PUBLIC LANDS PROTECTION BILL

Second Reading

Ms PETA SEATON (Southern Highlands) [10.20 a.m.]: I move:

That this bill be now read a second time.

We live in the best country in the world and in one of the most beautiful cities, if Sydney is your home. This bill gives life to the Coalition policy, which was announced on 24 September 2001 to protect significant public land. We are determined to back our policy with binding legislation that will give communities a real role in helping to protect significant public lands that become surplus to the government's requirements. This is a historic bill that, for the first time, will raise the bar of expectations of Ministers in this State to account for their actions in the stewardship of public land assets, to do so transparently, and to reverse the emphasis away from unilateral government decision making to a framework in which communities can take the initiative and challenge the government to put community, social and heritage considerations ahead of a fast buck.

This is a revolution in the way we deal with surplus significant public lands and will no doubt be one which makes certain Ministers in certain governments frustrated that there is now a transparent brake on their actions. If this bill, on becoming an Act, is an occasional burr in the saddle of future governments, I think we will know that it is a success. Our forefathers, especially those who ran public institutions, picked some of the most breathtakingly beautiful sites on which to locate schools and, in many cases, health facilities. Some of these selections were driven by practicality—being on the river or on the harbour made them accessible to river transport and boats, or on hills and on water to suit the current medical thinking for the treatment of tuberculosis and challenging diseases of the day.

Over time, the uses have changed. Not all sites have been adaptable to our changing needs. As Sydney and other cities have grown, greater residential density has occurred, as has greater demand for open public space and public recreational opportunities. All these factors combine today to make many public lands owned by the State Government very valuable sites. For a government like the Carr Government, which is a renowned tax and waste government, the idea of selling some prime public lands to plug a budget black hole is very tempting. It is so tempting that in recent years the Carr Government has attempted to sell off some of Sydney's most precious public lands for high-density residential development—public land that could be lost forever.

Examples include Callan Park at Rozelle, where the Government was determined to flog off the larger areas of historical harbourside landscape and buildings to the highest bidder; Hunters Hill High School, where, against the wishes of the local community, students were to be forced to attend other schools in distant suburbs as their harbourside school site was to be sold off; the quarantine station, where a private sector proposal would have alienated large areas of our equivalent to Ellis Island in New York—a historical heritage site which would have been off limits, unless people paid to go there; Erskineville Public School, which is one of the last potential pieces of public space in a residential area that is known for its high residential density and

lack of sufficient public space for the community; Prince Henry Hospital, with its dramatic coastal landscape and historic medical precinct.

And a recent example is the Pyrmont Point former water police site, which was the subject of a disgraceful attempt by the State Government and the Sydney Harbour Foreshore Authority to ignore the well-researched pleas of local residents and the Council of the City of Sydney who were trying to make the point that increasing densities in the area had made it virtually impossible for families to offer their children any public open space at all within reach of their homes; yet it was to be flogged off and developed by the construction of huge residential tower blocks.

The Carr Government has lost sight of the principle that public lands belong to the public and that significant public sites have a value that goes beyond the space they occupy on a departmental asset balance sheet. The fact that the Department of Health might have contemporary ownership of a site that happened to fall its way after a decision that was made 150 years ago does not entitle a department to treat that significant public land with the same clinically actuarial indifference as it might in relation to some other assets in that portfolio. Government has a responsibility that includes an understanding of the social, historical and environmental values of the land of which it is custodian, not just for this generation and this budget, but also for future generations. In 2002 the Liberal-National Coalition was so concerned to see this rapaciousness by a money hungry Carr Government that it developed a policy to preserve significant public lands and involve the community in those decisions.

I acknowledge the strong advocacy at that time of the Protectors of Public Lands, who also held similar concerns about the potential loss of some of Sydney's most precious icon sites, especially Callan Park, and the many meetings and rallies we attended to try to get the Carr Government to change its mind. The work of the Protectors of Public Lands has significantly shaped the development of this Coalition bill. I recall meetings held with community members in Callan Park who were angry that local Labor members, including the Minister for Tourism and Sport and Recreation, and Minister for Women—Sandra Nori, Anthony Albanese and Tanya Plibersek—had turned their backs on those concerns. I attended a rally in the Domain where I stood next to people who are often at different ends of the political spectrum but who are passionate about saving significant surplus public lands and who were prepared to work together to shift public policy back towards community needs.

On 22 February 1991, someone who is well known to this Chamber said the following words: "I believe that the proper role of government must be custodial rather than entrepreneurial." He went on to say that his policy would include "leasing rather than selling surplus government land", and "maintaining public ownership of Crown land providing access to waterways and recreation areas". Now is the chance for the author and speaker of those words to step up and support the Coalition's bill. The author of those words was none other than the Premier, Bob Carr. The Premier also made some interesting comments on 19 February 1990 when he announced that the then Labor Opposition would run some advertisements in newspapers of the day, including the *Daily Mirror*, to protest against contemporary government policy for the sale of government assets. He was prepared to stand up for surplus government land and public assets in 1990 and 1991, so this bill will be the test and his opportunity to stand up for the protection of significant surplus public land.

This bill is necessary because it will put a brake on the Carr Government's fire sale of significant public land. We need this bill now because the next round of big money Carr Government land deals is being worked out as we speak, following the Premier's announcement of the end of Sydney Harbour as a working harbour, the closure of working ports at White Bay and Darling Harbour, and the inevitable sell-off of prime harbourside land to high-rise development. On 6 October 2003 the *Sydney Morning Herald* reported:

> Sydney Harbour's life as a working port will end in 2012, with the Premier, Bob Carr, announcing yesterday the Government would not renew the leases of the three remaining container terminals.
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> He said stevedoring leases at Darling Harbour East, White Bay and Glebe Island will end when they fall due in 2006, 2007 and 2012, respectively.

The report went on to state:

> The Government has flagged using the windfall for a combination of housing, open space and "iconic development".

The bill is an important step forward in protecting significant public land. The Coalition's Public Lands Protection Bill, together with our policy, responds to the model that the Protectors of Public Lands proposed, including the establishment of a State register, assessment of significance, public ownership and control, the requirement for no residential development on the land and leases over 10 years requiring Parliament's consent. The bill is important because it creates a coherent and consistent framework through which government and community can assess and advocate for the retention of significant public lands in a whole-of-government manner.

The bill will stop the need for legislated tussles over individual pieces of land, such as we have had to resort to in the past. In recent years there has been a proliferation of "save a site" bills as the only means of attempting to save land that is on the sale block. For example, there were the Save Calan Park Bill 2002, which was introduced by the honourable member for Davidson, and the Save Erskineville Public School Bill 2002, which was introduced by the Deputy Leader of the Opposition and supported in the upper House by the Hon. Patricia Forsythe. Further bills introduced were the Save Hunters Hill High Bill, Save Manly Hospital Site Bill, Save Prince Henry Hospital Bill, Quarantine Station Preservation Trust Bill 2002 and Quarantine Station Preservation Trust Bill 2003.

These bills have been the only means by which the Parliament can try to stop the rapaciousness of the Carr Government in selling off significant public land for a quick buck. The Coalition's bill will create a single framework in which to deal with all of these issues and through which the community can nominate significant public land for inclusion on the register. Never before has such a mechanism existed to enable direct community involvement. In line with our policy this bill will establish the Public Lands Protection Trust.

Pursuant to sessional orders business interrupted.

Debate resumed from 16 September.

Ms PETA SEATON (Southern Highlands) [10.00 a.m.]: The Opposition is concerned that many pieces of surplus public land, owned by the State Government, which are of significance for various reasons, particularly in the inner city around the harbour, are under threat of sell-off by the Carr Government in the search for a fast buck. This bill has been introduced in line with Coalition policy, which has stood for two to three years now and gives effect to what we told the people at the last State election. It is a policy that we continue to promote as a way to preserve and conserve significant surplus public land.

In line with our policy, the bill seeks to establish a Public Lands Protection Trust to establish a register of significant public land; to enshrine surplus school land policy; and to provide an exemption for school asset sales, supported by the community through amendments to the Education Act 1990. The bill defines public land as land owned by, or vested in, the Crown, not including national parks or State forests. The role of the trust will be a very important one because it will comprise a group of people who will be charged with assessing nominations made by the community or the Minister for the protection and registration of surplus significant public land. The trust members will include seven people, including one representative of the Minister plus six people with expertise that covers heritage, planning, conservation, infrastructure planning, the property industry and the broad community.

The trust will receive proposals and assess them and will make recommendations to the Minister whether to put the nominated piece of land on the register. It will make recommendations regarding the leasing or licensing of that land, and will conduct necessary investigations and research into whether such action on that land would be appropriate. The trust will make assessments on the basis of whether the land is significant. Significance can include a number of things, for example, in the recent debate about Callan Park the significance of the land to the community was on very diverse grounds. The land was significant on many levels, such as its heritage value and that it was the community's last remaining piece of open space on the harbour and in the inner city. It was significant also for meeting the ongoing needs for the treatment of people with mental health problems, and for people using the land as a place where they could gather, walk their dogs, hold community activities and where children could safely run around in an otherwise densely populated area. The trust will determine whether a nominated piece of land is significant and it must deal with nominations within six months.

The Minister has a special role as well. The Minister can list a piece of land on the register but must seek the view of the trust beforehand. The Minister considers the recommendations of the trust but is not bound by them. When the Minister rejects a trust recommendation he or she must set out reasons in writing and do so publicly. The Minister is the only person who can place a piece of land on the register and is not bound by any time limit for determination as to whether that piece of land should be placed on the register.

Registered protected land will occur when a piece of significant public land achieves a

place on the register. It will have a management plan attached to it setting out the do's and don'ts or the key purposes of that significant land. Registered protected land cannot be sold or leased except as provided for in the bill, and the land can be vested in whole or part in any statutory body representing the Crown. Registered protected land cannot have residential development on it and development may only be allowed on it if it is consistent with the key purpose for which the land may be used. For example, if a piece of land was deemed to be significant because it had great recreational and open space and related value to the community, it might well be appropriate for a small walkway or jetty to be built thereon for community access. That is the sort of thing that might be envisaged by the trust as an acceptable use on that land.

A residential or retirement village development would be prohibited, including what we know as the old State Environmental Planning Policy 5, now known as the seniors living policy. The consent authority for any registered land is the council. The Minister may grant a lease or licence not exceeding 10 years, or easements onto the land, so long as it is in line with the key purposes of that land. For leases of more than 10 years, the trust must inspect and comment on, and Parliament must either pass or not disallow, proposed leases or licences after notices of proposals are tabled in Parliament. Care and management of the land may be given to council, or a trust prescribed by regulation or other, including a commercial entity, approved by the Minister. Easements may be allowed in relation to key purposes for that land, and Parliament must either pass or not disallow proposed easements after notice of a proposal is tabled in Parliament.

Intentions on granting consents to leases or easements must be publicly advertised and considered by the trust with the public able to comment in 30 days, and reasons for consent to the lease must be published publicly. Native title claims cannot be made through this legislation. I have spoken about the importance of the new provisions in this bill for dealing with surplus school sites owned by the State Government. Schools sites are very precious to many communities where they have significance to the heritage, natural history or other value in an area. For example, Bowral Public School is where Sir Donald Bradman attended as a young boy and is hallowed ground on several levels, not just in our local community but also in the broader Australian community. Other communities have expressed a view that an existing site is no longer practical for its purpose, and they are keen to sell an old school site in order to purchase a new one at another location and, in those circumstances, often attach no sentimental or other value to the old site.

A good example of that is in Buxton, in my electorate. In the last few years a brand new public school was built at Buxton about three blocks down the road from the old school. Everyone was extremely enthusiastic about the move to the new school site, and about the old school site being disposed of for residential housing. In the community of Buxton that is an issue of no controversy at all; people understand that the school having been moved from the old site to the new site means they now have a brand new school, and they are very happy about that. They have no wish to retain the old site, although there is a lot of sentimental attachment to some of the demountable buildings on that site.

I am currently working with the community to see if we can get the State Government

to agree to give at least a small fraction of the money it will make from the sale of that land back to the community for the purposes of relocating those demountable buildings, which are old sports sheds and the like. The demountable buildings could be relocated to the community hall where they could be used as a museum, or to the Tharawal Aboriginal Land Council land where they might be used for educational purposes, including TAFE. In the case of Buxton Public School there is no sentimental attachment to the old school site in terms of its land value, so it is an example of the community taking a different view of surplus school land.

We believe it is important to recognise that although there may be times when a school site becomes surplus because of changing demographics, it is shortsighted to sell off the site and have it lost forever. We can all look at places in Sydney where 15 years ago we may have declared that a particular place would never see the need for a school again, only to find that a residential property boom or a new employment focus suddenly changes the make-up of an area within a few years. The Coalition's policy aims to retain surplus school sites for 20 years, or the equivalent of a generation, for education purposes to ensure there is a second chance to return it to school use if necessary.

The bill sets out our policy that a surplus school site is considered to be significant public land, and that it must remain in public ownership for at least 20 years, or one generation. If the site is not re-established as a public school, it may be disposed of. If the site is disposed of, 30 per cent of it must be retained as public open space. If that 30 per cent would encroach on heritage-affected buildings, 30 per cent of the site, including some buildings if necessary, must be retained for public purposes.

During the 20 years the site remains on the register, it can be used for not-for-profit or commercial purposes, by either lease or licence, education-related activities, which may include a private school, a childcare centre, a TAFE college, a private vocational college, community and council education activities, adult education, university of the third age education, and similar activities. The bill recognises that there are some circumstances in which the community has no objection to the disposal of an old school site in order to achieve a better outcome elsewhere—for example, a land swap or relocation to a better site, moving away from contaminated land, which was the case with the old Camden High School, or possible future public-private partnership opportunities.

The bill gives the Minister for Infrastructure and Planning power in relation to exemption if the Minister is satisfied that the school parents and citizens association, the school council and the community support the proposal and do not seek the protection of the site. If groups or individuals remain opposed to the exemption, a nomination may be made under the Protection of Public Lands Act to have the land listed on the register by virtue of its significance. Such a nomination would have to be approved by the Minister, who has direction under that Act to adopt or reject the nomination.

I cite the example of Hunters Hill High School and wonder how it might have been handled under the legislation if enacted. In this case the Minister for Education and Training would not have been able to justify granting an exemption as the community clearly opposed the sale of the school. Even if the Minister had done so, and had worn

the political fallout, the community could have appealed to the Minister for Infrastructure and Planning for nomination of the school to the Register of Significant Public Lands, and the Minister would have had to deal with yet another political onslaught, creating transparency and accountability in any government decision on the site.

Tamworth West School is another example. I understand that the school parents and citizens association supported the sale and relocation of the school, yet the council opposed it. If the bill were enacted the Minister would assess community and school community satisfaction with the proposal, and grant an exemption if necessary. If the council, or any other stakeholder group, objected they could nominate for registration of the site under the "significant" test. The Minister for Infrastructure and Planning would presumably reject the nomination on the basis of lack of significance in relation to the site, although it may not have survived the trust assessment. Both of those examples, when put through the prism of the bill, would have provided a great deal more accountability and transparency in the decision-making process and would have given the community, at every level, a great deal more say about how they would like to see the sites determined.

A further example is Erskineville Public School, which was extremely controversial two years ago. The Government wanted to sell off the site and put the money into other capital works. The open space and community focus of the school facility would have been lost forever in an area of relatively high residential density and some social disadvantage, with the possibility that student numbers may build up again in the future. In this case, there was overwhelming community and school support to retain the land for community and education purposes. The Minister would adopt the 20-year rule and lease the site to TAFE or a private educational provider. If in 20 years there was still no demand for a public school facility there, up to 70 per cent of the site could be sold and 30 per cent of it retained as public open space, for example, as a park or for the establishment of sports facilities.

The bill is a significant step forward for the protection of our heritage and significant public lands that are held in the stewardship of the State Government. These sites are not the personal playthings of the Minister of the day. They deserve to be afforded a transparent process regarding the consideration of their broader community value, and the community deserves to have a proper framework through which to have their say about the future of significant public lands. Ministers and governments will have to be more open and accountable regarding the decisions they make, and will have to justify their decisions if they fail to accept a recommendation from the trust.

Ministers themselves, as well as members of the community, will be able to make nominations for significant land to be accorded protection. For surplus school sites there will be a more visionary approach to the value of educational precincts in our areas. The bill provides a sensible mechanism to accommodate the need to be flexible in the way we deliver educational outcomes, and the need to be practical where the community supports the disposal of surplus education sites. This bill looks after our present assets for now, but it has an eye a long way into the future to ensure future Australians look back at our decisions and say they are pleased that we were sufficiently insightful to understand the values that will deliver a high quality of life to

those who will follow us. I commend the bill to the House.