CROWN LANDS AMENDMENT (ACCESS TO PROPERTY) BILL

Second Reading

Mrs JUDY HOPWOOD (Hornsby) [10.20 a.m.]: I move:

That this bill be now read a second time.

The Crown Lands Amendment (Access to Property) Bill is extremely important in ensuring equity. The object of it is to amend the Crown Lands Act 1989 to require that when determining or redetermining rent under that Act with respect to a lease, licence or enclosure permit that provides water access to the lease, licence or permit holder's residential property, regard is had as to whether the lease, licence or permit provides the only reasonable means of access to that property.

Put simply, the bill amends the Crown Lands Act to add the definition of "water access only properties" so a distinction can be made between properties with water access only and properties with both road and water access. Under changes announced by the Government last year, all Crown land lessees now have to pay a minimum rent of $350 per year or market value, whichever is higher. The changes will severely affect people who can only access their property via a Crown land lease over a water site. Whereas previously those people paid a minimum fee, they will now be forced to pay market rent, which could be extremely high, just for access to their property. The bill requires that when the market value of the Crown land is being determined, in such a case there is regard for the fact that the Crown lease provides the only reasonable access to that property.

Free access rights exist for all other citizens in New South Wales who live in a primary residence that is entered via a road and driveway. Residents who live in water access only properties need to utilise Crown land to gain access to their properties via a pontoon and/or jetty. The residents already pay $400 per boat for mooring rights, and, of course, the bigger the family the more boats it owns, and therefore the more cost involved. Access to one's home is seen as an equity issue in its simplest form. Access to a water access only property is seen as a right. Should land access be made available to the property, the definition of the property would then alter, with a subsequent increase in cost for the water access component. It is most important that the Government give serious consideration to the changes set out in the bill.

A distinction should be made not only between water access only properties and properties serviced by roads, but also between water access only properties and farms where Crown land enclosures occur. The issue has generated much public activity amongst the people who are affected by the Independent Pricing and Regulatory Tribunal report into rentals for waterfront domestic tenancies on Crown land. The first public meeting on the issue was held on 19 June last year. The meeting, which I attended, was held at Mooney Mooney Workers Club and was attended by more than 150 people. A further protest meeting with significant numbers attending was held at the Berowra

Community Centre on 24 October last year, and there have been many other small gatherings to address the issue.

In addition, many representations have been made to the relevant Ministers and officers of the Department of Lands. Some of those representations have been met with a brick wall, and on occasions meetings with relevant officers have been cancelled. I can assure the House that the people affected by this water access only imposition are extremely disappointed in the Minister, some local members, for example the honourable member for Peats, and departmental officers. One of the water access only residents affected is Piers Akerman, who wrote to the Premier. When he did not receive a response, Piers Akerman wrote an article in the *Daily Telegraph* of 28 June last year. He said:

How would you feel if you learned that from Thursday, the Carr Labor Government was to slug you, and every other homeowner in NSW, with a new land tax?

And what if that tax was to be based on a formula that took into account the area of your home's driveway, the value of your property, adjusted in line with market values, and a set rate of return of 3.05 per cent which would also be periodically reviewed.

Well, the good news is that the Government is not going to hit you with a tax on your driveway, but the bad news is that it intends to slam the 1000 or so homeowners who have water access only to their properties with this inequitable tax from July 1.

That is, those people who live along the Hawkesbury and around Pittwater and have no road access are going to be unjustly financially punished by the Government for their decision to live a slightly alternative lifestyle.

They already pay rates to their local councils, just as people who can drive their cars to their doorways do. They pay the usual range of State charges (though they don't—for the most part—have access to water or sewerage services).

Now the Government wants to hit them with a punitive tax on their jetties, the only means they have of getting home at night, for reasons which can only be ascribed to the meanest of character deformities, envy.

I will return to that article in a moment. I attended the public meeting held on 24 October as a representative of the Coalition, and I read to those in attendance a letter from the Leader of the Opposition, John Brogden. That letter, which is dated 22 October 2004, read:

Thank you for the invitation to be with you today. Unfortunately, I am unable to attend. However, I am delighted my Parliamentary Secretary, the member for Hornsby, Judy Hopwood MP, is representing the Liberal Party.

I strongly oppose the Carr Government's plan for dramatic increases in leases

for Water Access Only residents. Residents whose properties can only be accessed by water should not be discriminated against.

I believe that no one should be taxed for the right to access their property. A lease fee on a "cost recovery only" basis would be a much fairer option.

That Labor Government's decision to increase waterfront tenancy fees to Water Access Only residents is another blatant attempt to raise revenue. Labor's record on State taxation is appalling under Bob Carr, NSW is the highest taxed State in Australia.

The economic management of this Government is so poor that despite raking in more revenue than ever before, Bob Carr and Michael Egan have driven the State into deficit this year. New South Wales is forecast to be $379 million in the red.

When the Liberal/Nationals Coalition is elected in 2007 I will work with you to introduce a fair and non-discriminatory leasing arrangement.

I can assure the House that the letter was received with a great deal of applause. The group that has been most interested in this issue, and has really led the charge, is Waterfront Environment Action Reform, known as WEAR Inc. For ease of understanding the group has changed its name to the Home Owners Access Association. Carol Joy, the secretary of the group, who is a resident of Little Wobby, has done a great amount of work to address the issue. On 21 June 2004 Denis Nobbs, the chairman of WEAR Inc., or the Home Owners Access Association, wrote to the Minister for Lands, the Hon. Tony Kelly, MLC, as follows:

The owners of water access only properties reject the recommendations of the recent IPART report into Rentals for Waterfront Domestic Tenancies on Crown Land in NSW. We are a small group of approximately 1,100 people living in the Hawkesbury River, Berowra Creek and Pittwater areas of Sydney with no other practical means of reaching our homes except by boat.

Current administration of the Crown Lands Act unfairly discriminates against our minority group in the matter of access to our homes. We expect equity with all other citizens of NSW who have normal road access to their homes.

Denis Nobbs summarised the group's request of the Government as follows:

1. Establish a separate Water Access Only entity
2. Establish dialogue with WEAR Inc. [Home Owners Access Association]
3. Establish equity with mainland home owners
4. Guarantee right of access
5. Instruct Dept of Lands/Waterways to authorise specific safety access structures on Crown Land for Water Access Only properties
6. Guarantee tenure at nominal fees
7. Observe transparency and consistency

The Crown Lands Amendment (Access to Property) Bill goes some way to address a couple of the requests to the Government. I believe that these people do have an equity issue. It is very unfair that they are lumped in with homeowners who have not only a water access but a road access. The Crown Lands Act is silent in relation to these homeowners and this amending bill would insert a definition into the Act that will in some way establish some sort of equity for these people.

Pursuant to sessional orders business interrupted.

Debate resumed from 3 March 2005.

Mrs JUDY HOPWOOD (Hornsby) [10.00 a.m.]: I will continue my second reading speech by reading two letters I have been sent. The first one is addressed to the Hon. Tony Kelly, MLC, and is from C. R. B., C. S. and A. T. Blackburn of Cogra Bay. The letter is dated 29 June 2004 and reads:

Dear Sir,

As property owners in Cogra Bay on the Hawkesbury River (Lots 50-54, 88, 89, 100) with no access other than by water, we write to protest that the proposals in the IPART report will deny us free and unfettered access to our current and future dwellings.

We request you to act in a democratic and equitable manner by making provisions for water access only property owners to have similar rights to other citizens who have road access to their properties. They are not charged fees to provide an "investment return".

It is necessary for us to have an access structure, a jetty, to enable us to get to our house as well as to bring in supplies and to take out rubbish. There is no rubbish collection in Cogra Bay where we are situated nor is there any reticulated water or electricity supply. Some part of our rates are for services we do not receive for example "*a drainage charge irrespective of the availability of other services such as water, sewer or garbage*".

We strongly object to "wet-berthing" fees being charged for our commuter boat. It cannot be regarded as equitable since corresponding charges are not levied on people who have road access and can park a car in front of their house.

The lack of provision of rights of review or appeal in regard to rates and leases are entirely undemocratic since it is proposed to change the basis of assessments, amongst other items, yet to retain only the previous basis for appeal. We find this illogical and one sided.

The proposal to increase the rental of an occupancy if more than one group of people use it is unjust—the rental is proposed to reflect the cost of administration and to suggest that such cost would treble for a single jetty if it

is used by three people is absurd for a computerised system. (IPART suggests an increase in minimum administrative cost of a jetty from $350 to $1050 if 3 people share it)—considerably more if each sharer also pays a "wet berthing" fee.

The argument set out in IPART that owners bought properties "*with full knowledge of the limitations of the property*" is obviously incorrect since it is now proposed to alter the "limitations" previously existing. It is also noted that IPART states that a jetty costs "*between $25,000 and $100,000*" which the owner may have had to build and pay for in addition to the purchase price.

In our opinion "water access only" property owners should be treated as a separate category from other owners in any legislation and it does not seem difficult to achieve this without significant cost.

In conclusion we request you to take appropriate action so that "water access only" property owners are treated equitably in any legislation resulting from the IPART Review into Waterfront Tenancies and that these owners will have free and unfettered access to their properties.

A letter to the editor of the *Daily Telegraph* from John Sutton of Berowra Heights in reply to an article in the *Daily Telegraph* of 28 February reads:

Gary Moore, Director of the NSW Council of Social Services, fails to see the total picture when he supports the increase to the cost of waterfront property leases. He says "There's no reason whatsoever why a millionaire in a Harbourside mansion should be paying a few hundred dollars a year for their private use of waterfront public land." He might have added that these mansions also enjoy road access, entailing the free use of public land adjoining their driveways and front gates. So the wealthy on Sydney harbourside actually get two helpings of public space, paying only a pittance for their waterfront encroachments, and absolutely nothing for the land frontage.

But what about homes that have no road frontage? That's right, some homes in Sydney can only be reached by water. These people rightly argue that if the rest of the people in NSW can have free use of public space for driveways and so on, others should have the same privilege extended to them for their jetties and attached boat parking.
Gary, you should take a closer look at this issue. Certainly the wealthy should pay a fair price for their second helping of public space. After all, if you already have road access, a jetty and a boat are merely a luxury, so if they want one they should pay. On the other hand, those who have no road access depend on their jetty over public space as their only, and essential, means of access to their homes. In these cases, jetties are just like a driveway for which others pay nothing.

This issue will be resolved only when the government realises that everyone should get one helping of public space free of charge for the purpose of gaining access to their homes, regardless of whether the access is over land or water.

A letter sent to me by Kevin Cooper of Coba Point refers to Piers Akerman's article in the *Daily Telegraph* of 28 June. It states:

Piers Akerman's "Opinion" June 28, disclosed new charges to be levied on owners of homes accessible only by boat and disclosed his family's ownership of such a home. The government predictably picked up on this 'personal motivation'. Who does not have personal motivation and interest in matters concerning access to, and the value of, their greatest family asset—their home?

No one wants to see the value of their home eroded by a shortsighted, unthinking and deliberate government policy. No government has the right to raise revenue from my basic right to reach my home with the ever present threat that such access rights may be abolished at any time 'at the discretion of the Minister'. This is just not on, Mr Kelly.

Water access only home owners pay exactly the same taxes, fees and charges as every other home owner in NSW. We object strongly to this latest attempt by the NSW Labor Government to squeeze whatever extra money it can from a disadvantaged minority group with no other way to reach home except by boat. We will not be held to ransom, Mr Kelly.

Provide us with roads and all the other normal infrastructure of urban living or give us a [lease that is more reasonably determined].

A second article written by Piers Akerman, on page 16 of the *Daily Telegraph* of 16 July, states:

A rising tide of rage on the jetties

The people the State Government are attempting to rip off have no access to their homes except by boat. The State Government wants to charge them a tax on their jetties, claiming the structures are on Crown land.

The driveways which every other home owner in the State uses to access his or her home are also on Crown land, yet the State is not employing the same loopy logic to tax them for the privilege of parking their cars.

But perhaps it will if the unfair impost on water access-only property owners isn't stopped now.

He also says that the State Government is discriminating against a small group of relatively powerless people with the slug on their home access. The Government acceded to some alterations to the impost by introducing a sliding scale over three years. A letter to Mr Kevin Cooper dated Tuesday 31 August 2004 signed by Graham Harding, General Manager, Crown Lands NSW, states:

Notice of Changed Basis for Determining Domestic Waterfront Rents

As you may be aware, in October 2003 the NSW Government requested the

Independent Pricing and Regulatory Tribunal (IPART) to determine a new approach for setting and reviewing rents for waterfront public land administered by the Department of Lands and the Waterways Authority. In finalising its report in April 2004, IPART also took into account the State Mini-Budget announcements concerning the management of public land.

The Review recognised that waterfront public land is a valuable community asset and that the NSW Government, on behalf of the community, is entitled to a reasonable return on this asset.

In essence, IPART recommended changes, which have now been adopted as operational policy by the Department of Lands, to:-

_ Align rental returns to reflect and maintain market values;

_ Ensure that rents cover, at a minimum, administration costs; and

_ Consider equity issues and licensees' ability to pay.

I can tell honourable members that the people who have water access only properties still are not happy with this rethinking on how they will eventually have to pay the minimum $350 per year for the privilege of accessing their home by water when they have no other way to do so. Carl Joy, a member of the Homeowners Access Association Inc, assessed 50 licences on Little Wobby. The assessment is rather alarming. It states that the number of licences that dropped in dollar charge over three years was 27, the range of the decrease was $609, the number of increases was 28 out of the 55, or a little over 50 per cent of the sample, and the highest increase was $435 or 174 per cent. The cost went up from $250 to $685. The range of cost per square metre was $2.02 for an area of 398 square metres, which was believed to be used for commercial purposes for full-time holiday rental, to $68.33 in relation to six metres of residential use. The assessment states:
Clearly smaller uses of Crown Land are severely disadvantaged as they must (a) pay a minimum fee of $350 which does not reflect their actual Crown Land use (b) They are unable to take advantage of $250 discount (applicable only if permanent resident) until they pay at least $350 and cannot achieve the full discount until their use is $600 (the figures presented appear to include up to $250 discount however this will not be applied unless permanent primary residence is established therefore [it] could be significantly worse in its effect.) These two facts alone create gross inequity within the system being employed. This is demonstrated when we compare actual metre rate charged [amongst the properties assessed].

Mr Joy also expressed alarm about the fact that the sample is for Little Wobby alone, which has current average valuations of approximately $90,000, whereas Scotland Island, Dangar Island, the western foreshores of Pittwater and Berowra Waters would be likely to have values 300 per cent to 400 per cent higher. The residents emphasise that their treatment in not equitable as their homes cannot be accessed except by water. I urge the Government to seriously consider what I have presented today and support my private member's bill.