesting of the land in, a person;
 - (b) the granting of a lease or licence over the land for a term of 2 years or more.
- (2) Crown land is *auditable Crown land* if:
 - (a) it is urban land with an area of more than one hectare; or
 - (b) it is non-urban land with an area of more than 5 hectares; or
 - (c) it has potential for containing significant social, environmental, cultural heritage or economic values.
- (3) The regulations may make provision for or with respect to the criteria to be applied for the purposes of subsection (2) in determining whether Crown land is auditable Crown land.
- (4) The audit must be carried out by the Secretary.
- (5) Without limiting section 12.3, the Secretary may delegate the Secretary's functions under this Act (except this power of delegation) to a Crown land manager.
- (6) The results of the audit must be published in the Gazette at least 42 days before the proposed dealing comes into effect.
- (7) The person undertaking the proposed dealing must ensure that provisions (for example, conditions, covenants or other restrictions) are applied to the dealing to make it

consistent with the overall maintenance or enhancement of the land's social, environmental, cultural heritage and economic values.

No. 37 **Third party enforcement**

Page 111, Part 11. Insert after line 10:

Division 11.5	Restraint of contraventions
11.20	Remedy or restraint of contraventions of this Act or regulations
(1)	Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Act or the regulations.
(2)	The proceedings may be brought whether or not proceedings have been instituted for an offence against this Act or the regulations.
(3)	The proceedings may be brought whether or not any right of the person has been or may be infringed by or as a consequence of the contravention.
(4)	The proceedings may be brought by a person on the person's own behalf or on behalf of another person (with their consent), or of a body corporate or unincorporate (with the consent of its committee or other controlling or governing body), having like or common interests in those proceedings.
(5)	Any person on whose behalf proceedings are brought is entitled to contribute to or provide for the payment of the legal costs and expenses incurred by the person bringing the proceedings.
(6)	If the Court is satisfied that a contravention has been committed or that a contravention will, unless restrained by order of the Court, be committed, it may make any orders that it thinks fit to remedy or restrain the contravention.
(7)	In this section: <i>contravention</i> includes a threatened or apprehended contravention.

These amendments do two different things. Amendments Nos 24 and 25 require an audit of Crown land to be undertaken before land is sold, leased or licensed when the lease or licence is for a period of two years or greater. The amendments are targeted. They would not require an audit of, for example, a small parcel of land on which there was an unmade road. The amendments would require an audit to assess the land's social, environmental and cultural heritage and economic values and for that audit to be done before there were any dealings with the land. What is auditable Crown land? It is urban land with an area of more than one hectare, non-urban land with an area of more than five hectares or any land that has the potential to contain significant social, environmental, cultural heritage or economic values. In other words, the amendments require that the Government look at the land and assess its social, environmental, cultural heritage and economic values before selling it. That is not only an academic concern. Recently we saw the sale of the Mambo Wetlands in Port Stephens. I note that the Mambo Wetlands were not Crown land, but they were Department of Education land.

The Hon. Penny Sharpe: They still should not have been sold.

Mr DAVID SHOEBRIDGE: They should never have been sold. They were sold by the department without any assessment being undertaken by the department of that land's environmental values. What were the environmental values? Six hectares of prime koala habitat smack in the middle of Port Stephens were sold off to a developer without anyone in the department doing their basic due diligence on the land because there was no requirement for them to do so. What was really remarkable about Mambo was half the community was on alert. When the first proposal came to sell the land they said, "This is crucial koala habitat. Do not sell it, and definitely do not sell it to a developer." But because there was no obligation to do an audit the department basically put its hands over its ears and eyes and said, "Hear no evil, see no evil; hear no koalas, see no koalas. Flog it off." And off it went to a developer.

We want to ensure that that does not happen again. That is why we say that the audits should be undertaken. As I said, it is not every patch of Crown land; it is only Crown land over those thresholds of size in urban and non-urban areas or other Crown land that obviously has the potential to have those kinds of values. The Greens amendment No. 37 deals with another issue which is third-party enforcement. Around the State for years there have been members of the public who have seen Crown land being treated in a way that is obviously contrary to the principles of the Act. Crown land that has been set aside for a public purpose but is nevertheless in a private lease that has been negotiated without any notice to the public is Crown land that has been used for a private purpose not consistent with the public reserve. The problem is that there is no standing in the courts for those members of the public to go to in order to enforce the law or to insist that Crown land is dealt with in accordance with Crown land principles. The Greens amendment No. 37 inserts that open standing provision:

Any person may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Act or the regulations.

Allow the public to be the cop on the beat, if you like, to ensure that the protections so far as they remain in the Crown Lands Act can be enforced in a court of law. We commend the three amendments to the Chamber.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:56): The Government opposes The Greens amendments Nos 24 and 25, which really are about the sale of Crown land. The bill includes sufficient safeguards to ensure that land will be transferred or sold only in appropriate circumstances. This includes the overarching object that will ensure that environmental, social, cultural heritage and economic considerations be taken into account in decision-making. In addition, the community engagement strategy, which is a cornerstone of the bill, will ensure a meaningful engagement on dealings that will impact on the community's use of Crown land. It is not necessary to require a statutory audit of all Crown land. This would only create additional red tape and greater administrative burden without any real tangible outcomes.

Amendment No. 37 is also opposed by the Government. The bill introduces appeal rights and objections in appropriate circumstances. These include merits appeals for directions to remediate land and objections to rent determinations. It also enables a more tailored response to appeals by providing flexibility through a regulation-making power on appeals. This will enable the regulation to deal with appeals for certain decisions made under the bill. A blanket third party appeal right is not appropriate in the Crown land context. It would hinder the administration of the Act and would be an unnecessary duplication of appeal rights under other legislation. Many of the decisions regarding the actual use and development of the land are not made under the Crown lands legislation; they are made under the planning legislation and other environmental protection legislation. These are the appropriate places for third party appeal rights.

The Hon. MICK VEITCH (02:58): The Opposition supports The Greens amendments moved by Mr David Shoebridge.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 24, 25 and 37 on sheet C2016-105C. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. MICK VEITCH (02:59): I move Opposition amendment No. 19 on sheet C2016-108B:

No. 19 **Sale or lease of Crown land requires community engagement**

Page 45, clause 5.3. Insert after line 33:

- (4) However, the Minister cannot sell Crown land or lease it for a term of more than 5 years unless:
 - (a) a community engagement strategy has been approved by the Minister that applies to the sale or lease; and
 - (b) the strategy includes provisions of the kind referred to in section 5.6 (1) (d); and
 - (c) the Minister has undertaken the community engagement required by the strategy.

Note. Section 5.6 (1) (d) requires a community engagement strategy for selling or leasing Crown land to include provisions for a minimum period of 28 days for the public exhibition of a notice of the proposed sale or lease and a minimum period of 42 days for submissions to be made after that exhibition.

This amendment reinserts statutory notification periods into the bill's provisions around the sale and longer term leasing of Crown land. This amendment sets the current provisions of the Act requiring notifications for any sale of Crown land or lease for a term of more than five years. It will strengthen notification provisions by requiring notification for a minimum period of 28 days as well as a statutory minimum period of 42 days for the community to provide a submission. This again creates a standard statutory minimum. If the community engagement strategy considers it necessary to go beyond these minimums so be it. We have a baseline that Parliament can guarantee any Minister in future cannot subvert.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (02:59): The Government opposes this amendment. It is very similar to what we have been discussing almost all night in relation to the community engagement strategy. The amendment is unnecessary as it duplicates protections already provided in the bill. The bill makes clear what dealings or actions must be caught by the community engagement strategy, including the sale or lease of Crown land. In addition, the objects of the Act will ensure that environment, social and cultural heritage considerations are taken into account in decision-making. Consistent with the Government's approach and the cornerstone of this legislation around the community engagement strategy we will be opposing the amendment.

Mr DAVID SHOEBRIDGE (03:00): The Greens support Opposition amendment No. 19. If the Government wonders why the Opposition and The Greens are joining together to say we need statutory minimums about consultations, particularly when we are talking about the long-term lease or the sale of land, one only has to read the Auditor-General's report. It stated that 98 per cent of leases on Crown land, done by the department that we are now meant to trust will produce the community engagement strategy, in the past five years were private with no community consultation. It was land leased without anyone knowing except those who were in the closed room and were privy to the private negotiation. And 50 per cent of parcels of land were sold on a one-on-one dealing with no public consultation. If the Minister wonders why the public want a basic minimum in consultation periods it is because we have learnt from history. The basic assurance from the Government for us not to worry, it will all be sorted out in a community consultation, trust us, the department has learnt its lessons, is not what the Auditor-General said or what the public says. That is why we support these amendments.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendment No. 19 appearing on sheet C2016-108B. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. MICK VEITCH (03:01:0): By leave: I move Opposition amendments Nos 24 to 27 on sheet C2016-108B in globo:

No. 24 **Community engagement for plans of management**

Page 46, clause 5.6 (1). Insert after line 32:

- (d) for draft plans of management for Crown land under Division 3.6:
 - (i) a minimum period of 28 days for the public exhibition of a draft plan; and
 - (ii) a minimum period of 42 days for submissions to be made after that exhibition; and
 - (iii) a requirement that any submissions that were duly made during the submission period be taken into account before the plan is adopted,

No. 25 **Compliance with community engagement strategy mandatory**

Page 46, clause 5.6 (1) (d), lines 33 and 34. Omit all words on those lines.

No. 26 **Compliance with community engagement strategy mandatory**

Page 47, clause 5.8 (2), lines 10–13. Omit all words on those lines.

No. 27 **Compliance with community engagement strategy mandatory**

Page 47, clause 5.8 (3), line 14. Omit "Despite subsection (2), non-compliance". Insert instead "Non-compliance".

Amendment No. 24 inserts statutory minimums for consultation notification for plans of management, taking it away from the uncertainties of the community engagement strategies. Just as in the Opposition's other amendments, it provides a 28-day period for notification and 42 days for submissions. The Opposition is concerned that statutory notification is being systematically being removed from Crown land management under this bill. Amendments Nos 26, 26 and 27 will remove any get-out-of-jail provisions that are contained within the rubbery and elusive provisions of the community engagement strategies. These amendments will ensure strict compliance with community engagement strategies to ensure there is no back door way of ignoring a publicly endorsed community engagement strategy in regards to any dealings in Crown land. I commend the amendments.

Mr DAVID SHOEBRIDGE (03:03): For the reasons we gave on the previous amendment, The Greens supports these amendments.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (03:03): For the reasons I gave earlier on the community engagement strategy, the Government opposes these amendments. These amendments takes us back to the one-size-fits-all approach. The cornerstone of the legislation is the community engagement strategy.

It is not appropriate that all requirements in the comprehensive community engagement strategy have invalidity consequences if they are not met. Minor technical oversights could render important decisions invalid and have broad-reaching inequitable consequences. For that reason, together with the other reasons that have been spoken about surrounding the community engagement strategy, particularly notification days, the Government opposes those amendments.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendments Nos 24 to 27 appearing on sheet C 2016-108B. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. PAUL GREEN (03:05): I move Christian Democratic Party amendment No. 5 on sheet C2016-111A:

No. 5 **Community engagement for plans of management**

Page 46, clause 5.6 (1). Insert after line 32:

- (d) The period for notifications (if any) about proposed dealings or other action affecting Crown land use to which the strategy applies;

It is as it says.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (03:05): The Government agrees to the Christian Democratic Party amendment No. 5. The Crown Lands Act focused on issuing public notifications through advertisements in local newspapers and the *Government Gazette*. This was often an ineffective way of communicating decisions about Crown land. The community engagement strategy provides for new and innovative ways to allow meaningful engagement with the public, new ways of seeking the public's views and notifying the public, which could include such things as websites, focus groups, surveys or workshops. Concerns have been raised that notification procedures will no longer apply. This amendment will reassure the public that notification procedures can continue to be used, where appropriate. Therefore, the Government supports this amendment.

The Hon. MICK VEITCH (03:06): The Opposition supports the Christian Democratic Party amendment No. 5.

The CHAIR: The Hon. Paul Green has moved Christian Democratic Party amendment No. 5 on sheet C2016-111A. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR: We now move to The Greens amendment No. 28. I anticipate that the Opposition may also move one or two amendments.

Mr DAVID SHOEBRIDGE (03:07): By leave: I move The Greens amendments Nos 28 to 31 on sheet C2016-105C in globo:

No. 28 **Sale or disposal of Crown land in Western Division**

Page 47, clause 5.9 (1) (d), line 40. Omit "purposes, or". Insert instead "purposes".

No. 29 **Sale or disposal of Crown land in Western Division**

Pages 47 and 48, clause 5.9 (1) (e) and (f), line 41 on page 47 to line 5 on page 48. Omit all words on those lines.

No. 30 **Sale or disposal of Crown land in Western Division**

Page 48, clause 5.9 (2), lines 8–13. Omit all words on those lines. Insert instead:

- (2) The regulations may make provision for or with respect to the classification or identification of land for the purposes of subsection (1) (a), (b), (c) or (d).

No. 31 **Sale or disposal of Crown land in Western Division**

Page 48, clause 5.9 (3), lines 14–20. Omit all words on those lines.

By leave, I also move The Greens amendments Nos 2 and 3 on sheet C2016-110 in globo:

No. 2 **Crown land commissioner for Western lands**

Page 113, clause 12.2. Insert after line 18:

- (2) A Crown land commissioner must be appointed for the Western Division.

No. 3 **Crown land commissioner for Western lands**

Page 156, Schedule 3. Insert after line 12:

- (2) The Minister must seek the advice of the Crown land commissioner for the Western Division about a proposed direction under subclause (1) before giving it.
- (3) If the Minister gives a direction under subclause (1) that is contrary to the advice of the Crown land commissioner for the Western Division, the Minister must provide the commissioner with written reasons as to why that advice has not been followed.

These amendments are about ensuring that there are protections for Crown land in the Western Division of New South Wales. One of the primary concerns that The Greens have, and public land campaigners and environmental groups like the Nature Conservation Council have, is the ability to allow for landholders to apply

to convert their grazing leases to freehold leases in the Western Division as is proposed in clause 5.9 of the bill. There are certain parts of clause 5.9 that The Greens do not oppose, which is the ability of the ministry to sell Crown land in the Western Division if the Minister is satisfied that the land is in an urban area.

We accept that there will be cases where some urban development is needed in townships in the Western Division. Another part we do not oppose is if the land is required for urban expansion. We can understand there might be a need for land sales on the edge of town to allow those towns to develop. We can even accept that there may be an argument that land within a certain distance of the town can also be sold off for economic development or to construct additional homesteads or the like, particularly land that is being proposed for residential, industrial or community purposes.

We are talking about constrained parcels of land in or about townships in western New South Wales. We accept that there is a good economic and social case to allow some Crown land to be disposed of in order to further the interests of those towns. What we do not agree with is the proposal to allow for the large-scale conversion from leasehold to freehold for land that is obviously mostly large leases of grazing land where various land and soil capability assessments have been undertaken. Basically subclauses 5.9 (1) (e) and (f) say that land that is currently set aside as grazing land in the Western Division that has a potential to be used for cultivation—for clearing and broadacre cropping—and that has better soil quality can be sold.

Rather than protecting native vegetation from clearing, these provisions say that the better the soil the more likely it is that the land will be able to be sold off. Obviously, the better the soil in grazing land the more likely it is that the landowner will want to clear the native vegetation and turn it into broadacre cropping. It is exactly the wrong land to be putting up for sale and conversion from leasehold with the protections that it can only be used for grazing to freehold where it is open slather subject to the provisions of the Native Vegetation Act. I am sorry, but we are going to abolish the Native Vegetation Act in the next week as well.

The Hon. Niall Blair: You're voting for it, are you?

Mr DAVID SHOEBRIDGE: This Parliament will, tragically. We will not be voting for it because we think it is a bloody tragedy. The Government is almost proposing a double whammy for land in the Western Division. First it will allow it to be converted from grazing to freehold, of course then removing the restraint that the leases apply to the land and the powers that the Minister is meant to have even in this bill to protect grazing land. Secondly, once it is transferred to freehold the Government's proposal is to rip away the native vegetation and biodiversity protection and lay bare huge swathes of land in New South Wales that need to retain their native vegetation in order to protect crucial environmental assets. This is a make or break provision in terms of The Greens' support for this bill. We cannot support these proposed changes and the open slather sale of land in the Western Division. That is the effect of The Greens amendments Nos 28 to 31 on sheet C2016-105C.

The Greens amendments Nos 2 and 3 on sheet C2016-110 go to a different matter. They effectively say that the Western Lands Commissioner, the office of which has existed for about a century, has played an important role in the protection of land in western New South Wales. The current commissioner is Andrew Bell. People in the Western Division have nothing but praise for the commissioner and the job he is doing and has done to protect land in western New South Wales.

The Hon. Duncan Gay: I think you could say that nearly all of the commissioners have had that same support.

Mr DAVID SHOEBRIDGE: I do not pretend to know the history. I note the interjection from the Hon. Duncan Gay, and I do not contest it in any way. Western lands commissioners have had a history of doing good for the public, and protecting the economic, environmental and social values of the land in Western New South Wales. That is undoubtedly the case, but they are being abolished by this bill. So, The Greens amendments propose that we re-establish Crown land commissioners, and have one appointed specifically for the Western Division. We basically recreate that role. The Greens amendments recreate the role, but we do not say that it should be a paper commissioner. The Greens say that there should be work for that Western Lands Commissioner. The obvious thing to do is to give the commissioner the role of providing advice to the Minister when the Minister is making determinations about stocking densities and the uses to which grazing land can be put. Traditionally, the role of the Western Lands Commissioner has been to ensure that we do not graze land to death—that we do not overstock land in western New South Wales and that we protect it.

The proposal of the Government is to remove the commissioner from that role and give the responsibility to the Minister. Why is that a problem? Traditionally, the commissioner has been an expert public servant who is not there to be swayed by the politics of the day. A particularly influential grazier might want to get in the ear of the Minister, but traditionally that influential grazier would be told by the commissioner that he or she can go and whistle dixie. The commissioner will act in accordance with the evidence. So The Greens want to retain that role

for the commissioner. We say that the commissioner should give advice to the Minister about those grazing issues, and if the Minister wishes to deviate from the advice of the commissioner then the Minister has to give reasons in writing. For those reasons we commend each of those amendments to the House.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (03:16): I will start by commenting on The Greens amendments Nos 28 to 31, which the Government opposes. It is appropriate for the sale of land in the Western Division to occur where appropriate safeguards are in place. The bill provides for these appropriate safeguards for land that is environmentally sensitive. In doing so it balances the need to promote economic growth in the Western Division against the need to protect land that is environmentally sensitive. Safeguards ensure that land can only be sold where the land has a demonstrated capability for primary production. This is an entirely appropriate protection that also ensures that farmers in the Western Division have the greatest possible flexibility to own and productively manage their land without artificial barriers.

The Government also opposes The Greens amendments Nos 2 and 3. The Minister, with departmental expertise, can appropriately determine the necessary requirements and protective measures to be taken by western lands leaseholders. The permanent appointment of a Crown Land Commissioner for the Western Division would impose unnecessary costs for the administration of Crown lands. Therefore the Government opposes those amendments as well.

The Hon. MICK VEITCH (03:17): The Opposition will be supporting The Greens amendments with regards to the western lands and Western Lands Commissioner. We explored this quite extensively in the second reading debate, so I will not go over all those arguments. But I will say that in places the western lands are fragile landscapes. We should make sure that protections are in place to manage those fragile landscapes. The Western Lands Act was established in 1901 for good reasons, and those reasons are still valid. For those reasons the Opposition will be supporting The Greens amendments.

The CHAIR: Mr David Shoebridge has moved The Greens amendments Nos 28 to 31 on sheet C2016-105C and amendments Nos 2 and 3 on sheet C2016-110. The question is that the amendments be agreed to.

The Committee divided.

Ayes16
Noes20
Majority.....4

AYES

Barham, Ms J
Faruqi, Dr M
Mookhey, Mr D

Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Buckingham, Mr J
Field, Mr J
Moselmane, Mr S
(teller)
Secord, Mr W
Veitch, Mr M

Donnelly, Mr G (teller)
Graham, Mr J
Primrose, Mr P

Sharpe, Ms P
Voltz, Ms L

NOES

Ajaka, Mr J
Brown, Mr R
Cusack, Ms C
Gallacher, Mr M
MacDonald, Mr S

Mason-Cox, Mr M
Phelps, Dr P

Amato, Mr L
Clarke, Mr D
Farlow, Mr S
Gay, Mr D
Maclaren-Jones, Ms N
(teller)
Mitchell, Ms S
Taylor, Ms B

Blair, Mr N
Colless, Mr R
Franklin, Mr B (teller)
Green, Mr P
Mallard, Mr S

Pearce, Mr G

PAIRS

Houssos, Ms C

Harwin, Mr D

Amendments negatived.

The Hon. MICK VEITCH (03:26): By leave: I move Opposition amendments Nos 32 to 39 on sheet C2016-108B in globo:

No. 32 Notification of Registrar-General concerning changes to Crown land

Page 113, clause 12.1. Insert after line 15:

- (3) The Minister must notify the Registrar-General of any changes of which the Minister becomes aware concerning interests, conditions, covenants or other restrictions affecting Crown land and, if appropriate, request that the Register be altered accordingly.

No. 33 Crown land commissioner

Page 113, clause 12.2, lines 17–20. Omit all words on those lines. Insert instead:

- (1) There is to be at least one Crown land commissioner.
- (2) The Governor may, on the recommendation of the Minister, appoint an individual to be a Crown land commissioner on the terms and conditions that may be specified in the instrument of appointment.
- (3) A Crown land commissioner:
 - (a) holds office for the period (not exceeding 5 years) specified in the person's instrument of appointment unless the office is vacated sooner; and
 - (b) is eligible for re-appointment.

No. 34 Crown land commissioner

Page 113, clause 12.2 (3) (b), line 25. Omit "Minister". Insert instead "Governor".

No. 35 Crown land commissioner

Page 113, clause 12.2 (3) (d), line 27. Omit "Minister". Insert instead "Governor".

No. 36 Crown land commissioner

Page 113, clause 12.2 (4), lines 28 and 29. Omit all words on those lines. Insert instead:

- (4) The Governor may remove a Crown land commissioner from office at any time for incapacity, incompetence or misbehaviour.

No. 37 Crown land commissioner

Page 113, clause 12.2 (6), lines 36–39. Omit all words on those lines. Insert instead:

- (6) A Crown land commissioner is entitled to be paid:
 - (a) remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*; and
 - (b) any travelling and subsistence allowances as the Minister may from time to time determine in respect of the commissioner.

No. 38 State land board

Page 113, Division 12.1. Insert after line 39:

12.3 State land board

- (1) A corporation with the corporate name of the State land board is constituted by this Act.
- (2) There State land board is to be constituted by 3 (but no more than 7) members.
- (3) The Minister is to appoint the members of the State land board from persons who have nominated to be appointed as members.
- (4) The functions of the State land board are:
 - (a) to assist Crown land commissioners in the exercise of their functions; and
 - (b) to exercise any other functions that are conferred or imposed on it by or under this Act or another Act.
- (5) Subject to this section, the regulations may make provision for or with respect to the following:
 - (a) the nomination of persons for appointment as members of the State land board (including qualifications for appointment),
 - (b) the constitution and procedure of the State land board, including:

- (i) chairpersons, deputy chairpersons and alternates; and
- (ii) terms and vacation of office of members; and
- (iii) the remuneration and other entitlements of members; and
- (iv) the disclosure and participation of members who have interests (whether pecuniary or otherwise) that could conflict with the proper performance of the functions of a member;

(c) the functions of the State land board.

No. 39 **Annual report on strategic plan for Crown land**

Page 119, Division 12.4. Insert after line 21:

12.26 Annual report on implementation of State strategic plan for Crown land

- (1) The Minister must, as soon as practicable after 30 June in each year, prepare a report (an **annual report**) on the implementation of a State strategic plan for Crown land for the 12 months before that date.
- (2) The Minister is to cause the annual report to be tabled in each House of Parliament as soon as practicable after it is prepared.
- (3) If a House of Parliament is not sitting when the Minister seeks to table an annual report before it, the Minister is to cause a copy of the report to be presented to the Clerk of that House of Parliament.
- (4) An annual report presented under subsection (3):
 - (a) is, on presentation and for all purposes, taken to have been laid before the House; and
 - (b) may be printed by authority of the Clerk of the House; and
 - (c) if so printed, is taken to be a document published by or under the authority of the House; and
 - (d) is to be recorded:
 - (i) in the case of the Legislative Council—in the Minutes of the Proceedings of the Legislative Council; and
 - (ii) in the case of the Legislative Assembly—in the Votes and Proceedings of the Legislative Assembly;

on the first sitting day of the House after receipt of the copy of the report by the Clerk.

Opposition amendment No. 32 deals with the Registrar General. The privatisation of Land and Property Information [LPI] continues to send shockwaves throughout the community. References to the Registrar-General occur throughout this bill and there is a lack of consistency in the language used. This amendment ensures that if there is any change to Crown land or any dealing in it, the Minister must report that to the Registrar General who, in turn, must amend the register. This amendment will require mandatory reporting of dealings in Crown land.

Amendments Nos 33 to 37 relate to a Crown land commissioner. This provision creates a permanent Crown land commissioner, something that members of the General Purpose Standing Committee No. 6 would understand and I would hope would be embraced by the Government. My advice to the Minister and the Government is to embrace the potential of this new role. The Opposition believes that the commissioner could prove to play an important part in rebuilding community trust and taking some of the pressure off the decision-making points in Crown land management. Appointed by the Governor, the Crown land commissioner or commissioners as the case may be will provide senior independent oversight of Crown land.

Amendment No. 38 provides for a State land board. The Opposition believes that in addition to a permanent Crown land commissioner a statewide land board would be established to assist the commissioner or commissioners in their role. Membership of the board is open through nomination and appointment by the Minister, who will enable a range of expertise to be brought into various Crown land management issues, debates, reviews and inquiries. Again, the Opposition sees this as a positive amendment that will build trust and improve the management of Crown land as it seeks to manage and balance environmental, social and economic needs of the community.

Amendment No. 39 provides for an annual report of the strategic plan. The Opposition believes that if effort is to go into the preparation of the strategic plan there should be some ongoing accountability. This should be more about substance than spin. The Minister should not simply set and forget but be required to report annually to each House of Parliament on the progress and implementation of the strategic plan. Again, this will improve

transparency and critically address something that this Government simply does not do well, implementation. I commend these amendments to the House.

The Hon. NIALL BLAIR (Minister for Primary Industries, and Minister for Lands and Water) (03:30): The Government opposes the amendments before the House. Amendment No. 32 is unnecessary as any covenant or restrictions affecting Crown land will necessarily be registered on the land where appropriate. Amendments Nos 33 to 37 refer to the Crown land commissioner. The Government believes the provisions in relation to the Crown land commissioner are comprehensive, appropriate and consistent with the legislation. The Minister is responsible for the land portfolio and has the expertise to appoint a suitably qualified person. Amendment No. 38 in relation to the State land board is unnecessary and will add complexity. The land commissioners will be supported by the department in order to be able to carry out their functions. Amendment No. 39 relates to the State strategic plan. The provisions dealing with the State strategic plan are comprehensive and will ensure the strategic direction of the State is clearly set out and periodically reviewed. The addition of an annual report is an unnecessary burden. The Government opposes the Opposition's amendments.

Mr DAVID SHOEBRIDGE (03:31): The Greens support the Opposition's amendments for the reasons stated in relation to the Registrar General. In terms of the Crown land commissioner, the Government has said that it responded to the recommendation of the inquiry by putting in place provisions for a Crown land commissioner. It did in form, but there is no substance to that response. There can be more than one Crown land commissioner, but there is no requirement to have even one commissioner. The Crown land commissioner is appointed by the Minister to do whatever the Minister of the day thinks the commissioner should do.

The Crown Land Commissioner is paid whatever the Minister thinks they should be paid and can be sacked at the Minister's discretion. The Opposition's amendments make the Crown land commissioner at least have some statutory independence as the commissioner or commissioners are appointed by the Governor and can only be removed by the Governor. Also, the commissioners will be remunerated according to provisions of the Statutory and Other Offices Remuneration Act. Basically the Opposition's amendments live up to the spirit and not just the word of the recommendation of the parliamentary inquiry, and that is why The Greens support the amendments.

The CHAIR: The Hon. Mick Veitch has moved Opposition amendments Nos. 32 to 39 appearing on sheet C2016-108B. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR: The question is that the bill, as amended, be agreed to.

Bill, as amended, agreed to.

The Hon. NIALL BLAIR: I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

Motion agreed to.

Adoption of Report

The Hon. NIALL BLAIR: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. NIALL BLAIR: With concurrence: I move:

That this bill be now read a third time.

Mr David Shoebridge: Point of order: The question was put without the opportunity to make a contribution on the third reading. It is after 3.30 in the morning and this is not the right time to be making legislation. It was a wrong call by the Government to force this through in the small hours of the morning but nevertheless The Greens engaged in the amendment process in good faith, trying to make this bill palatable for the people of New South Wales. We supported it on the second read to give the committee the chance to remedy what we saw as substantial defects in the bill. Those defects were: A lack of protection for land once it is transferred to local council; a lack of environmental protections, in terms of ecologically sustainable development; particularly, concerns about the undermining of the Rutledge principle; and concerns about the transferring of grazing land to freehold in the Western Lands division.

Each of those concerns are fundamental to our position on the bill. We got significant amendments on the commons and protected the commons through the committee process; we got significant amendments in terms of land management principles being reinstated into the bill; and we got some improvements in terms of local land criteria being required to be instituted by way of regulation, rather than merely order. However, those amendments are not sufficient for The Greens to support this bill on a third read. For those reasons, The Greens oppose the bill, even though it has been improved through the amendment process.

The PRESIDENT: The question is that this bill be now read a third time. Is leave granted to ring the bells for one minute?

Leave granted.

The House divided.

Ayes20
Noes16
Majority.....4

AYES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Brown, Mr R	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Farlow, Mr S	Franklin, Mr B (teller)
Gallacher, Mr M	Gay, Mr D	Green, Mr P
Khan, Mr T	MacDonald, Mr S	Maclaren-Jones, Ms N (teller)
Mason-Cox, Mr M	Mitchell, Ms S	Pearce, Mr G
Phelps, Dr P	Taylor, Ms B	

NOES

Barham, Ms J	Buckingham, Mr J	Donnelly, Mr G (teller)
Faruqi, Dr M	Field, Mr J	Graham, Mr J
Mookhey, Mr D	Moselmane, Mr S (teller)	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Wong, Mr E		

PAIRS

Mallard, Mr S

Houssos, Ms C

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DUNCAN GAY: I move:

That this House do now adjourn.

COCHLEAR IMPLANTS

The Hon. LOU AMATO (03:41): On 16 August 1935 in the rural town of Camden, New South Wales, a great son of this nation was born: Professor Graeme Milbourne Clark. Professor Clark's father was the local pharmacist at Camden and suffered from hearing loss, which made it almost impossible for him to communicate with his customers. Professor Clark also found it difficult to communicate with his father, which caused him great heartache. This heartache was in essence the beginning of a lifelong commitment to alleviate the suffering of those who endure hearing loss or are born deaf and have never heard the beauty of sound. In an interview with Professor Stephen O'Leary in 2011, Professor Clark was asked when he realised that he wanted to dedicate his life to helping the deaf. Professor Clark said:

I was ten when I wanted to be an ear doctor. When our local Methodist minister asked me what I wanted to be when I grew up, I was reported to have said that I wanted to be an ear doctor. That floored him, because boys of my age all wanted to be C-class steam train drivers. That was the very macho thing to do. So it was from an early age, and I think it was Dad's influence as well.

In 1978, assisted by Dr Brian Pyman, Professor Clark achieved something that no-one else ever had: He gave the gift of hearing to a person who was deaf. Professor Clark and Dr Pyman successfully performed the world's first cochlear implant operation on Rod Saunders at Melbourne's Royal Victorian Eye and Ear Hospital. In 1981 the Federal Liberal Government invested \$4 million to assist Professor Clark, in partnership with entrepreneur Paul Trainor, to establish an Australian biotechnology industry. The combination of medical, entrepreneurial and governmental expertise resulted in the formation of one of the greatest Australian organisations that has significantly improved the lives of many on a global scale.

The company is known as Cochlear. Today Cochlear is part of The Nucleus Group and is listed on the Australian Stock Exchange. Cochlear is a global concern with principal manufacturing facilities in Australia and Sweden, with additional manufacturing facilities in Belgium and the United States. Cochlear's global headquarters are situated at Macquarie University in Sydney. The company has direct operations in 20 countries and employs more than 3,000 people. Cochlear is a truly Australian company with the intention of continuing to maintain manufacturing in Australia.

Presently 98 per cent of the product being manufactured is exported on the global market. Cochlear ensures that it maintains sufficient product to meet local demand. Cochlear's current market covers the following geographical areas: Australia, New Zealand, Asia, Europe, the United Kingdom, Russia, the Middle East, North America and South America. Cochlear develops a range of products including cochlear implants, bone conduction implants and acoustic implants, which address different types of hearing loss. The company invests more than \$100 million each year in research and development and currently participates in more than 100 collaborative research programs worldwide.

The Australian designed and manufactured cochlear implant has given the gift of hearing to more than 450,000 people of all ages across more than 100 countries. The company's mission is to help people hear and be heard, empowering them to connect with others and live a full life. The company is dedicated to increasing the understanding and awareness of the treatment of hearing loss. Cochlear strives for new technological innovation to bring to the market a range of implantable hearing solutions that deliver a lifetime of hearing outcomes. The Cochlear solution is based on the motto "Hear now. And always", providing recipients with the best possible hearing and support for the rest of their lives.

There are many of us who despair at the loss of manufacturing know-how in our beloved country. Most of us are old enough to remember when Australia was once a country that could make almost every conceivable thing. There are many that say Australia has become a nation of pen pushers whose survival is now solely dependent upon mining and the gradual sell-off of Australian infrastructure through privatisation. Others say that we are no longer smart enough even to manufacture a pair of shoes and must rely on other countries manufacturing know-how to clothe us. However, I say that we are smart and we can still do great things.

One of our sons, the great Professor Clark, with Paul Trainor and the Australian Government, made Cochlear possible—one of the great organisations of our time that manufactures the Cochlear implant that has transformed so many lives in our country. The sons and daughters of this nation can and do achieve greatness. We are a smart nation and we must not forget it. Remember that an Australian achieved something no other could—he made the deaf hear. The world needs us and we must not forsake the world by allowing the continual decline of our manufacturing and technological know-how, which provides a lofty platform for our greatness to shine.

HOSPITAL PUBLIC-PRIVATE PARTNERSHIPS

The Hon. WALT SECORD (03:46): As shadow Minister for Health I speak against the Baird Government's decision to privatise operations at Maitland, Wyong, Bowral and Shellharbour hospitals. This latest move by the Baird Government began with the health Minister's usual stealth. On 15 September, without warning, she made a surprise announcement that she was privatising the operation of five hospitals. Subsequently, she dropped Goulburn from the list—privatisation of health services for Labor electorates but not Liberal ones. Community anger is justified. After all, before the last election those communities were promised upgrades—and at no point did the Baird Government say that those hospitals would be private ones. That sleight of hand has angered many communities.

On Sunday 6 November I had the honour to attend a rally in Shellharbour together with Labor leader Luke Foley and a number of my colleagues, including the member for Wyong, David Harris; the member for Shellharbour, Anna Watson; and Labor candidate for Wollongong, Paul Scully. Organised by Unions NSW and supported by the Health Services Union NSW, the NSW Nurses and Midwives Association and the Australian Salaried Medical Officers' Federation of NSW, it was attended by more than 500 local residents.

As with other rallies around the State at Wyong, Maitland and Bowral, it was attended by hundreds of locals angry at the betrayal by the Baird Government. In March 2015 the Baird Government promised the Illawarra region an upgraded \$251 million public hospital. The promised upgrade was to double the operating theatre capacity and size, expand the emergency department, add an intensive care unit, and provide new ward spaces and ambulatory care facilities. Make no mistake, Shellharbour Hospital is a busy hospital in a growing community and it needs government investment. It needs that upgrade.

Last year more than 28,000 people attended the emergency department and about 2,300 procedures are performed there each year. It also has a lengthy waiting list for elective surgery. In June this year 1,646 patients were on the waiting list for elective surgery and 1,000 alone were waiting for cataract surgery. The median waiting time for non-urgent elective surgery is 315 days, which is 47 days longer than at the same time a year ago. The Baird Government again broke its promise to the Illawarra community. It is angry and it has every right to be. It is right to be suspicious of the health Minister's vision. After all, in New South Wales the Liberals and Nationals do not have a good history with regard to privatised hospitals.

We have only to look at the failed Port Macquarie hospital in the late 1990s. The previous Liberal-Nationals Government sought to give the construction and management of this hospital to the private sector. In 1996 the independent Auditor-General examined the deal and found that the Government had effectively paid the capital costs for the hospital twice and then given away the assets. It was such a bad model that Labor had to buy back the hospital for the community when it assumed office. With the Port Macquarie model in mind and the announcement of the privatisations, Labor was so concerned about the Liberals-Nationals management of privatised hospitals that during budget estimates, together with my colleague the Hon. Courtney Houssos, the Opposition tried to recall the health Minister to a supplementary budget estimates hearing to explain the privatisations. However, the Government refused to allow scrutiny, as it always does. We know that it is no coincidence that those privatisation details were announced 16 days after the budget estimates hearings.

Budget estimates hearings exist to allow members to examine and to scrutinise the Government's expenditure and how it will fund its policies. However, this Government operates under a cloak of secrecy. It does not want the community to know about its plans because if it did it would not like them. If the Baird Government will not subject itself to the scrutiny of the budget estimate process, it should at least listen to the communities of Shellharbour, Maitland, Wyong, and Bowral. Hundreds of people have attended local rallies and have signed tens of thousands of petitions in opposition to the Baird-Skinner plans. There is a lot at stake here. This is about the Americanisation of the New South Wales health and hospital system. That has never been the Australian model, and New South Wales communities rightly expect governments to invest in their local hospitals.

They know that a private operator will always put profits ahead of patients. They also know that the Baird Government can change its mind, and it frequently does. This Government has back-flipped on greyhounds and on shark nets. More importantly, it has back-flipped on privatising Goulburn Base Hospital. It now needs to do the right thing for patients and reverse this decision. It should do the same with regard to Shellharbour, Bowral, Maitland, and Wyong hospitals. The Illawarra community members with whom I met on the weekend have fought for years to have their hospital upgraded. They deserve to have first-grade public health facilities close to home. They want public health care delivered in public, not privatised, hospitals. They are suspicious, and rightly so, of how they will be treated at a hospital driven by profit and not patient needs.

While the Liberals and The Nationals claim that there will be protections for public patients, the community knows otherwise. They were not born yesterday. They have seen the debacle of Liberal-Nationals Government experiment at Port Macquarie Base Hospital and they know that preference will be given to private over public patients. They know that the Liberal-Nationals will create a two-tiered system. It is a system that should be concerning for families struggling to make ends meet. It is a system that should also worry pensioners and people who cannot afford private health insurance. We have heard from nurses who worked at the failed Port Macquarie Base Hospital who were told by administrators that they worked for the shareholders and not for the patients. That is not the system we want in New South Wales. Access to health care in this State should be determined by a person's Medicare card, not by their credit card. I thank the House for its consideration.

REGIONAL AND REMOTE EDUCATION

The Hon. BRONNIE TAYLOR (03:51): Last week was a big moment in my family's life, just as it would have been for many families across New South Wales and Australia. At 18, our youngest child, Holly Jane, completed her Higher School Certificate [HSC]. More than 77,000 students sat the exams this year. They are the next cohort of young people to graduate into the adult world. Further education and training or employment awaits them. The value of their education cannot be overstated. Providing them with opportunities by ensuring they have the best possible education is one of the most important things we do to set them up in life. That is particularly true for young people in rural, regional and remote areas. Education opens so many doors. Historically their outcomes have been worse than those of their city cousins.

Happily for regional communities, their Minister for Education is a man who not only understands the challenges they face but also sees the strengths in their communities and how these can be harnessed. Their challenges do not finish once they have completed their HSC. Further education can mean leaving their communities and shouldering extra costs—financial and otherwise—to attend university or TAFE away from home. The Nationals at a Federal level keep up the good fight to ensure that these young people receive the support they need. The recent announcement by Minister Piccoli of the Get Connected Program demonstrates this Government's commitment to the education of regional and remote students. As Parliamentary Secretary for Regional Communications, I think it is fantastic to see this Government committing to ensuring that being educated outside of our major cities is no impediment to technology access.

Under the program, \$46 million will be invested over the next four years to install wireless access in more than 900 regional and remote schools, providing connectivity in more than 13,000 learning spaces, to expand access to the internet in schools where access is currently via satellite, and to support wireless delivery and improve the reliability of the schools' internet. We can hardly imagine the technology and tools being used in classrooms today. Modern learning requires access to this technology and the internet. Paperback textbooks, printed timetables and essays are a world away. This investment is critical to ensure that country kids get the same opportunities as their city counterparts. Technology should exist to connect and equalise. However, without paying attention, it can isolate us and set regional people without good access further behind.

These kinds of programs are important to provide equity. The Nationals believe that where you live should not be a barrier to the services you receive, within reason. But when it comes to early childhood education, we need to look beyond reason. Those years are critical. Ninety per cent of a child's brain development occurs in the first five years of their life. The foundations for so much of life are laid during those years, and access to early childhood education is key in this. As our population shifts away from rural villages, maintaining access to early childhood education is increasingly becoming an issue. It is an issue not just for individual families but for the entire community. Without access to these kinds of services it is difficult to attract or keep young families and secure the future of the town.

Increasing access to early childhood education by providing funding for four-year-olds and three-year-olds is fantastic and is working well in many communities. No model is without its flaws, and this is no exception. In small rural villages where the population is limited and a year cohort can be significantly influenced by the movement of one family or the change in fortune of one business or industry, preschools are facing challenges. The introduction of the safety net as part of the Start Strong package is an important first step in meeting those challenges. I will continue to fight hard on behalf of the communities I represent to ensure that they do not lose their preschools, because their viability is so affected by swings in enrolment from year to year. My own girls were lucky to go to preschool at Nimmitabel, where they were surrounded by a strong community. They had passionate educators and a fantastic facility. They have been blessed to have had some amazing teachers throughout their education.

I conclude by acknowledging two teachers in particular who saw the girls through their primary school years. Mrs Marg Watt and Mrs Anne Graham are teachers at Cooma North Public School who taught my girls 13 and 17 years ago. Their interest in and commitment to the girls has lasted so long that when my daughter Holly started her exams last week, aged 18, she received a card in the post from Marg Watt, who taught her in year 5. Anne Graham did the same for my eldest daughter, Hannah. Teachers like Marg and Anne have had an impact far beyond the year the girls spent in their classroom. They have taught my girls something much greater, as teachers do right across the State. Congratulations to all the students who have finished their high school years. I give heartfelt thanks to their teachers and parents for supporting them to this point. I wish those students the best of luck as they embark upon the next stage of their journey.

BIRTH OF SUN YAT-SEN 150TH ANNIVERSARY

The Hon. ERNEST WONG (03:56): This year 12 November marks the 150th anniversary of the birth of Mr Sun Yat sen, also known as Sun Wen or, more popularly, Mr Sun Zhongshan. Sun Yat-sen played an instrumental role in the abolition of the Qing dynasty in the years leading up to the Xinhai revolution. That revolution saw China's monarchy, which had endured for thousands of years, overthrown and led to the establishment of the Republic of China on 1 January 1912. Sun Yat-sen was a pioneer in world history. He was a revolutionary and physician and the first President and founding father of the Republic of China. As the foremost pioneer of the Republic of China, now Taiwan, he is known fondly by the posthumous name Father of the Nation. In a similar token of respect, in mainland China, the People's Republic of China, Sun is seen as a nationalist and proto-socialist and is highly regarded as the forerunner of the revolution.

Although Sun is considered to be one of the greatest leaders of modern China, his political life was one of constant struggle and frequent exile. Sun Yat-sen was born on 12 November 1866 and died on 12 March 1925 at just 58 years of age. His life story resonated with ordinary Chinese people and his revolutionary activity to

make China a republic secured his status as a hero among them. Today I acknowledge not only the history of this renowned figure in modern China but also his legacy. He developed a political philosophy to make China a free, prosperous and powerful nation. Sun's political doctrines are summarised in his Three Principles of the People, also known as the San-min Doctrine, interpreted in English literature as nationalism, democracy and the livelihood of the people. The latter was achieved through the regulation of private capital and the introduction of equal rights to land. This laid the foundation for his plan for national reconstruction, which included the introduction of basic parliamentary procedures and resulted in a grandiose plan for China's industrialisation.

The three principles have been viewed as interconnected in the modernisation and development of China. The first principle, nationalism, is translated from the Chinese phrase "minzu zhuyi", commonly interpreted in the West as populism or people's rule and people's government. However, with independence from imperialist domination as the underlying essence for this first principle arising from the suppression of Han, a dominant ethnic majority in China, by the then ruling Manchurian Qing, it gave the nationalism of Sun a different meaning from the idea of ethnocentrism, which equates to the same meaning of nationalism in the Chinese language. Sun believed that China must develop China nationalism as opposed to an ethnic nationalism in order to unite all of the different ethnicities of China, mainly composed of five major groups of Han, Mongols, Tibetans, Manchus and the Muslims.

Sun established this principle to orchestrate a national consciousness, an ideology that set a wider spectrum of nationalism embracing different ethnic representation residing on the same land, with the ultimate aim of a mutual integration for a united nation. The ideology is said to be heavily influenced by Sun's experiences in the United States and contains elements of the American progressive movement and the thoughts championed by Abraham Lincoln. Sun credited a line from Lincoln's Gettysburg address, "government of the people, by the people, for the people," as an inspiration for his three principles.

In 1949, with the Chinese Civil War turning decisively in favour of the Communist Party of China, the Republic of China Government led by the Kuomintang retreated to Taipei in Taiwan and established it as the capital while the Communist Party of China proclaimed the People's Republic of China Government in Beijing. With two political entities separated by the Taiwan Strait in the west Pacific Ocean, for many years cross-strait relations between their respective governments have been debated, as has their status as countries. But all along one thing has been recognised and that is that Sun Yat-Sen remains unique among twentieth century Chinese leaders for having a high reputation in both mainland China and Taiwan.

CHILDREN IN CARE

Mr DAVID SHOEBRIDGE (04:01): With the privatisation of electricity assets, ports and lands across New South Wales, the Baird Government is receiving a one-off surge of capital. It is proposing to spend that one-off surge of billions of dollars primarily on infrastructure, with \$16 billion going on one private motorway and billions more being spent on light and heavy rail. But one asset—indeed the most important asset of all—has missed out on that expenditure, and that is our children. The challenge that The Greens put to all parties in this Chamber is to ensure that we set aside a minimum of \$1 billion to be spent on the families and the children of this State to empower communities to prevent children falling into care in the first place.

Why is it important in New South Wales? Half the kids in care in Australia are in New South Wales. Worse still, one in 10 Aboriginal children are in out-of-home care. That is a continuing stolen generation. The June quarter figures from the Department of Families and Community Services show that 73,986 risk of serious harm [ROSH] reports were delivered to the helpline. Of those, just over a quarter—only 28 per cent—of the kids who are the subject of those ROSH reports have been assessed in a face-to-face assessment. The system just cannot keep up.

While there are close to record numbers of caseworkers, there is a mismatch of resources in this State. Why is this important? It is because we know that when children are removed from their families they have a series of contraindicators for the rest of their lives. Just one figure is telling. Children removed from their families are 10 times more likely to have their own kids go into care. Kids who give birth while they are themselves in care are the most likely of all to have their children removed. It is a vicious and unvirtuous cycle. Money in the child protection system is heavily allocated to the crisis point. We spend a vast amount of time managing emergencies, removing children and putting them into care. But that means that we do not have the resources, we do not have the focus and we do not have the funding available to do the crucial things that keep kids out of care in the first place—that is supporting families and communities rather than just taking their kids. What would an additional \$1 billion of investment in our families produce? We need a two-pronged approach.

We need early intervention that gets in as early as possible and helps kids stay in their community and Aboriginal kids stay on country and with kin. We need comprehensive wrap-around services for those kids that are already in care. We cannot just abandon them. We know what some of this looks like. It includes support for

carers, especially kinship carers, not just in the form of reasonable financial support but also counselling and classes to enable them to nourish and support the children in their care to thrive.

We all assume that someone is doing this, that we are not just taking kids from their homes and hoping for the best but that is not what is happening. We probably also should be considering caseworker management including tracking and performance reviews of caseworkers. It is pretty much discretionary what caseworkers do and do not do in New South Wales. There is no comprehensive tracking of them and few performance standards have been put in place. Let us be clear: Caseworkers have one of the hardest jobs in our society, and we need to ensure that we have changes in place to support them to do their jobs fairly, to support them to keep kids with families, not just remove kids and put them into out-of-home care and assume that they are going to be better. Most often they are not.

There are some strong arguments for increasing the leaving care age to 21 and after-care support including a personal advisor system, but that is not being debated because there are no resources. If we all reflect on how much we relied on our parents after moving out of home we might get a bit of an idea of how necessary this might be for kids in care. Then there are the more fundamental realities that seem to be entirely missed in this State, like how hard it is for kids who are in care or are leaving care to get a driver's licence and how the lack of a licence makes finding independence even more difficult. We need to set a firm target for the percentage of kids leaving care who have a driver's licence. The State is their parent; the State should be giving them a driver's licence.

We need volunteer driver training to be expanded. There is some in place but it is far from adequate to meet the need. Having a driver's licence improves access for kids to jobs, education and health services when they are young adults. For many of those children leaving care is an essential part of getting independence, and keeping it. We need to ensure that there is a system in place to deliver that. We have a one-off chance to invest in our most important asset in this State, our children, and it would be a crime to squander it.

DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 04:07 until Wednesday 9 November 2016 at 11:00.